

**Senate vote expected soon  
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despite coverage woes / 3**

# Business Insurance

www.businessinsurance.com

January 24, 2005

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\$5

## Connecticut sues Marsh, ACE State charges broker, insurer steered comp business

By SALLY ROBERTS

**HARTFORD, Conn.**—Three months after New York Attorney General Eliot Spitzer sued Marsh & McLennan Cos. Inc. over alleged fraud and bid rigging, Connecticut Attorney General Richard Blumenthal is taking his swing at the world's largest brokerage.

Mr. Blumenthal sued New York-based MMC, its unit Marsh USA Risk Services Inc. and ACE Financial Solutions Inc. last Friday in the first of what he says will be a series of legal actions resulting from his investigation into insurance industry abuses.

Filed in Connecticut Superior Court, Mr. Blumenthal alleges that the broker and insurer violated Connecticut's unfair trade practices act by engaging in a scheme whereby ACE paid Marsh a secret \$50,000 commission to steer an \$80 million state workers compensation contract to the unit of Hamilton, Bermuda-based ACE Ltd.

The case involves a loss portfolio program Marsh placed with ACE in 2001 to cover a group of workers comp claims for the state's Department of Administrative Services. Marsh agreed to a \$100,000 fee from the state, but, before the completion of the transaction, a Marsh executive opened negotiations with ACE "to the effect that

if ACE wanted more of this type of business in the future from Marsh, ACE would pay Marsh a contingency fee on this deal," the complaint alleges. ACE agreed to pay Marsh a \$50,000 contingency fee and signed a confidentiality agreement related to the transaction, according to the complaint.

Neither Marsh nor ACE informed DAS about the contingency fee, even though ACE had claimed the \$80 million premium was net of brokerage commissions and even though Marsh had agreed to a flat \$100,000 commission separate from the premium paid ACE, the complaint says.

See **SUIT**/page 22

### Late News

#### Specter puts asbestos trust at \$140 billion

Senate Judiciary Committee Chairman Arlen Specter, R-Pa., plans to introduce legislation early next week that would replace the



Sen. Specter

current litigation-based system for compensating people with asbestos-related diseases with a \$140 billion no-fault trust fund. Sen.

Majority Leader Bill Frist, R-Tenn., and then-Minority Leader Tom Daschle, the former Democratic senator from South Dakota, agreed last fall that \$140 billion would form the fund, which would be paid for by defendant companies, their insurers and existing asbestos compensation trust funds. Efforts to advance legislation to create such a fund stalled in the last Congress.

#### TXU to pay \$150 million in investor settlement

TXU Corp., a Dallas-based energy company, will pay \$150 million to settle a shareholder lawsuit brought in 2002 claiming that top executives misled investors about the company's financial performance. The company said it will make a one-time payment of \$150 million to class members, who include purchasers of TXU Corp. securities between April 26, 2001, and Oct. 11, 2002. Several of TXU's directors and officers insurers have agreed to pay a total of \$66 million of the settlement fee.

#### United, union leaders put off pension talks

United Airlines and the leadership of its pilots union reached a new labor agreement that puts off for several months any resolution of

See **LATE NEWS**/page 23

## SBC phases out hybrid pension plans

Move to reward long-service employees may signal a trend

By JERRY GEISEL

**SAN ANTONIO**—In what may be the first action of its kind, SBC Communications Inc. is phasing out its cash balance and another hybrid pension plan and will use only a more-traditional pension plan design to credit future benefit accruals.

SBC, the giant San Antonio-based voice and data telecommunications provider, has offered the cash balance plan to its management employees since June 1997.

Like hundreds of other employers that took similar actions throughout the mid- and late 1990s, SBC established a cash balance plan to succeed a more-traditional plan in which benefits were skewed in favor of longer-service employees. In a cash balance plan, benefits accrue much more evenly throughout the period of an employee's service.

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### How the jumbos stack up

Typical three-class setup	A380-800	Boeing 747-400
Passenger seating	555	416
Takeoff weight	1.24 million lbs.	875,000 lbs.
Wing span	261 ft.	211 ft.
Range of flight	9,206 miles	8,354 miles
Overall length	238 ft.	232 ft.
Tail height	79 ft.	63 ft.

Source: Airbus, Boeing

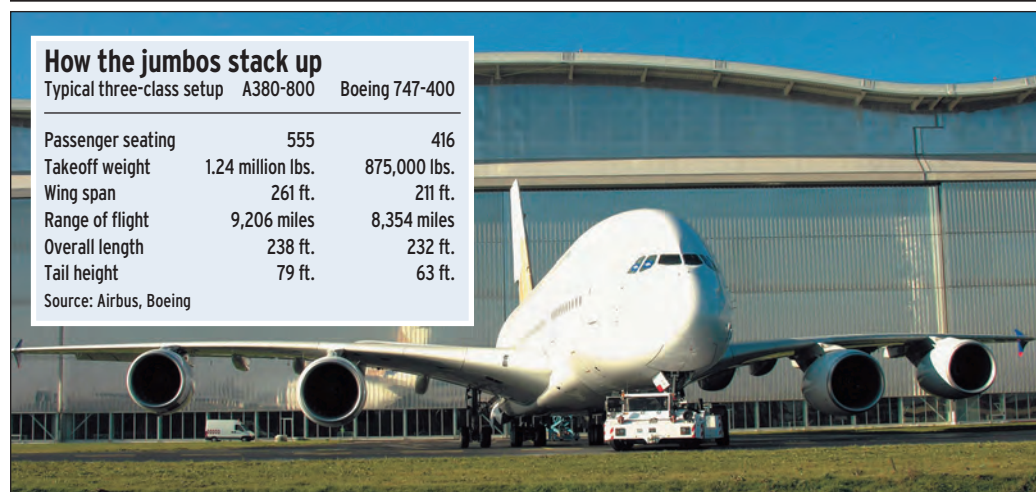


PHOTO: AP WIDE WORLD

Underwriting the liability risks of the A380, Airbus S.A.'s newly unveiled jumbo jet, is expected to present the aviation insurance market with a big but not insurmountable challenge.

## New jumbo jet calls for sky-high capacity limits

By PETA MILLER

**TOULOUSE, France**—Airlines that have ordered Airbus S.A.'s latest jumbo jet will have to find additional aviation liability capacity in order to purchase per-passenger coverage limits comparable to those bought for other jets, brokers say.

With the massive A380 expected to start commercial flights next year, brokers for the airlines have several months to secure up to \$3 billion in capacity before the first coverage placements en-

ter the market.

And while finding the additional capacity may require some aviation insurance programs to undergo restructuring, brokers say that adequate coverage should be available before the first of the double-decker airplanes carries fare-paying passengers.

The Airbus A380, which was unveiled at the aerospace manufacturer's headquarters in Toulouse, France, last week, will be the largest

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**Spotlight Report**  
**EDUCATIONAL & PROFESSIONAL DEVELOPMENT**

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**LARGEST RISK MANAGEMENT & INSURANCE SCHOOLS**

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January 24, 2005

# Senate vote expected soon on class action reform bill

By MARK A. HOFMANN

**WASHINGTON**—Tort reform supporters are praising Senate Republican leaders for keeping their word by pushing a class action reform bill to the front of the legislative lines.

The latest version of the Class Action Fairness Act could be brought before the Senate as early as today, a spokeswoman for Sen. Charles Grassley, R-Iowa, said last week. A previous version of the bill had the support of 62 senators—two more than the 60 required to cut off filibusters—in the last Congress. But the measure failed to move to the floor because of differences between Senate Majority Leader Bill Frist, R-Tenn., and Democratic backers of the measure over the number and nature of amendments that could be added to the bill.

Sen. Grassley's spokeswoman

said the new bill would follow the previous bill. Among other things, the Class Action Fairness Act that languished in the last Senate would have allowed the removal of certain suits with defendants and plaintiffs from multiple states from state court to federal court. Corporate defendants have long sought such an option because they contend they cannot receive a fair trial in certain state courts that they regard as being overly pro-plaintiff.

The measure also would have required judges to subject proposed class action settlements to greater oversight, particularly those that compensate class members with no-cash awards, such as coupons redeemable for the defendant's goods or service. The Class Action Fairness Act also would have barred settlements in which class members would suffer a net loss because they

had to pay legal costs in excess of their recovery.

The Senate leadership's swift movement on class action reform should enhance its chances of passage, say tort reform advocates.

"The significance of what Sens. Frist and Grassley are doing is a recognition that the class action bill is a mature piece of legislation," said Victor E. Schwartz, general counsel of the American Tort Reform Assn. in Washington.

"It has been approved by the House at least three times and has come forth from the Senate Judiciary Committee at least twice. By using the same bill down to the comma that was approved by last year's committee, they're making a reasonable attempt to expedite the process and not have the bill lose time buried in the committee process." See **CLASS ACTION**/page 23

# EEOC age-bias lawsuit hinges on 'partnerships'

## Agency argues firm's partners were employees

By JUDY GREENWALD

**CHICAGO**—The U.S. Equal Employment Opportunity Commission's age bias suit against the law firm of Sidley Austin Brown & Wood could have implications for many kinds of professional partnerships, attorneys say.

The EEOC earlier this month charged that the law firm violated the Age Discrimination in Employment Act when Sidley & Austin, the predecessor firm, either involuntarily downgraded or expelled 31 former partners from the firm because of their age in October 1999. The suit, filed Jan. 13 in federal court in Chicago, also applies to those partners who were involuntarily retired from the firm since 1978 because of

a mandatory retirement policy.

The EEOC, which began its investigation in 2000, took Sidley Austin to court when the firm refused to honor an EEOC subpoena. A 2002 decision by the federal appellate court in Chicago ordered Sidley Austin to comply "in significant part" with the EEOC, according to the agency.

Observers say partnerships are normally exempt from compliance with the ADEA. The question for the court, they note, is whether Sidley Austin operated as a true partnership, or whether its partners had no real say in the management of the firm and, thus, were actually employees, entitled to ADEA protections.

The EEOC's regional attorney in

Chicago, John C. Hendrickson, said in a statement that "Sidley's unwavering position has been that the matters involving how the law firm dealt with those it referred to as 'partners' and whether it engaged in discrimination were simply way beyond the reach of the ADEA and EEOC."

Mr. Hendrickson said, though, that the EEOC's administrative investigation revealed that, "except for a very few controlling partners at the very top, Sidley's lawyers appeared to be ordinary employees, not unlike their colleagues at parallel levels in the business community, and, therefore, covered by the ADEA."

"Whatever titles Sidley had de-

See **EEOC**/page 21



PHOTO: UPI

Members of the krewe of Bacchus paraded in New Orleans during the 2004 Mardi Gras. Concerns over exposures are pushing up the krewes' liability insurance costs significantly this year.

# Good times to roll despite cover woes

By MICHAEL BRADFORD

**NEW ORLEANS**—Rising insurance costs have a lot of Mardi Gras revelers singing the blues before this year's pre-Lenten bash.

Many of the Carnival clubs, known as krewes, are paying much more for liability coverage this year because insurers are concerned about claims experience and the marketplace for some of the larger clubs has shrunk, industry sources say.

James Cooke, a member of the Krewe of Bacchus and a vp of Eustis Insurance & Benefits Inc., a New Orleans agency, said costs for the two krewes his company places coverage for have gone up 35% to 40%.

"Underwriters have come to the conclusion that they're not getting enough premium for the exposure," said Mr. Cooke.

A published report that Bacchus paid about \$20,000 more for its coverage this year, which was a 45% increase, and the Zulu Social Aid & Pleasure Club is paying twice what it paid for liability

insurance in 2004 is "fairly accurate," Mr. Cooke said.

The krewes hold parades over the two weeks leading up to Fat Tuesday—Feb. 8 this year—and also stage balls, which are parties that introduce the club's royalty and feature lots of dancing, drinking and socializing. That creates a lot of exposures for underwriters, Mr. Cooke said.

"You have a variety of exposures," said Mr. Cooke. "It's not only the exposure on the street. Several organizations have very large parties," where injuries occur, he said.

It's nearly inevitable that some partygoers will suffer at least minor injuries during the crowded parties that often are held in "buildings with concrete floors that sweat," Mr. Cooke said. "It's just the very basic nature of what's going on. I defy a loss control engineer to come in and see how it could be made safer."

Last year's Mardi Gras was marred by a fatality at one organization's party, and that incident may have spooked some

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## Inside Business Insurance

### IRS regulations curb bottoming up

The Internal Revenue Service has tightened rules on a practice some employers use to pass 401(k) nondiscrimination tests. **Page 4**

### EDS, Towers Perrin form new venture

New unit to provide workforce administration, recruitment and benefits administration. **Page 4**

### Emergency planning pays off for Disney

The Walt Disney World Resort made it through the 2004 hurricane season without filing any claims. **Page 4**

### Pension plan design depends on employer

For some employers, traditional pensions may be the right plan, this week's editorial says. **Page 8**



### P&I club may be on hook for canceled cruise

After a round-the-world cruise was canceled, P&O Cruises' insurer may be liable for refunds paid to passengers. **Page 17**

## Online

• The **Datebook** calendar lists upcoming industry seminars and meetings and allows you to add info about your own event.

• Searchable **directories** provide access to all the listings of industry vendors found in *BI's* Market Sourcebook.

• New **Opinion Poll** for readers: Will renewed efforts to pass class action reform succeed in the current Congress?

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### REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

# IRS rules curb some 401(k) plan contributions

By JERRY GEISEL

**WASHINGTON**—Final Internal Revenue Service 401(k) rules curb a low-cost approach that some employers have used to allow higher-paid employees to contribute more to 401(k) plans and still enable the plans to pass nondiscrimination tests.

The rules also broaden the list of situations in which employees can make so-called hardship withdrawals from the plans. The rules now bar normal distributions, though, when an employee terminates employment but then immediately resumes work

for his or her former employer through an employee leasing arrangement.

In addition, the final rules make clear that employers cannot advance or prefund 401(k) contributions, which is a position that the IRS had already been taking in audits of 401(k) plans, experts say.

The final regulations, published late last month, mark the first time in more than a decade that the IRS has issued comprehensive regulations on 401(k) plans, which are, by far, the most widespread type of defined contribution plan. As of the end of 2003, nearly 50 million people were enrolled in about 435,000

401(k) plans, according to the Employee Benefit Research Institute in Washington.

Since the IRS issued its last set of comprehensive regulations in 1994, Congress has passed numerous measures affecting the plans, including changing nondiscrimination testing methodology, permitting older employees to make additional contributions to 401(k) plans and allowing tax-exempt organizations to offer 401(k) plans.

As Congress has enacted 401(k)-related measures, the IRS has issued an array of notices and rulings to provide guidance on the laws. It also has issued many notices deal-

ing with other 401(k) issues.

By issuing comprehensive regulations, which total 237 pages, the IRS has centralized those numerous rulings and guidance.

"They have meshed out a lot of things and put it in one place," said Fred Rumack, director of tax and legal services in New York for Mellon's Human Resources & Investor Solutions.

The final rules retain an earlier IRS proposal to curb a technique that a small percentage of employers have used in recent years to enable higher-compensated employees to make the maximum salary deferral to their plans allowed un-

der law with the plans still passing nondiscrimination tests even though average salary deferrals by rank-and-file employees are low.

The technique, known as "bottoming up," involves employers making voluntary contributions to their 401(k) plans on behalf of only their lowest-paid employees.

By making such contributions, which can be as much as 100% of an employee's compensation, the average deferral rate of all rank-and-file employees can rise dramatically.

Achieving that result, in turn, aids highly compensated employees, because their ability to make

See 401(k)/page 20



PHOTO: KRT

Walt Disney World credited its employees with helping carry out its contingency plans when hurricanes hit Florida last year.

## Disney's risk manager says emergency planning paid off during hurricanes

By ROBERTO CENICEROS

**LOS ANGELES**—The Walt Disney World Resort survived Florida's unprecedented 2004 hurricane season with help from employees who knew their roles, Stephen M. Wilder, vp of risk management for The Walt Disney Co., said last week.

It's not enough to have contingency and emergency plans on an office bookshelf, Mr. Wilder told the Los Angeles chapter of the Risk & Insurance Management Society Inc. Employees need to know how to carry out those plans, he said.

One of Disney's property insurers saw firsthand the company's contingency plans in action when a Florida meeting of Dis-

ney risk managers ended early because of the approach of Hurricane Frances.

Frances caused more than \$4.4 billion in property damage after making landfall on Florida's southeast coast on Sept. 3 (BI, Sept. 23, 2004). In all, four intense hurricanes hit Florida in 2004, and the storms caused \$20 billion to \$25 billion in insured losses (BI, Nov. 23, 2004).

Randy E. Hodge, senior account manager in Woodland Hills, Calif., for Factory Mutual Insurance Co., which does business as FM Global, said he walked the grounds at Disney's Yacht & Beach Club Resorts after Frances' approach forced the early breakup of the risk manage-

See DISNEY/page 20

## CVS quits drug benefit plans that require use of mail order

By JOANNE WOJCIK

At least two major retail pharmacy chains are retaliating against the mandatory mail-order provisions that many employers are adding to their prescription drug coverage to help hold down costs.

Last week, CVS/pharmacy announced it was dropping out of plans offered by Toyota Motor Manufacturing as of Feb. 18 and by the state of Ohio as of April 18.

The Toyota plan, administered by Indianapolis-based Anthem Inc., requires Toyota employees to use mail-order service for maintenance medications used to treat chronic conditions. The state of Ohio plan, administered by St. Louis-based Express Scripts Inc., requires its members to use Express Scripts' own mail-order service after a maintenance prescription has been filled two times at a retail pharmacy.

CVS is not the only retail drug chain to announce such a change. Deerfield, Ill.-based Walgreens also stopped accepting prescriptions for members of the state of Ohio's employee prescription drug plan as of Jan. 1. Walgreens announced in December 2003 that it would not join new prescription benefit programs that mandate filling maintenance prescriptions through mail order.

Last week's moves marked the second time



PHOTO: GETTY

Drug chain CVS has pulled out of several health plans that require participants to use mail order for maintenance prescriptions.

Woonsocket, R.I.-based CVS decided to voluntarily exit prescription benefit plans with mandatory mail-order requirements. CVS dropped three plans administered by National Medical Health at the beginning of 2004, a

See CVS/page 22

## EDS acquires Towers Perrin's benefit outsourcing business

By JERRY GEISEL

**PLANO, Texas**—EDS Corp.'s acquisition of Tower Perrin's benefit administration unit brings a huge, technologically savvy corporation into the benefits outsourcing arena and furthers the trend of providers broadening their range of services through acquisitions.

Last week, the two firms announced that EDS will purchase Towers Perrin's benefits outsourcing unit—Administration Solutions—for \$420 million. The Towers Perrin unit now generates about \$300 million a year in revenues.

As part of the transaction, EDS and Towers Perrin will form a new venture, combining Towers Perrin benefits administration services and EDS' existing payroll and HR-related outsourcing business. Among

other things, the new venture—of which EDS will own 85% and Towers Perrin the remaining 15%—will provide such HR-related outsourcing services as work force administration, employee recruitment and relocation, as well as traditional benefits administration.

EDS executives say the brand recognition of Towers Perrin, the quality of its services and its client base were key factors behind the deal.

Towers Perrin is "recognized as one of the best consultants in the world and which has one of the best benefits administration units. They have the loyalty and satisfaction of its customers," said Steve Bohannon, EDS' vp of HR Services, who will head the new venture. The venture, yet to be named, will be based in Plano, Texas, which is EDS'

headquarters.

The huge and continuing capital expenditures in technology that is required to stay competitive in the benefits and HR outsourcing arena was a driver for Towers Perrin.

"The scale of investment required" was beyond the reach of a privately held firm, said Bob Hogan, a managing director for Stamford, Conn.-based Towers Perrin.

Others concur. "Towers Perrin was not in a position to make the huge investments needed in this field," said Donn Bleau, national practice leader for employee benefits and HR outsourcing at Solomon-Page Group, an executive recruiter in San Diego.

That shouldn't be an issue for EDS, a publicly held firm with annual revenues of more than \$20 bil-

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# Mardi Gras: Krewe coverage costs

Continued from page 3

underwriters, Mr. Cooke noted.

A woman was killed in the Louisiana Superdome as the Krewe of Endymion finished its parade inside the stadium where it was holding a post-parade party. The woman was standing on a chair reaching for beads thrown by float riders when she toppled over a barricade and fell several feet to the concrete floor.

Endymion has made changes to its parade finale this year. The krewe's route inside the Superdome takes them further away from spectators, who won't be tempted to

stretch and catch beads.

Large krewes are having the most difficulty finding coverage, according to James Donelon, acting executive counsel for the Louisiana Department of Insurance. "There is only one insurer writing for the major krewes," he said, identifying the insurer as American International Group Inc. in New York.

AIG would not comment on its Mardi Gras exposures.

Eddie Ducasse Jr., a producer with New Orleans-based broker E.B. Ducasse Inc. said he is placing parade coverage for around 34 mostly smaller krewes with Lloyd's of Lon-

don syndicates. Those krewes' costs are going up, he noted, but not as high as those for Endymion or Zulu.

A lot of factors affect the cost of coverage, including the number of krewe members, how many events the clubs want to cover and the type of functions that need to be insured, Mr. Ducasse said.

The amount of the price hikes is closely tied to the number of claims the krewes have filed, Mr. Ducasse said. Also contributing to increases is "the fact that some of them have switched companies several times," he said of clubs that have jumped

from insurer to insurer.

Mr. Ducasse said many claims come from parade watchers who are hit with cups, toy spears or other objects thrown from floats. But many don't realize that their claims probably won't be paid, he said.

Louisiana law states that parade goers have no right to claim such injuries because they assume the liability associated with having things thrown at them during parades, Mr. Ducasse noted. Even so, claims are filed and krewes need insurance to cover defense costs regardless of whether they are actually paid, he said.

Adding to the insurance crunch was the pullout two months ago of Prime Insurance Syndicate Inc., an underwriting participant in the INEX Insurance Exchange that had written coverage for the krewes, Mr. Donelon said. The syndicate "no longer qualifies to write in Louisiana," he said.

The exchange decided to stop writing coverage in Louisiana after disputes with insurance regulators who, because of concerns with the exchange, seized the statutory compliance bond the exchange was required to post to operate in the state, according to Mr. Donelon. "They complained that it was an illegal seizure," he said, and eventually "gave up on Louisiana."

Rick J. Lindsey, president of Prime Insurance, said the syndicate is eager to write coverage for Mardi Gras krewes, but Louisiana regulators will approve it to operate in the state only as long as the exchange is approved there. "INEX withdrew from Louisiana because of battles with the insurance department," Mr. Lindsey said, but "there is no reason the department should not approve us" to operate apart from INEX as a surplus lines insurer, as is the case in several other states.



PHOTO: UPI

The Rex parade rolled down St. Charles Avenue in New Orleans during Mardi Gras in 2004.

Mr. Donelon said, though, that Louisiana law requires that the syndicate operate only under the umbrella of the exchange.

Prime Insurance wrote coverage for several krewes, Mr. Lindsey said, and claims experience from the clubs the syndicate insured "wasn't bad. We like to think it's because we underwrite properly and manage claims properly," he said.

Outside of New Orleans, where smaller versions of Mardi Gras are held, the price hikes have not been as steep for some krewes.

"We've not had a big jump," said Shannon Tassin, president of the Alexandria Mardi Gras Assn. in central Louisiana. "The last two years, we've had a nominal increase," she said, but nothing near as large as the big spike in coverage prices that the krewes in Alexandria paid when the market hardened immediately after the 2001 terrorist attacks.

The insurance crunch is uncomfortable but not devastating for the krewes, said Mr. Donelon. "It's not critical; it's expensive," he said, but he noted that anyone needing coverage can find it.

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## BI hires new staffer

**CHICAGO**—*Business Insurance* has added William Murphy to its editorial staff in Chicago.

As copy editor/graphics, Mr. Murphy will edit news stories for *BI*'s print and online editions, and will provide production support to Kathy Barnes, assistant managing editor/graphics.

Mr. Murphy originally joined Crain Communications Inc., *Business Insurance*'s parent company, in 1999, and until 2004 worked at sister publications *Advertising Age* and *Modern Physician* in the roles of

graphics editor, copy editor and production editor.

During 2004, he worked as design editor for Pioneer Press newspapers in Glenview, Ill. Previously, he was layout editor for the Chicago Sun-Times and production artist for Lincoln Park Zoo in Chicago.

Mr. Murphy is a graduate of Northeastern Illinois University in Chicago, where he received a bachelor of arts degree in art history.

Mr. Murphy can be reached at 312-649-5440 and at [bmurphy@businessinsurance.com](mailto:bmurphy@businessinsurance.com).



**Mr. Murphy**

## BI's Denver office relocates

**GOLDEN, Colo.**—*Business Insurance*'s Denver bureau has relocated.

The new office is at: 1746 Cole Blvd., Suite 150, Golden, Colo. 80401. The telephone and fax numbers for the office are unchanged.

The bureau is staffed by *Busi-*

*ness Insurance* Senior Editors Joanne Wojcik and Sally Roberts. Ms. Wojcik can be reached at 303-282-4260 or by e-mail at [jwojcik@businessinsurance.com](mailto:jwojcik@businessinsurance.com).

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## Editorial

## Pension throwback OK

WHAT IS THE BEST pension plan design for employers and employees?

The answer, of course, is that there is no such thing as a best design for all employers. A plan that works well for one employer and its workforce may be ill suited for another.

That observation comes amid a backdrop of what has been a sea change in pension plan design over the past decade. During that period, hundreds of employers converted traditional defined benefit plans, whose formulas are skewed to reward long-term service, into cash balance plans, in which benefits accrue more evenly over time.

One of those employers, as we report on page 1, was SBC Communications Inc., which set up a cash balance plan in 1997 for its management employees.

Adoption of the plan design, the company said, proved beneficial when it acquired another major telecommunications firm that already had a cash bal-

ance plan. A common plan design, among other things, facilitated employee movement between SBC units, the company said.

But SBC is ending the cash balance plan design, with management employees now earning benefits through a more traditional plan design that better rewards long-term service than a cash balance plan would.

SBC's action is an unusual one. Indeed, the trend has otherwise exclusively gone in the direction away from traditional plan design.

We wonder, though, if more employers will, over the next few years, reassess the plan design changes they made. Surely, there are industries in which it makes economic sense for employers to retain as long as possible their more experienced employees.

For those employers, old-style traditional pension plans, in which the bulk of benefits are earned in employees' last years of employment, may, in fact, be the right plan.

## Managing board risk vital

THE RECENT DRAMATIC settlements by former directors of WorldCom Inc. and Enron Inc. should set the stage for boardroom presentations throughout Corporate America. And risk managers should play a leading role.

Boards need to hear the message behind those settlements: Not even the best directors and officers liability insurance programs may protect board members' personal assets absent the directors' own risk management efforts.

The politics of an organization may prevent a risk manager from delivering the message personally. But the messenger, whether it is the chief executive officer, general counsel or risk manager, is unimportant. What is crucial is the message, which should be expressed in a formal presentation rather than tucked inside a report that board members could toss aside and never study.

Readily available information from the WorldCom

and Enron cases demonstrates how those companies' outside directors sealed their fates by neglecting to ask tough questions about complex corporate transactions they likely did not understand yet rubber-stamped. Those transactions eventually led to losses that even the largest D&O program possible would not have covered.

Directors also need to understand the challenge they face when large institutional shareholders believe they have been wronged. They want defendants to personally feel the kind of financial loss they suffered. They are giving plaintiffs attorneys additional financial incentives to make that happen. And they are sharing their winning strategies among themselves.

Assuming that directors fully understand what is going on in securities class action litigation—both in the courtroom and behind the scenes—would be a mistake. Market executives have plenty of war stories about what they thought directors understood about their risks and coverage but didn't.

## Schillerstrom



## Letters to the Editor

## Regulator failings seen in response to Spitzer

To the editor: There should be no misunderstanding that what New York Attorney General Elliot Spitzer has done within the insurance industry should be entered on the positive side of the ledger. While much of the followup has done little more than drive up expenses and slow down the inner workings of many insurance companies, the net benefit of rooting out illegal business practices, incompetent leadership and strong-armed hubris on the brokerage side of the house has done immeasurable good.

Unfortunately, the fallout of his direct hit has been a continued search for weapons of mass destruction within the industry. This has given rise to a plethora of bandwagon jumpers among attorneys general and commissioners of insurance. If Joe McCarthy were alive, he would find a significant leadership role in coordinating a new movement. While Mr. Spitzer deserves respect for his astute initial investigation, his followers elicit more of a feeling of pity. Hastily arranged investigations, steeped in subpoenas, imply inherent incompetence, a lack of original thought, position justification and a masking of ineptitude.

In an attempt to remedy a situation, which by all analysis of existing factual information is confined to a very small area within a very large industry, the National Assn. of Insurance Commissioners has created model legislation with very broad implications for practitioners and very narrow impact for customers. Typical of hastily drawn measures, it addresses the symptoms rather than the problem.

The timing for the NAIC and for state regulation in general could not be worse. With pressure building for evidence that state regulation works within the insurance industry, the NAIC has been working diligently to prove that it can approach the monumental task of regulating a very complex industry in a logical, efficient and unified manner. So far, it has not been successful. There is no central authority to foster cohesiveness, and there is a wide disparity in competence, resources and philosophy within the group. Many states are so inadequately staffed that they are six or more months behind in form, rate and rules filings.

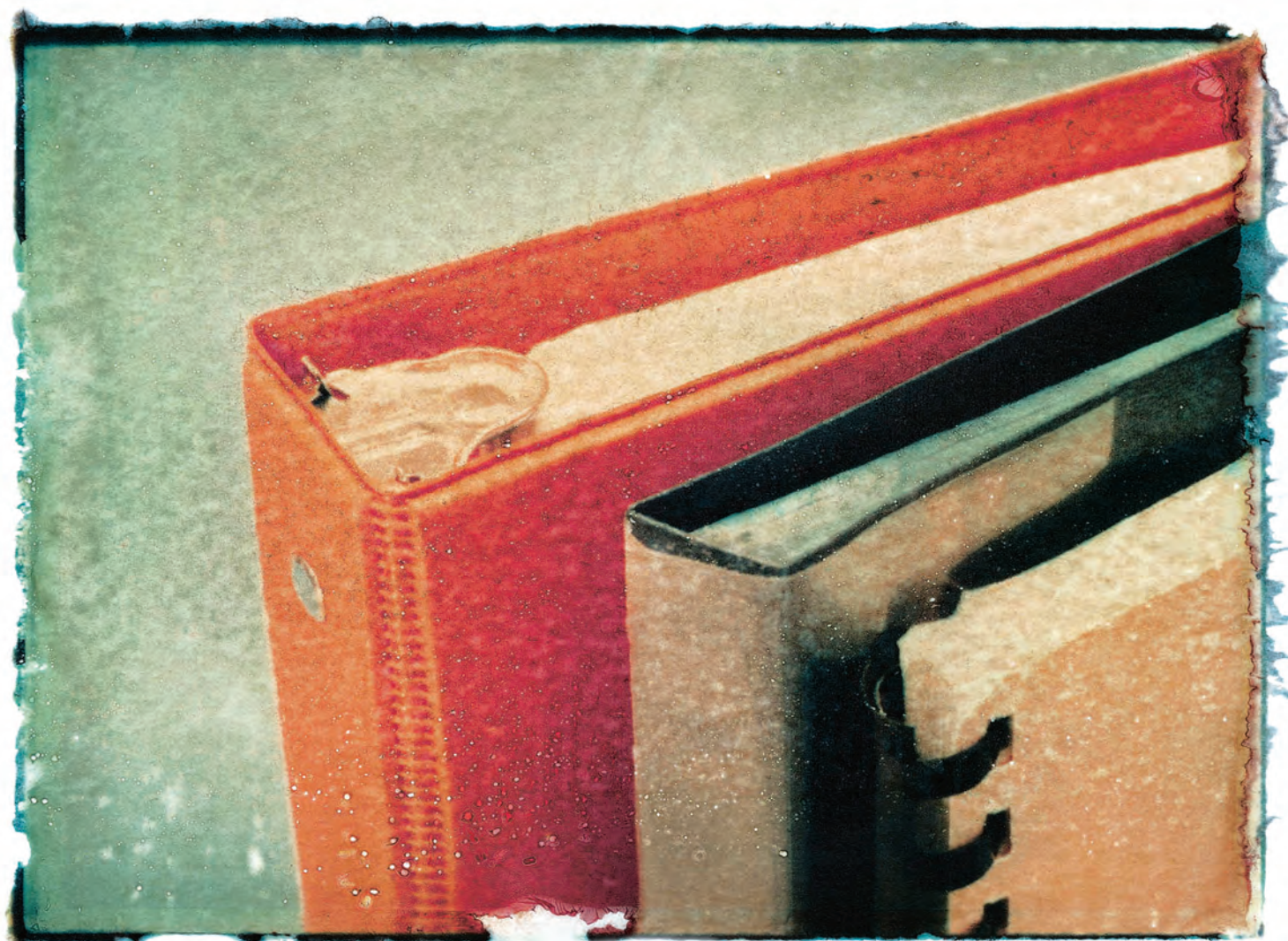
By and large, state regulators are parochial entities. They tend to focus on the wrong issues, while solvency, bad actors and fraud continue to haunt the industry. Resources are spent on detailed and drawn-out analysis of new product filings instead of the actuarial analysis of existing business, where the real problems lie. It is quite evident that the prior analysis of new products and pricing has failed as a model for securing solvency. It has proven quite effective at creating inefficiency, interminable time lines for new products and an industry that inno-

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# Educational & Professional Development



## Schools tout incentives to help grow programs

By LAUREN KARP

Schools that offer risk management and insurance degrees are using a variety of methods to prepare students for careers in the industry and to boost enrollment.

Despite providing opportunities to study in foreign insurance markets, including London, Bermuda and Switzerland, the schools are seeing slow growth in the number of students entering risk management and insurance programs. Some colleges and universities, therefore, are trying to create a buzz with financial incentives and additional work-related opportunities.

### Staying a step ahead

Some schools stay a step ahead by offering classes and examinations for professional designations that most risk managers and insurance executives usually don't take until beginning their careers. For example, Indiana State University and the University of Georgia offer exams for the Chartered Property Casualty Underwriter and Associate in Risk Management designations.

A spokeswoman for the American Institute for CPCU and the Insurance Institute of America in Malvern, Pa., which administers a host of designations, including the CPCU and ARM, said professors can teach the courses through chapters of the CPCU Society.

At Georgia State University in Atlanta, one change in the curriculum has been the creation of capstone classes, which give seniors hands-on experience in the industry before graduation. Lorilee A. Schneider, assistant professor of risk management and insurance, said her students prepare for a professional presentation as a class.

"They study current events and begin to think of the topics they've learned at a higher level," she said.

At the end of the semester, eight students are chosen to present the topic at a meeting of the Risk & Insurance Management Society Inc.'s Atlanta chapter. Topics that were covered in the past ranged from the Terrorism Risk Insurance Act to cost allocations. These students have the opportunity to interact with professionals during and after the presentation.

### A global trend

Insurance has long been a global business, and a growing awareness of foreign relations is prompting curriculum changes to help cre-

Continued on next page

## Risk managers shatter glass ceiling by expanding role, relationships

By MICHAEL BRADFORD

Risk managers who rise to the top of their profession can find themselves wondering where their careers can take them next.

But those who let a glass ceiling get in the way of advancement aren't working hard enough to find ways around the barriers to advancement, experts say.

Senior risk managers do have some options for moving forward. In rare instances, they move to high-level executive positions within their organizations. In most cases, though, a risk manager has to take on more responsibility, move to a different organization or find another career suited to his or her background and interests.

While those may be the options for many professions, "they certainly have manifested themselves for risk management," said David Mair, who spent 18 years in risk management and recently joined Arthur J. Gallagher & Co. as a Chicago-based area vp.

Mr. Mair and others say a risk manager's career path doesn't have to end at the top slot in his or her department.

"I don't see there being a ceiling, unless

someone wants to be a risk manager all their life," said P. Richard Hackenburg, chairman of the Spencer Educational Foundation, which is administered by the New York-based Risk & Insurance Management Society Inc. That said, Mr. Hackenburg added, "there is nothing wrong with aspiring to be a risk manager and aspiring to be the best risk manager there ever was."

"There is a glass ceiling, per se, if that's what you put on yourself," Mr. Hackenburg said, "or if you are working for an organization that never thinks of evaluating the risk manager for another position in the organization." In that case, he said, it might be time to look for another employer.

"The ceiling is really set by the individual as opposed to the organization," agreed Mike Tannenbaum, president of Key Strategies L.L.C., a risk management recruitment and career coaching firm in East Hanover, N.J. "Some risk managers have become stagnant by choosing to focus solely on insurance."

Conversely, Mr. Tannenbaum said, "Those who have been successful at growing beyond the traditional role have done so by communicating effectively, taking on more responsi-

bility in other areas, building relationships across the organization and embedding risk management principles throughout."

William J. Kelly, a director with PricewaterhouseCoopers L.L.P. in New York who left a long career in risk management in 2000, said that "unless you expand your responsibilities, it can be self-limiting." If there are people ahead of you within the organization, taking on more responsibility is "the only way you're going to progress," he said.

Mr. Kelly said that his own risk management career was much like that of many others, running in cycles of three to four years with various employers. He pointed out that many who are in similar positions are prodded to move by the question, "Once you work on renewals and get through 36 months in a stable market, what's the next challenge?"

In his case, Mr. Kelly accepted the final risk management position he held, with J.P. Morgan, because the company promised he could take on responsibilities other than risk management, such as procurement, vendor management and others. "So I stayed 15 years," he said.

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Top risk management  
and insurance schools  
page 12

Advanced degrees help hone,  
maintain a competitive edge  
page 13

Understanding the ABCs  
of professional designations  
page 14

January 24, 2005

**Continued from previous page**

ate consistency among professors and their teaching methods worldwide, educators say.

Insurance educators and industry executives from around the world will have the opportunity to meet Aug. 7-11 at the inaugural World Risk & Insurance Economics Congress in Salt Lake City. The congress is being sponsored by the American Risk & Insurance Assn., the Asia-Pacific Risk & Insurance Assn., the European Group of Risk & Insurance Economists and the Geneva Assn.

Mary Ann Boose, coordinator and associate professor of insurance and risk management at Indiana State University in Terre Haute, Ind., noted that American universities are beginning to offer internship opportunities overseas.

"In the past, professors have been decentralized in their teaching methods. That is changing, and the impact of foreign relations is creating a possible need for revising the curriculum," Ms. Boose said.

"Educators all over the world are getting together. Internationalization of awareness in the world is important," she said. "The world became smaller a long time ago. This is one of the financial infrastructures necessary for modern development."

Risk management and insurance schools are catching on to the benefits of foreign relations.

**Internships abroad**

Illinois State University's Katie School of Insurance in Normal, Ill., offers internship programs abroad.

Director Jim Jones said the Katie School sends students to Lloyd's of London, where the students have worked with underwriting agencies such as Wellington Group P.L.C. and Beazley Furlong Ltd. In Bermuda, students work with ACE Ltd., XL Capital Ltd. and RenaissanceRe Holdings. In Zurich, Switzerland, they work with Zurich Financial Services Group and Swiss Reinsurance Co. Students spend four to five weeks at one company, where they meet with industry professionals in many different areas in the field, Mr. Jones said.

Indiana State University has sent students to study abroad in London on two occasions, Ms. Boose said.

Universities have seen a slow but steady increase in undergraduate risk management and insurance enrollment.

The University of Georgia's RMI program has become highly competitive. The program has 162 current undergraduates, 40 master's students and four pursuing doctorate degrees. Robert E. Hoyt, professor and head of the Insurance, Legal Studies and Real Estate Department of the Terry College of Business at the university in Athens, Ga., said the increased selectivity stems from strong demand by employers. Indiana State University's undergraduate enrollment in RMI programs is around 80, up from 72 two years ago, said Ms. Boose.

"It is a constant marketing campaign. The word 'insurance' just

doesn't sound exciting to a 20-year-old who knows nothing about the industry," said Ms. Boose.

Georgia State University's risk management program includes 149 undergraduates, up from 86 in the 2001/02 academic year.

A combination of word-of-mouth and more scholarships has helped Illinois State University's Katie School increase undergraduate enrollment from the 200s to around 320, said Mr. Jones.

**Industry exposure**

While employers are responding to the job placement and other programs offered by risk management and insurance schools, attracting students to the RMI programs is not so easy, educators say.

As a result, more universities are trying to increase awareness among the student body by bringing insurance industry representatives to campus and offering students financial incentives.

For example, 70% of the University of Georgia's graduates leave with an internship completed. Indiana State University offers career shadowing and scholarships. Georgia State University students attend meetings of the Atlanta RIMS chapter. The University of Wisconsin-Madison holds an annual golf outing with industry professionals.

The Katie School at Illinois State offers \$500 scholarships to honors students who take the introduction

to insurance class. Mr. Jones said 50% of those students become insurance majors.

Ellen Thrower, executive director of St. John University's School of Risk Management, Insurance & Actuarial Science at St. John's University in New York, said 80% of the more than 100 students in the program qualify for financial assistance and 100% of them receive it.

Once students are exposed to the opportunities available, they are more open to considering the field, insurance educators point out. These opportunities are becoming standard at universities with career fairs, alumni relations, field trips and industry mentors.

Brian Sammons, risk manager for Wells Real Estate Funds Inc. in Norcross, Ga., and a Georgia alumnus, said the university helps establish an employment network and stays in touch with its graduates.

"The self-training they provide creates a foundation you can continue to build on throughout your career," Mr. Sammons said.

Dennis J. Baltz, risk manager for Coca-Cola Enterprises Inc. in Atlanta and a graduate of the University of Georgia, said, "I was never sold on a program before in my life until this one."

Mr. Baltz began in finance at the university. After listening to a speaker in the industry in his introduction to insurance class, he switched his major the next day to risk management and insurance.

**Directory of RMI schools online**

Listings in the *Business Insurance* Annual Directory of Risk Management & Insurance Schools are based on each school's response to a *BI* questionnaire.

The online directory is searchable by the type of program, graduate or undergraduate. Each section—undergraduate or graduate—is then searchable by the number of students in the major program; the number of students

who graduate with the major; the number of students in M.S., M.A., M.B.A. and Ph.D. programs; the number of undergraduate RMI courses; the number of graduate courses; the type of programs offered to students; scholarships; internships; international exchange; distance learning; and alumni mentoring.

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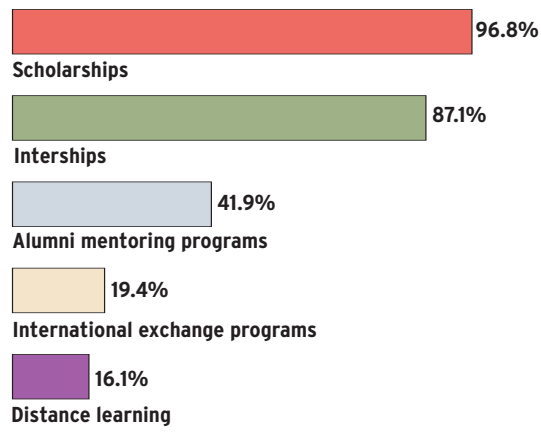
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## PROGRAMS OFFERED TO STUDENTS

Percentage of schools that offer these programs



Source: BI survey

## LARGEST GRADUATE RMI PROGRAMS

Ranked by students enrolled to receive a graduate degree in risk management/insurance in 2003/2004\*

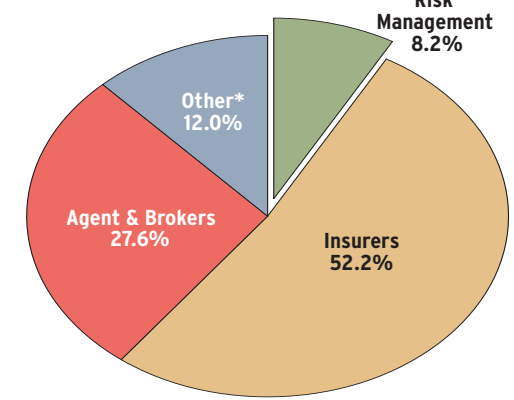
University	Number of students
Georgia State University	180
Florida State University	72
Temple University	62
St John's University	58
Eastern Kentucky University	45 <sup>1</sup>

Source: BI survey

\* Includes both graduate and Ph.D. programs. <sup>1</sup> Degree in Loss Prevention and Safety

## WHERE DO GRADUATES GO

Industries that undergraduates enter on receiving their degrees.



\* Includes banking, claims services, TPAs, consulting firms, employee benefits and other financial services.

Source: BI survey

# Largest undergraduate RMI programs

## Ranked by students enrolled to receive a major in 2003/2004

	University	Undergraduate department	Students in risk management/insurance program	Number of undergraduate courses offered in RMI	Contact
<b>1</b>	University of Georgia	Terry College of Business, Department of Insurance, Legal Studies and Real Estate	306	10	Robert E. Hoyt, department head/professor; <a href="mailto:rhoyt@terry.uga.edu">rhoyt@terry.uga.edu</a>
<b>2</b>	Temple University	Fox School of Business and Management, Department of Risk, Insurance and Healthcare Management	265	16	R.B. Drennan, department chair/program director/professor; <a href="mailto:rbdrennan@aol.com">rbdrennan@aol.com</a>
<b>3</b>	University of Wisconsin-Madison	School of Business, Actuarial Science, Risk Management and Insurance Department	141	11	Mark Browne, professor; <a href="mailto:mbrowne@bus.wisc.edu">mbrowne@bus.wisc.edu</a>
<b>4</b>	Florida State University	College of Business, Risk Management/Insurance, Real Estate and Business Law	130	9	Randy E. Dumm, associate professor-risk management and insurance; <a href="mailto:rdumm@fsu.edu">rdumm@fsu.edu</a>
<b>5</b>	University of Mississippi	School of Business Administration, Department of Finance	127	6	Larry A. Cox, Robertson Chair of Insurance; <a href="mailto:lcox@bus.olemiss.edu">lcox@bus.olemiss.edu</a>
<b>6</b>	Illinois State University	College of Business, Katie School of Insurance and Financial Services, Finance, Insurance and Law Department	125	8	James Jones, director; <a href="mailto:jjone2@ilstu.edu">jjone2@ilstu.edu</a>
<b>7</b>	Appalachian State University	Walker College of Business, Department of Finance, Banking and Insurance	120	6	David C. Marlett, director/assistant professor; <a href="mailto:marlettdc@appstate.edu">marlettdc@appstate.edu</a>
<b>8</b>	Georgia State University	Department of Risk Management and Insurance	116	8	Lorilee Schneider, undergraduate program adviser/assistant professor-risk management and insurance; <a href="mailto:schneider@gsu.edu">schneider@gsu.edu</a>
<b>9</b>	Mississippi State University	College of Business and Industry, Department of Finance and Economics	105	7	Edwin H. Duett, Lutken Chair of Insurance; <a href="mailto:eduet@cobilan.msstate.edu">eduet@cobilan.msstate.edu</a>
<b>10</b>	Indiana State University	College of Business	76	11	Mary Ann Boose, professor; <a href="mailto:m-boose@indstate.edu">m-boose@indstate.edu</a>

Source: BI survey

Visit [www.businessinsurance.com](http://www.businessinsurance.com) for more information and to access the full searchable Directory of RMI Schools.

## Ceiling: Expanding one's role is vital

Continued from page 10

Mr. Kelly stressed that many risk managers have to be willing to make big commitments in order to advance in their profession. "So much more has to be done for risk managers to assume the jobs they aspire to," he said.

That means, partly, that risk managers must work to achieve the education and designations they need to prove that they are capable of moving forward, Mr. Kelly explained. Many aren't willing, he observed.

As president of RIMS a decade ago, Mr. Kelly strove to have the Fellow in Risk Management designation, a well-received program in Canada, introduced in the United



**'The problem with risk management is that almost everyone you speak to never intended to do this.... So they don't have the credentials.'**

*William Kelly  
PricewaterhouseCoopers L.L.P.*

States. Few risk managers have pursued that program, he noted.

The Chartered Property Casualty Underwriter also "is a great designation," Mr. Kelly pointed out. And a risk manager would do well to earn a master of business administration degree, he said.

"The problem with risk management is that almost everyone you speak to never intended to do this," Mr. Kelly pointed out. "So they don't have the credentials."

It takes motivation, he stressed, to move forward. "For some risk managers, mediocrity is its own reward," he said, because it allows them to lay low within their organizations and hide behind the often-misunderstood nature of their work. But with such challenges as the Sarbanes/Oxley Act and other corporate governance concerns, "people are starting to pick up the rocks" and let more light shine on risk management as they seek help in covering their exposures, Mr. Kelly explained.

It's not as easy as it used to be to keep a low profile as a risk manager, agreed Jim Gunther, a principal with Harvard Aimes Group, a risk management recruiter based in West Haven, Conn. "I've sensed in the last five or 10 years that companies have begun to have much higher expectations" regarding their candidates for risk management positions, he said. "Just knowing about insurance ain't enough," he said.

And employers are realizing that they have to offer enough opportunity to keep their risk managers interested in the job, Mr. Gunther said. "I tell them if they can't do something for them in two or three years," such as a promotion or a broadening of responsibilities, "they're going to lose them," he said.

When working with a company to recruit a risk manager, "I ask, 'Where can a person go three or four years down the road?'" Mr. Gunther said. "For the longest time, I would get a blank stare," he said, because many companies were looking for someone to just handle insurance buying activities and some risk management.

"I told them, you don't keep people in purchasing their whole career," Mr. Gunther remarked, and you shouldn't view risk managers as lifelong insurance buyers.

Jim Durree, vp of risk management and corporate compliance at Avery Dennison Corp. in Pasadena, Calif., has stayed with his company 14 years, six of those after his duties

were expanded to include the corporate compliance function.

"From my perspective, people have to choose their own path" upon which to travel toward advancement, Mr. Durree said. "Going back to school is one option. But I think that perhaps

that's not the most direct way to do it," he said.

A more effective method, in many cases, is "rolling up your sleeves," he said, and putting in "good, honest hard work, showing people you can get results." Increasing one's visibility as a problem solver will lead to a higher profile within the organization, Mr. Durree noted.

When risk managers do move ahead, it generally is not to assume the position of chief financial officer. That position requires different talents and isn't one that a lot of risk managers aspire to, sources say.

"We're not seeing risk managers move into CFO positions," said Mr. Tannenbaum of Key Strategies. "It's a different skill set."

Even so, a strong financial background is important for risk managers who want to go beyond the risk management department, he said. Many are becoming vps of enterprise risk management and some are moving to chief risk officer positions, Mr. Tannenbaum pointed out, and both are jobs that typically go to candidates who hold MBAs or have some financial background with their insurance experience.

Judy Lindenmayer, who worked in risk management for 34 years and now is a Norcross, Ga.-based senior vp with broker Hilb, Rogal & Hobbs, stressed that passion is a critical ingredient in success. If risk managers have passion for their job, she said, it's OK to stay put.

"People ought to excel at those things about which they are passionate," Ms. Lindenmayer said. "If that passion is risk management and you are doing a good job, like the company and are listened to, I don't think you have to move on."

## Advanced degrees, designations help to hone competitive edge

By RUPAL PAREKH

While academic qualifications are no substitute for experience in risk management, advanced degrees and professional designations can help risk managers move forward with their careers.

Educational and professional development opportunities are useful for deepening knowledge of the industry, educators and risk managers say, and they can help employees to climb the corporate ladder faster.

"I have found that my MBA has tremendously helped me with my career," said Lea Gerber, director of risk and benefits management for Elixir Industries, a Gardena, Calif.-based manufacturing company. In her experience, Ms. Gerber said, an MBA "opens up opportunities" and "allows a risk manager to be open to promotion."

Subsequent to completing her advanced degree—which Ms. Ger-

ber obtained after approximately seven years' worth of on-the-job experience—she was promoted by her then-employer to an assistant treasurer position that entailed new and added responsibilities, she said.

"I think it's just professionally very smart if one keeps competitive and maintains an edge," said Deborah Luthi, vp of professional development for the New York-based Risk & Insurance Management Society Inc.'s executive council and risk manager for the University of California, Davis. But "I don't think there's one best way—I think there are many different ways—to keep increasing your knowledge," she said.

Among the ways to keep competitive are getting a master's degree in business administration or becoming a RIMS Fellow, Ms. Luthi said. "Or it could just be sharing and learning through the experiences of other risk managers," she said.

For several years, Ms. Luthi has had an Associate in Risk Management designation, which is offered by the Malvern, Pa.-based Insurance Institute of America. More recently, she completed a certification in control self-assessment through the Altamonte Springs, Fla.-based Institute of Internal Auditors.

"In my organization, the enterprise risk management effort is being spearheaded by the comptroller and the internal auditor," Ms. Luthi said. Obtaining the new certification was a way to blend and leverage the risk management skills she already had with those of other departments to best manage risk for the university, she said.

The RIMS Fellow designation requirements include a combination of university-level courses in risk management and business, RIMS workshops and online courses.

See **EDGE**/next page

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# Edge: Advanced degrees, designations are beneficial

## Continued from previous page

Continued standing is dependent on professional activities, such as attending conferences or training. A total of 50 RIMS Fellows have completed the program since its initiation in 2003, and 97 more Fellows candidates are currently enrolled.

"If you're a risk management or insurance professional, having an advanced degree such as an MBA does give you an edge," said Helen Doerpinghaus, a professor of risk management, insurance and employee benefits at the University of South Carolina's Moore School of Business in Columbia, S.C.

Ms. Doerpinghaus said, though, that "there's something even more important than a graduate degree, and that's knowledge and competence."

Most academics maintain that risk and benefits managers need a minimum of two years of work experience prior to pursuing advanced degrees.

"A degree is not going to make up for a lack of experience," Ms. Doerpinghaus said.

Prospective students must also consider that degree programs are a significant investment of both time and money.

Cutbacks in corporate sponsorship of education and increasing cost concerns, among other things, have actually caused a drop in applications for advanced degrees, the McLean, Va.-based Graduate Management Admission Council has reported.

According to Joan Schmidt,

American Family Insurance professor of risk management and insurance at the school of business at the University of Wisconsin-Madison, all MBA programs have seen a reduction in applicants, due, in part, to a lagging economy.

Furthermore, according to GMAC's Global MBA Graduate Survey 2004—in which more than 6,200 graduating MBA's participated—just 1% of students specialized in health care administration and risk management last year. Less than 1% focused in insurance and actuarial science.

Students who are attracted to the master of science program in the management of risk at St. John's University's School of Risk Management, Insurance & Actuarial Science in New York typically are already professionals in the insurance or financial services industry, according to the school's chair, Nicos Scordis. Mr. Scordis said he believes the program, which comes in at a cost of just under \$20,000, is a valuable investment.

"From what I have seen, I would say that most students within five to seven years after they do the master of science see their responsibilities increase, their salaries increase and they receive promotions," he said.

Jim Crockett, manager of risk and benefits at Denver Water, has an MBA and Associate in Risk Management and Chartered Property Casualty Underwriter designations, which are offered by the Insurance Institute of America.

While Mr. Crockett said he does

not believe that an MBA is a requirement for the risk management field, it can add value in terms of advancement. He noted that many individuals in the positions of chief executive officer and chief financial officer hold advanced degrees.

"It would be beneficial for the risk manager to have this type of background," Mr. Crockett said, in order for him or her to relate to and form partnerships with executives at the higher levels in his or her organization. That way, he said, that individual can achieve "equal footing" and have greater "influence in making risk management decisions."

Mr. Scordis of St. John's Universi-

ty agreed, saying, "Risk managers need to be able to talk and understand the language of both the insurance broker and investment banker or CFO."

"When you have taken the additional training and have the higher education in any field of study, I think you become more marketable," said Jim Hirt, executive director of Arlington, Va.-based Public Risk Management Assn.

Responding to requests from PRIMA's membership, the association last May began offering an online risk management advanced degree program through a partnership with Florida State University. "In-

terest in the program is very strong," Mr. Hirt said, noting that PRIMA has already sent out at least 100 applications to date.

"Our members are looking for recognition, and certification programs and credentials are a means to that recognition," he said. "This a young program, so we'll see how successful it becomes," he added.

"I think risk management is becoming broader, rather than narrower and more specialized," Ms. Luthi said. In the future, she said, "risk managers who bring that broader skill set and broader approach to assessing risk are going to be valued."

## Professional designation programs offer array of credentialing choices

Risk managers and employee benefit managers looking to expand their knowledge and earn recognized credentials have a variety of educational options.

Several organizations offer professional designations that insurance buyers and industry members can earn by completing a series of courses and examinations. The programs vary in subject matter, cost and length of study, offering flexibility for busy professionals.

Organizations such as the Malvern, Pa.-based American Institute for CPCU/Insurance Institute of America offer various educational programs and designations covering virtually all facets of insurance.

Following are summaries of some of the programs geared to risk management and benefit management:

### Associate in Risk Management

**Courses:** Three courses. ARM 54, Essentials of Risk Management; ARM 55, Essentials of Risk Control; ARM 56, Risk Financing.

**Topics covered include:** risk management processes, risk analysis, loss control, reinsurance and self-insurance, claim administration and cost allocation.

**Examinations:** One each for ARM 54, ARM 55, ARM 56. Passing an additional exam, for Risk Management for Public Entities 352, enables students to earn an Associate in Risk Management for Public Entities, or ARM-P, designation. The ARM exams are objective, computer-administered tests.

**Cost:** \$1,064, which comprises course guides, texts and study disks for ARM 54/55/56 and standard exam fees. Discounted exam fees are available. The RMPE course and exam cost \$202.

**Contact:** American Institute for CPCU/Insurance Institute of America, 720 Providence Road, Malvern, Pa. 19355-0716; 800-644-2101; [www.aicpcu.org](http://www.aicpcu.org).

### Associate in Management

**Courses:** Three courses. AIM 40, Management; AIM 44, Human Re-

source Management; AIM 45, Managing Business Organizations Today.

**Topics covered include:** organizational environment, managing individuals and groups, strategic human resource management, compensation and benefits, current management topics.

**Exams:** One each for AIM 40 and AIM 44. There is no exam for AIM 45. The AIM exams are objective, computer-administered tests.

**Cost:** \$1,091, which comprises course guides, texts, administration fee for AIM 45 and standard exam fees. Discounted fees are available.

**Contact:** American Institute for CPCU/Insurance Institute of America, 720 Providence Road, Malvern, Pa. 19355-0716; 800-644-2101; [www.aicpcu.org](http://www.aicpcu.org).

### Certified Employee Benefit Specialist

**Courses:** Six required courses and two electives. Required: Course 1, Employee Benefits: Concepts and Health Care Benefits; Course 2, Employee Benefits: Design, Administration and Other Welfare Benefits; Course 3, Retirement Plans: Basic Features and Defined Contribution Approaches; Course 4, Retirement Plans: Defined Benefit Approaches and Plan Administration; Comp 1, Compensation Concepts and Principles; Course 8, Human Resources and Compensation Management. Electives: Course 5, Contemporary Legal Environment of Employee Benefit Plans; Course 6, Financial Concepts and Practices; Course 7, Asset Management; Course 9, Health Economics; Course 10, Contemporary Benefit Issues and Practices; Comp 2, Executive Compensation and Compensation Issues; PFP 1, Personal Financial Planning 1: Concepts and Principles; PFP 2, Personal Financial Planning 2: Tax and Estate Planning Techniques. Courses 5, 6 and 10 will no longer be offered after 2005.

**Exams:** One for each course. Exams are objective, 100-question multiple-choice tests. CEBS designees must abide by a set of principles of conduct established by the

International Society of Certified Employee Benefit Specialists.

**Cost:** Varies. CEBS program of required courses and electives of Course 9 and Comp 2 would cost about \$3,874, which would comprise study manuals, texts, practice exams, registration fee and regular exam fees. Discounted fees are available.

**Contact:** International Foundation of Employee Benefit Plans, 18700 W. Bluemound Road, P.O. Box 1270, Brookfield, Wis. 53008-1270; 262-786-6710, ext. 8579.

### Certified Risk Manager

**Courses:** Five: Principles of Risk Management, Analysis of Risk, Control of Risk, Financing of Risk and Practice of Risk Management.

**Topics covered include:** risk management processes, risk identification, quantitative analysis, claims management, crisis management, alternative risk financing, information technology for risk managers.

**Cost:** \$1,975, or \$395 per course. Each course is conducted over two and one-half days at various sites around the country. Exams are optional for students not pursuing the CRM designation. CRM courses are open to active risk managers.

**Contact:** The National Alliance for Insurance Education & Research, 3630 North Hills Drive, Austin, Texas 78731; 800-633-2165; [www.scic.com](http://www.scic.com).

### Chartered Property Casualty Underwriter

**Courses:** Five foundation courses and three additional courses leading to a commercial or personal concentration. Foundation courses: CPCU 510, Foundation of Risk Management, Insurance and Professionalism; CPCU 520, Insurance Operations, Regulation and Statutory Accounting; CPCU 530, The Legal Environment of Risk Management and Insurance; CPCU 540, Business and Financial Analysis for Risk Management and Insurance Professionals; CPCU 560, Financial

See **DESIGNATIONS**/page 16

## The IMUA 75<sup>th</sup> Annual Conference: Why You Should Attend



If you're an underwriter, adjust inland marine claims or if you sell products or services to this sector of the P&C insurance industry, you won't want to miss out on this exceptional educational seminar, trade show and conference. And, you don't have to be an IMUA member to be welcomed. Best of all, the most knowledgeable inland marine underwriters will be in attendance.

**Sunday, April 17<sup>th</sup> through Tuesday, April 19<sup>th</sup>, 2005 at the Hyatt Regency Resort and Conference Center – Monterey, California.**

Industry experts will cover a variety of inland marine related topics that include:

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- Tools to Assist in Evaluating Builder's Risk Exposures
- Disaster Recovery Planning
- Transportation Underwriting and Cargo Theft
- An Overview of the Wine Industry
- The Legislative and Regulatory Environment

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- You'll feel welcome and will come away with valuable insights, contacts and industry expertise about commercial inland marine
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INLAND MARINE UNDERWRITERS ASSOCIATION

## Between the Lines

Compiled by Joanne Wojcik



### From Da Bears to Da Benefits

Insurance certainly isn't a contact sport, but that didn't stop former Chicago Bear and NFL Hall of Famer Dick Butkus from being drafted by one of the Midwest's largest privately held insurance broker's special teams.

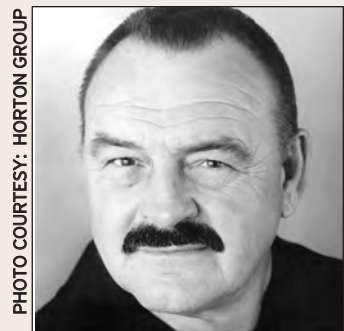


PHOTO COURTESY: HORTON GROUP

Mr. Butkus

The middle linebacker who was once considered the meanest guy in professional football was in the Windy City last week to schmooze and make a few insurance "sales calls" after handing off his 10-year-old voluntary benefits agency to The Horton Group. The Horton Group is one of Chicago's five largest brokers, with \$35 million in annual revenues.

Butkus formed BearPaw Inc. with fellow University of Illinois gridiron star Dave Powless back in

1995 initially to provide coverage to Indians working at casinos that did not provide employee benefits. This year, the firm expects to pack in some \$3 million in revenues through the worksite marketing of short-term disability, life and accident insurance and other employee-pay-all coverage at employers nationwide.

Together, the two brokers hope to capture even more business, double-teaming to deliver both core benefit packages, which is Horton's claim to fame, and ancillary benefit programs, BearPaw's specialty.

Butkus will continue to play a key management and sales role in the company, which will retain its separate identity, as will his son, Matt, who recently relocated to Chicago to help expand the BearPaw office there.

### Fear and loathing in Montana

It was a scene not unlike that described by gonzo journalist Hunter S. Thompson in his tale "Fear and Loathing in Las Vegas."

The widow of a sheriff's deputy who fell to his death from a hotel in Great Falls, Mont., after a night of heavy partying during a 2001 Narcotics Officers Assn. convention is entitled to workers compensation death benefits, the Montana Supreme Court ruled in December.

Although Phillips County Deputy Shawn Van Vleet met his tragic demise during the convention, the state Workers Compensation Board had earlier ruled that his death was not compensable because the binge drinking that led to his death wasn't work-related.

Think again, the high court said.

Because it was reasonable to assume that the meeting would involve some drinking and Mr. Van Vleet hadn't been told in advance by his employer to limit his alcohol consumption, he was covered under workers comp, according to the Supreme Court ruling.

### Mediocre MEDICARE assistance

The 1-800-MEDICARE help line nearly failed the Government Accountability Office's recent accuracy test, which found that only 61% of the 420 calls it made were answered correctly and 29% were wrong.

The remaining 10% were incomplete because the GAO callers were either disconnected or transferred to other contractors responsible for processing Medicare claims that were not open for business at the time the calls were placed.

In a report published by the GAO last month, the government agency reasoned that the responses were often wrong because the customer service representatives did not access or effectively use "scripts" they had been given to facilitate accurate responses. Unless the GAO starts grading on a curve, it appears that some of those 1-800-MEDICARE help line personnel need remedial education.



Tips and feedback from readers are welcomed. Please send information to [wojcik@businessinsurance.com](mailto:wojcik@businessinsurance.com).

## Designations: Array of options

Continued from page 14

Services Institutions. Commercial concentration courses: CPCU 551, Commercial Property Risk Management and Insurance; CPCU 552, Commercial Liability Risk Management and Insurance; CPCU 553, Survey of Personal Risk Management, Insurance and Financial Planning.

**Exams:** One for each course. Most are computer-administered essay exams of 30 to 35 questions each; CPCU 553 is a 100-question objective exam. All CPCU candidates and designees are subject to a code of professional ethics and must have insurance-related experience.

**Cost:** \$3,940 for CPCU program

with commercial concentration, which comprises course guides, texts, practice exams, study aids and standard exam fees. Discounted fees are available.

**Contact:** American Institute for CPCU/Insurance Institute of America, 720 Providence Road, Malvern, Pa. 19355-0716; 800-644-2101; [www.aicpcu.org](http://www.aicpcu.org).

### Group Benefits Associate

**Courses:** Four from the Certified Employee Benefit Specialist curriculum. Course 1, Employee Benefits: Concepts and Health Care Benefits; Course 2, Employee Benefits: Design, Administration and Other Welfare Benefits; Course 9, Health

Economics; and either Course 8, Human Resources and Compensation Management, or PFP 1, Personal Financial Planning 1: Concepts and Principles.

**Exams:** One for each course. Exams are objective, 100-question multiple-choice tests.

**Cost:** Varies. The GBA program electing Course 8 would cost \$1,999, which would comprise courses, texts, study materials and regular exam fees. Discounted fees are available.

**Contact:** International Foundation of Employee Benefit Plans, 18700 W. Bluemound Road, P.O. Box 1270, Brookfield, Wis. 53008-1270; 262-786-6710, ext. 8579; [www.ifebp.org](http://www.ifebp.org).

## Letters to the Editor

Continued from page 8

vates at a snail's pace.

As the NAIC continues to fine-tune its approach, one might consider a solution that obviates the need for elaborate and complicated disclosure and transparency rules. If the regulators want to effect meaningful change, a new approach is needed.

Let's start with the basics. From a legal perspective, there is a distinct difference between the terms "agent" and "broker." From a business standpoint, we have allowed that distinction to fade. As with most problems, a return to the basics usually provides effective guidance.

As a foundation, an insurance regulatory body should establish clear definitions of "brokers" and "agents" and structure licensing around those definitions. Licensing should be required at two levels, one at the entity level and one at the individual level. Every qualified retail insurance entity should be allowed to license itself as an agent, as a broker or both.

Every qualified individual within those organizations would choose to be licensed as an agent, a broker or both but must follow the fortunes of his or her entity. Thus, if an entity were licensed only as a broker, then the individuals within that entity could not be licensed as agents.

Insurers would then be required to appoint their producers as agents, brokers or both. They would issue policies through agents and brokers according to their appointments, clearly indicating on the policy in large red letters whether it is a "broker policy" or an "agent policy." The broker policy would be issued net of any commission for the broker. The broker would have to arrange payment from the customer for his or her services as do lawyers and accountants. The agent policy would carry whatever commission the agent and insurer would have negotiated. Market forces would take care of the rest.

The essence of Mr. Spitzer's original complaint was that certain individuals and entities were holding themselves out as brokers yet were acting as agents. While individuals and entities would be allowed to li-

cense themselves as both, they would be allowed to act as intermediaries in each client/insurer relationship only as one or the other and be paid by either the insurer or the customer, not both.

The requirement that an agent of an insurer disclose his or her compensation arrangement with that insurer would become unnecessary. Competition for the vast majority of agent-driven business would be intense, and the options would be many. Any customer issued an agent policy would likely have several outlets from which to choose. If not, the customer could request a broker policy. Disclosure would be accomplished.

Our industry is once again trying to salvage old inefficiencies by creating new, even more inefficient solutions. We must continue to strive to find different ways to be more efficient and effective while building in checks and balances that are driven by appropriate market forces.

**Wayne H. Carter III,**  
**CPCU, ARM**

President and Chief Executive Officer  
Target Capital Partners Inc.  
Avon, Conn.

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January 24, 2005

# International

17

## London underwriters establish task force on broker compensation

By SARAH VEYSEY

**LONDON**—Underwriters in London have formed a task force to help prepare the market for changes to brokers' business models stemming from the backlash against contingent commission arrangements.

The task force was formed earlier this month at the instigation of the Lloyd's Market Assn., which represents underwriters at Lloyd's of London, and draws members both from the Lloyd's and London company markets.

The task force was set up to consider proposed and other possible changes to brokers' business models in the light of New York Attorney General Eliot Spitzer's investigation into insurance brokering practices and the subsequent decision by several brokers to abandon contingent commission arrangements, according to LMA Chairman Robert Childs, director of underwriting at Hiscox P.L.C.

Following its decision to stop accepting contingent commissions, Aon Ltd., the London-based arm of

Aon Corp., announced in December that, for specialty business attaching on or after Jan. 14, 2005, it will receive a fixed percentage of premium for services such as policy issuance and claims handling. In addition, several other brokers have said they will soon announce changes to their compensation models.

Mr. Childs said that the group had been formed as a negotiating forum to find ways that brokers and underwriters could work together in the London market when brokers

introduce new business models and compensation structures.

Eric Galbraith, chief executive of the British Insurance Brokers' Assn., said that the association's Lloyd's Market Brokers' Committee would work with the task force.

Mr. Galbraith said, "It is to be applauded that the London market is getting together" to take on the issue of broker remuneration, but he noted that it would be difficult to find one model that suits everyone.

He stressed that when brokers are  
**See TASK FORCE/next page**

## World Updates

### Omni Whittington opens risk management unit

Omni Whittington Group has launched a risk management company, Omni Whittington Risk Management Ltd. The London-based company will focus on fraud prevention, detection, investigation and litigation support for insurers, lawyers and corporations, among others, the company said in a statement.

### Kiln increases Lloyd's capacity

Kiln P.L.C. has increased its capacity at Lloyd's of London to £703 million (\$1.31 billion) for the 2005 year of account, a 3.2% increase from the capacity offered by Kiln's four syndicates in 2004. The Lloyd's company said the capacity increase would allow the syndicates to take advantage of the continued favorable underwriting environment at Lloyd's.

### Airclaims' management purchases company

Airclaims Ltd.'s management has bought the London-based loss adjusting and information company from British Aviation Insurance Co. Ltd. in London and La Réunion Aérienne in Paris in a "multimillion-pound" deal, according to an Airclaims statement.

### Quanta Europe names underwriting executive

Quanta Capital Holdings Ltd. of Hamilton, Bermuda, has named John J. Byrne chief underwriting officer of Quanta Europe Ltd. in Dublin, Ireland. Mr. Byrne previously was a vp for American International Group Inc. unit AIG Europe S.A.

### Briefly noted

**Navigators Underwriting Agency Ltd.** in London has opened a marine underwriting unit in Antwerp, Belgium. The operation will write cargo, transport and marine liabilities. Capacity of the unit was not disclosed....**ACE Ltd.** has transferred the insurance and reinsurance portfolio of ACE Insurance S.A. N.V. of Belgium into ACE European Group Ltd., which is based in London....London-based insurance and consulting group **SBJ Group Ltd.** has acquired the group pensions business of private bank Brown Shipley. Terms of the deal were not disclosed....**XL Capital Ltd.** expects its net losses from the tsunami that hit South Asia on Dec. 26 to be about \$75 million. In addition, XL increased its estimate of pretax net losses from hurricanes Charley, Frances, Ivan and Jeanne to about \$520 million from \$446 million.



PHOTO: MARTYN HAYNHOW/AFP/GETTY

Losses from passenger refunds paid after the cancellation of a round-the-world cruise on the P&O cruise ship Aurora may fall on the company's third party liability insurers.

## P&I club may be liable for losses from canceled cruise

By PETA MILLER

**SOUTHAMPTON, England**—It is unclear whether P&O Cruises will be able to recoup the millions of pounds of compensation and refunds it has paid to passengers after the cancellation of a 103-day cruise.

The 1,870-passenger cruise ship Aurora was due to depart from Southampton, England, on Jan. 9 on a round-the-world voyage of 26,000 miles.

Passengers had paid up to £41,985 (\$78,512) each for tickets on the cruise, but after 10 days' delay, P&O Cruises was forced to cancel the voyage last week after engineers failed to repair a mechanical fault.

A spokeswoman for the Southampton-based company said that consequential losses such as full refunds and the compensation of passengers is not explicitly covered under P&O's program of insurance.

The company's third-party liability insurer—the Bermuda-based U.K. Mutual Steamship

Insurance Assn. Ltd., a protection and indemnity club—could be liable, though, to pay such losses under the club's rules and bylaws, said a marine executive who asked not to be identified.

The executive cited the club's Rule No. 2, which states that the club is liable to pay damages or compensation "to passengers on board an entered ship arising as a consequence of a casualty to that ship."

He noted, though, that "casualty" is not a simple concept to define, adding that the club will need to investigate the incident.

The U.K. P&I club declined to comment on the application of its coverage Friday.

The repair of the mechanical fault itself will be covered, the P&O spokeswoman said.

P&O has hull and machinery coverage spread widely in the marine insurance market, but the claim is not expected to be large, the marine executive added.

## Recall directive increases risk

### Insurers expect more demand

By CAROLYN ALDRED

Consumer product safety legislation being enacted throughout Europe is increasing product liability risks—and boosting demand in Europe for recall insurance.

This month, the United Kingdom introduced E.U. Regulation 178 for Food Safety, which requires food and beverage companies to immediately recall any product that is found to violate the European Commission's food safety requirements.

The law says food is deemed unsafe if it is injurious to health or is unfit for human consumption. In determining whether food is safe, manufacturers must take into account the condition of food at all stages of production. The E.U. law on food safety was passed in February 2002.

In addition, the U.K. government this month announced proposals to strengthen its regulatory powers to take action—including fines and criminal prosecutions—over dangerous products, other than food, that are put on the market.

The Department of Trade and Industry has set a March 31 deadline for comments on its consultation paper outlining plans for implementing into U.K. law the European Union's General Product Safety Directive.

Most E.U. countries already have adopted that directive, although the United Kingdom, Austria, Greece, Luxembourg, the Netherlands and Portugal have not yet completed work on implementation, said Rod Freeman, a partner in the product liability group of London-based law firm Lovells.

The directive, which was due to be implemented in all E.U. countries by Jan. 15, 2004, toughens requirements related to announcing and conducting product recalls for consumer goods, excluding food (BI, March 29, 2004).

Under the directive, producers

and distributors have a duty to notify authorities about dangerous products as soon as they learn of a possible risk. Also, the companies must cooperate with authorities on measures to prevent risks.

As part of the program, a centralized data bank—known as RAPEX, the rapid alert system for nonfood products—has been established to track all product recalls throughout the European Union.

Data on RAPEX shows that the number of product recalls has increased in those countries that have implemented the regulations, said Graeme Berry, director of insurance claims for PricewaterhouseCoopers L.L.P. in London. According to the European Union, there were 388 product recalls in 2004, up from 139 in 2003.

There has been a similar increase in the number of food and beverage recalls, which are tracked by the Rapid Alert System for Food and Feed. Before the implementation of Regulation 178, food and beverage recalls were made on a voluntary basis. Last year, the number of alerts increased to 706 from 454 in 2003 and from just 97 in 1999, according to data from American International Group Inc., which underwrites product recall coverage in Europe.

### More risks, more coverage

Mr. Berry said he believes that the increased amount of data now available to underwriters, together with the growing demand for recall insurance, will help develop the product recall insurance market. Product recalls are becoming more common in Europe and should increase with the new regulations, he said.

Many companies currently do not buy product recall insurance, although that is expected to change according to brokers and underwriters.

"In the short term, underwriters  
**See RECALL/page 19**

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Front, from left:  
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Tampa, FL  
**Tony Tuggle**  
Louisville, KY  
**David Valenzano**  
Pinellas Park, FL  
Back, from left:  
**Frank Rainer**  
Tallahassee, FL  
**Nick Thilges**  
Bloomington, MN  
**Marty Maroney**  
Tampa, FL



Front, from left:  
**Brenda J. Bonney**  
Fort Lauderdale, FL  
**Jena L. Kennedy**  
Atlanta, GA  
Back, from left:  
**David A. Skup**  
Fort Wayne, IN  
**Fitzroy A. Smith**  
Arlington, VA

Not Pictured: **Stephen Papuchis**, Clarksville, TN; **Mitch Rohde**, Lakeland, FL; **Diana Cook**, Iowa City, IA; **John T. Haas**, Chicago, IL; **Paul Leftwich**, Pinellas Park, FL; **Heather Maxwell**, Fort Lauderdale, FL; **Ruth Murray**, Las Vegas, NV; **Larry Patrick**, Seffner, FL; **Christopher Ridge**, Charleston, SC



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## REQUEST FOR PROPOSALS

## NOTICE

The Kansas State Employees Health Care Commission will issue a Request for Proposal (#07858) to obtain competitive proposals from qualified vendors for **Medical coverage, including HMO, PPO, Medicare Supplemental, TriCare Supplemental, High Deductible Health Plans with HSA/HRA options, and wrap around assistance policy for expatriate coverage, to include repatriation benefits.** Proposals can be on a fully insured or self insured basis.

Approximately 35,000 active state employees, 6,000 non-state employees, and 9,500 retirees/-COBRA participate in the health plan. Total covered lives are approximately 90,000.

The RFP (#07858) will be posted to the Division of Purchases Internet website. The document and exhibits can be downloaded by going to the following website: <http://da.state.ks.us/purch/rfq> It would then be the vendor's responsibility to monitor this website on a regular basis for any changes or addenda.

The expected release date is January 19, 2005 with a closing date of March 10, 2005.

If you have problems accessing the site, please contact:

KANSAS DEPARTMENT OF ADMINISTRATION  
Division of Purchases  
Attn: Linda Ehrhart  
900 SW Jackson Street  
Room 102-N  
Topeka, Kansas 66612-1251

E-mail:  
[linda.ehrhart@da.state.ks.us](mailto:linda.ehrhart@da.state.ks.us)

## REQUEST FOR PROPOSALS

### LEGAL NOTICE CITY OF NAPERVILLE REQUEST FOR PROPOSALS RFP 05-130

**Excess Liability Insurance Coverage**  
The City of Naperville, Illinois does hereby invite proposals for excess general liability insurance coverage for the period beginning May 1, 2005.

Market Assignment Requests will be received beginning at 8:00 A.M. January 31st, and ending at close of business on February 14, 2005.

Proposals will be received at the City of Naperville, Purchasing Division, 400 South Eagle Street, P.O. Box 3020, Naperville, Illinois 60566-7020 until 3:00 p.m., local time, on March 1, 2005.

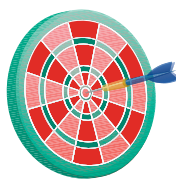
Those desiring to tender proposals may obtain copies of the specifications between the hours of 8:00 A.M. and 5:00 P.M., Monday through Friday, in the Purchasing Division, at the above address, or by downloading via the City's website: (<http://www.naperville.il.us>).

The City reserves the right to reject any or all proposals.

## For 2005 BI Rates or Editorial Calendar

e-mail  
[tvasilakis@BusinessInsurance.com](mailto:tvasilakis@BusinessInsurance.com)

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Professional MarketPlace continued on page 19

## Task force: Broker changes

Continued from previous page  
asked to disclose information about remuneration, they should do so, and that it is up to brokers to ensure that their clients are treated fairly.

One broker, who asked not to be named, said, "Certainly, the broker community would do well to value the opinions of our carrier partners" on the issue of broker compensation models.

A spokesman for the International Underwriting Assn., which repre-

**When brokers are asked to disclose information about remuneration, they should do so. It is up to brokers to ensure that their clients are treated fairly.**

*Eric Galbraith  
British Insurance Brokers' Assn.*

sents underwriters in the London company market, said it would maintain an ongoing dialogue with the LMA about the progress of the task force.

A spokesman for the London-based Assn. of Insurance & Risk Managers said that the association would keep an eye on developments from the underwriter task force.

The task force is chaired by Andrew Beazley, chief executive officer of the Beazley Group P.L.C., and is advised by the London-based law firms of Reynolds Porter Chamberlain and Ropes & Gray. The other members of the working party are: Christine Dandridge, executive director of Atrium Underwriting P.L.C.; David Foreman, chief underwriting officer of Wellington Underwriting P.L.C.; Dan Glaser, managing director of AIG Europe U.K. Ltd.; Tony Holt, underwriting director of Amlin P.L.C.; Martin Hudson, CEO of St. Paul Travelers Syndicate Management Ltd.; Andrew Kendrick, chairman and CEO of ACE European Group; and Bob Stuchbery, group underwriting director of Chaucer Holdings P.L.C.

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## HELP WANTED

## HELP WANTED



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Risk Solutions for a Changing World

# Recall: Law will raise risk

Continued from page 17

will see an increase in the incidences of recall claims, but it will lead to companies understanding and managing the risk better and to underwriters being in a better position to write and price the risk," he said, noting that he has seen an increase in the number of product recall claims in Europe since the directive has been implemented in various countries.

In the coming years, "product recall insurance will become a much more common insurance product in Europe," he said.

AIG also is expecting the market to develop significantly, said Marcos Garcia Norris, senior underwriter and assistant vp in the crisis management division of AIG Europe (UK) Ltd., a London-based unit of AIG.

Mr. Garcia Norris said that the food safety directive has resulted in a 30% increase in submissions to AIG Europe for product recall insurance in the past few months. He noted that the insurer recently increased its primary capacity for the food and beverages sector to \$10 million from \$6 million for accidental damage. AIG also offers \$30 million for malicious tampering and extortion. AIG's primary capacity for nonfood recalls is \$6 million.

The legislation is "definitely having an impact on companies' approach to recall planning and crisis management," said Ian Harrison, director of programs and facilities for Miller Insurance Services Ltd. in London.

While demand for product recall insurance is increasing, insurance capacity for such coverage, particularly outside the food and beverages sector, remains limited, said Mr. Harrison.

However, "a greater transparency of reporting will provide underwriters with more statistics and help the market develop," he said.

Swedish electrical household product company Electrolux A.B. is "exploring the options of transferring its product recall risks into the insurance market," said Peter Andersson, the Stockholm-based company's risk and insurance manager.

Electrolux currently carries product recall insurance in only two countries, said Mr. Andersson, who did not identify the countries.

However, the company now "is looking at the option of a global approach" to addressing its product recall exposures, he said.

Mr. Andersson said Electrolux's decision to transfer some of its product recall risk was not prompted by the new legislation. In addition, he stressed that managing the risk and maintaining appropriate quality control are more important than simply buying insurance.

The consultation paper is available at [www.dti.gov.uk/ccp/topics1/safety.htm](http://www.dti.gov.uk/ccp/topics1/safety.htm)

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## INVITATION TO NEGOTIATE

**State Board of Administration of Florida**  
The State Board of Administration of Florida (SBA) is soliciting competitive responses from parties interested in offering loss reimbursement examination services to the Florida Hurricane Catastrophe Fund (FHCF). The Invitation to Negotiate (ITN) will be available on February 4, 2005, and may be obtained from the FHCF web site at <http://www.sbafla.com/fhcf/> (under "What's New"). The deadline for submitting an intent to bid is 1:00 p.m. EST on February 22, 2005. The submission deadline is 4:00 p.m. EST on March 9, 2005. A meeting will be held on March 23, 2005 to discuss and evaluate the responses received. Oral presentations, if conducted, will be held March 31-April 1, 2005. The SBA reserves the right to reject any or all competitive proposals, and to cancel any ITNs.

## Publishing: February 7

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## LEGAL NOTICE

NOTICE OF TERMINATION OF SOLVENT SCHEME OF ARRANGEMENT IN THE HIGH COURT OF JUSTICE CHANCERY DIVISION COMPANIES COURT  
No 1740 of 2003  
No 1735 of 2003  
No 1739 of 2003  
IN THE MATTER OF  
**MARLON INSURANCE COMPANY LIMITED (formerly SKANDIA MARINE INSURANCE COMPANY (UK) LIMITED and VESTA (UK) INSURANCE COMPANY LIMITED)**  
**THE NATIONAL INSURANCE & GUARANTEE CORPORATION LIMITED (formerly THE NATIONAL INSURANCE & GUARANTEE CORPORATION PLC)**  
**RIVERSTONE (STOCKHOLM) INSURANCE CORPORATION (PUBL) (formerly ODYSSEY RE (STOCKHOLM) INSURANCE CORPORATION (PUBL) and SKANDIA INTERNATIONAL INSURANCE CORPORATION (PUBL))**  
IN THE MATTER OF THE COMPANIES ACT 1985, Section 425  
NOTICE IS HEREBY GIVEN in the matter of the above Companies (the "Companies") and their schemes of arrangement ("Scheme"), that, following written confirmation by the Scheme Manager (as defined in the Scheme) to the Companies on 20 December 2004, the Scheme has been finally implemented. All Established Liabilities (as defined in the Scheme) have been determined and satisfied in full. The Scheme has been finally implemented in accordance with its terms and, accordingly, it has been terminated and no further payments shall be made to Scheme Creditors by the Companies in respect of Scheme Liabilities. Should you have any questions regarding this Notice, please address them to Tony Bamber at: Marlon Management Services, Marlon House, 71-74 Mark Lane, London EC3R 7HT, United Kingdom, Telephone: +44 (0)20 7481 4681, Facsimile: +44 (0)20 7680 1978, Email: [tony.bamber@marlon-uk.com](mailto:tony.bamber@marlon-uk.com)

## LEGAL NOTICE

IN THE HIGH COURT OF JUSTICE (IN ENGLAND AND WALES)  
CHANCERY DIVISION  
COMPANIES COURT  
NO 165 OF 2005  
IN THE MATTER OF  
**THE BRITISH AVIATION INSURANCE COMPANY LIMITED**  
AND IN THE MATTER OF THE COMPANIES ACT 1985, SECTION 425  
Notice is hereby given that, by an order dated 18 January 2005, the High Court of Justice in England and Wales has directed that a meeting (the "Scheme Meeting") be convened of certain creditors ("Scheme Creditors") as defined in the scheme of arrangement referred to below (the "Scheme Meeting") in relation to certain business ("Scheme Business") for the purpose of considering and, if thought fit, approving (with or without modification) the scheme of arrangement (the "Scheme") proposed to be made between the Company and its Scheme Creditors. Scheme Creditors are insurance, reinsurance or retrocession creditors of the Company, in respect of the Scheme Business.  
Scheme Business means the business underwritten by or on behalf of the Company during the period 24 February 1930 to 31 December 1990 (inclusive) and by the Company's Canadian branch in the period up to and including 31 December 1991 (in either case). Any business written by or on behalf of the Company (or its Canadian branch) as a member of the BAIG Pool or otherwise outside of the periods specified above is excluded from the definition of "Scheme Business" and shall not be subject to the provisions of the Scheme.  
The Scheme Meeting will be held at Exchange House, Primrose Street, London, EC2A 2HS, United Kingdom at 2.30pm (London time) on 15 March 2005 at which place and time all Scheme Creditors of the Company are requested to attend. Registration will commence at 1.30pm (London time).  
Scheme Creditors may vote in person at the Scheme Meeting or they may appoint another person, whether a Scheme Creditor or not, as their proxy to attend and vote in their stead.  
A summary of the key terms of the proposed Scheme and a short statement required to be provided to creditors pursuant to section 426 of the Companies Act 1985, together with a Voting Form and Form of Proxy for use at the Scheme Meeting, are being sent to known Scheme Creditors as well as to brokers and other intermediaries who have been asked to notify any of their clients who may be Scheme Creditors of the proposed Scheme and how to obtain copies of the various Scheme documents. Copies of the Scheme documents may be downloaded from [www.baicsolventscheme.co.uk](http://www.baicsolventscheme.co.uk) (the "Website") or are available in hard copy on request to the proposed Scheme Manager, Global Aerospace Underwriting Managers Limited ("Global") at the address given below.  
Completed Voting Forms, accompanied by completed Forms of Proxy (where appropriate), must be returned to Global at the address given below, marked for the attention of Mick Dempsey by 5.30pm (London time) on 14 March 2005. Alternatively, such forms may be handed in at the registration desk at the Scheme Meeting prior to its commencement or faxed to Global, marked for the attention of Mick Dempsey at the fax number given below. However, faxed forms will only be accepted if legible, and you should return the original forms to Global, marked for the attention of Mick Dempsey to be received no later than 3 Business Days after the Scheme Meeting or hand them in to the registration desk at the Scheme Meeting prior to its commencement. Scheme Creditors are urged to return the Voting Form and Form of Proxy in advance of the Scheme Meeting.  
By the said Order the Court has directed that the Chairman of the Scheme Meeting shall be Kevin Cracknell, a director of the Company or failing him Tony Medniuk, also a director of the Company and has directed the Chairman to report the results of the Scheme Meeting to the Court.  
Any Scheme Creditor who is unclear about or has any questions concerning the action it is required to take to vote on the Scheme should contact Mick Dempsey at Global, at Fitzwilliam House, 10 St Mary Axe, London, EC3A 8EQ, United Kingdom (email: [mdempsey@global-aero.co.uk](mailto:mdempsey@global-aero.co.uk); tel: +44 (0)20 7369 2244; fax: +44 (0)20 7369 2840) or (in the case of Canadian resident policyholders) Joe Zigrissi of Global Aerospace Underwriting Managers (Canada) Limited at 100 Renfrew Drive, Suite 200 Markham, Ontario, L3R 9R6, Canada (email: [jzigrissi@global-aero.ca](mailto:jzigrissi@global-aero.ca); tel: +1 (905) 948 7082; fax: +1 (905) 479 0751).  
If the Scheme is approved by the requisite majority of Scheme Creditors, an application for sanction of the Scheme will be made to the High Court of Justice of England and Wales.  
DATED this 24th day of January 2005  
Herbert Smith, Exchange House, Primrose Street, London, EC2A 2HS, United Kingdom (Ref: 3946/5548/30843490)

## LEGAL NOTICE

## LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT • SOUTHERN DISTRICT OF NEW YORK  
In re Petition of Board of Directors of **CAVELL INSURANCE COMPANY LIMITED**, Debtor in a Foreign Proceeding. x  
In a Proceeding Under Section 304 of the Bankruptcy Code Case No. 04-B-17990 (CB) x  
NOTICE IS HEREBY GIVEN that, in connection with the Petition filed on December 20, 2004, pursuant to section 304 of the Bankruptcy Code (the "Petition"), by the Board of Directors (the "Petitioner") of **Cavell Insurance Company Limited** (the "Company"), the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") has issued a Preliminary Injunction Order dated January 12, 2004 (the "Order").  
1. Enjoining all Scheme Creditors (as defined in the Order) from: (a) seizing, repossessing, transferring, relinquishing or disposing of any property of the Company in the United States, or the proceeds of such property; (b) commencing or continuing any action or legal proceeding in connection with any Claim (as defined in the Order) (including, without limitation, arbitration or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever), including by way of counterclaim against the Company, or any property in the United States that is involved in the foreign proceeding, or any proceeds thereof, and seeking discovery of any nature against the Company; (c) enforcing any judicial, quasi-judicial, administrative or regulatory judgment, assessment or order, or arbitration award obtained in connection with any Claim, and commencing or continuing any act or action or legal proceeding in connection with any Claim (including, without limitation, arbitration, or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever) or any counterclaim to create, perfect or enforce any lien, attachment, garnishment, setoff or other claim arising out of a Claim against the Company or any of its property in the United States, or any proceeds thereof, including, without limitation, rights under reinsurance or retrocession contracts; (d) invoking, enforcing or relying on the benefits of any statute, rule or requirement of federal, state, or local law or regulation requiring the Company to establish or post security in the form of a bond, letter of credit or otherwise as a condition of prosecuting or defending any proceedings (including, without limitation, arbitration, mediation or any judicial, quasi-judicial, administrative or regulatory action, proceedings or process whatsoever) and such statute, rule or requirement will be rendered null and void for proceedings; (e) drawing down any letter of credit established by, on behalf of or at the request of, the Company, in excess of amounts expressly authorized by the terms of the contract or other agreement pursuant to which such letter of credit has been established; and (f) withdrawing from, setting off against, or otherwise applying property that is the subject of any trust or escrow agreement or similar arrangement in which the Company has an interest in excess of amounts expressly authorized by the terms of the contract and any related trust or other agreement pursuant to which such letter of credit, trust, escrow, or similar arrangement has been established;  
2. Requiring that all persons and entities in possession, custody or control of the Company's property in the United States or the proceeds thereof, shall turn over and account for such property or its proceeds to the Petitioner unless such a person or entity has a bona fide defense to this obligation to turn over;  
3. Requiring that all Scheme Creditors that are beneficiaries of letters of credit established by, on behalf of or at the request of, the Company or parties to any trust, escrow or similar arrangement in which the Company has an interest, to: (a) provide notice to the Petitioner's United States counsel of any drawdown on any letter of credit established by, on behalf of or at the request of, the Company, or any withdrawal from, setoff against, or other application of property that is the subject of any trust or escrow agreement or similar arrangement in which the Company has an interest, together with information sufficient to permit the Petitioner to assess the propriety of such drawdown, withdrawal, setoff or other application, including, without limitation, the date and amount of such drawdown, withdrawal, setoff or other application and a copy of any contract, related trust or other agreement pursuant to which any such drawdown, withdrawal, setoff, or other application was made, and provide such notice and other information contemporaneously therewith; and, (b) turn over and account to the Petitioner for all funds resulting from such drawdown, withdrawal, setoff, or other application in excess of amounts expressly authorized by the terms of the contract, any related trust or other agreement pursuant to which such letter of credit, trust, escrow or similar arrangement has been established unless such Scheme Creditor has a bona fide defense to this obligation to turn over; and  
4. Requiring that every Scheme Creditor that has a claim of any nature or source arising out of a Claim and that is a party to any action or other legal proceeding (including, without limitation, arbitration or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever) in which the Company is or was named as a party, or as a result of which a liability of the Company may be established, is required to place the Petitioner's United States counsel (Chadbourne & Parke LLP, 30 Rockefeller Plaza, New York, NY 10112, Attn: Francisco Vazquez, Esq.) on the master service list of any such action or other legal proceeding, and to take such other steps as may be necessary to ensure that such counsel receives: (a) copies of any and all documents served by the parties to such action or other legal proceeding or issued by the court, arbitrator, administrator, regulator or similar official having jurisdiction over such action or legal proceeding; and, (b) any and all correspondence, or other documents circulated to parties named in the master service list.  
The Order shall remain in effect pending determination following a hearing to consider whether the Bankruptcy Court will (i) issue a permanent injunction order, pursuant to Section 304 of the Bankruptcy Code, providing for, among other things, recognition of the Scheme of Arrangement, substantially in the form set forth in the Amended Exhibit "A" filed with the Bankruptcy Court on January 12, 2005, in the United States and/or (ii) continuation of the Order, which hearing is scheduled to be held before the Honorable Cornelius Blackshear, United States Bankruptcy Judge, United States Bankruptcy Court, One Bowling Green, New York, New York on April 6, 2005 at 2:00 p.m. (the "Return Date").  
The Order shall remain in effect until April 7, 2005 (the "Interim Date"). All papers submitted for the purpose of opposing the issuance of a permanent injunction order and/or continuation of the Order after the Interim Date shall be filed with the Bankruptcy Court, with a copy to the Chambers of the Honorable Cornelius Blackshear, and served on Chadbourne & Parke LLP, 30 Rockefeller Plaza, New York, New York 10112, Attention: Howard Seife, Esq., counsel for the Petitioner, so as to be received at least fourteen (14) days prior to the Return Date.  
Any party-in-interest that has not received a copy of the Petition, supporting papers and/or the Order should contact counsel for the Petitioner at the address below:  
**CHADBOURNE & PARKE LLP**  
Attorneys for the Petitioner • 30 Rockefeller Plaza • New York, New York 10112 • (212) 408-5100  
Attn: Howard Seife, Esq. • Francisco Vazquez, Esq.

## LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT • SOUTHERN DISTRICT OF NEW YORK  
In re Petition of Board of Directors of **UNIONE ITALIANA (UK) REINSURANCE COMPANY LIMITED**, Debtor in a Foreign Proceeding. x  
In a Proceeding Under Section 304 of the Bankruptcy Code Case No. 04-B-17989 (CB) x  
NOTICE IS HEREBY GIVEN that, in connection with the Petition filed on December 20, 2004, pursuant to section 304 of the Bankruptcy Code (the "Petition"), by the Board of Directors (the "Petitioner") of **Unione Italiana (UK) Reinsurance Company Limited** (the "Company"), the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") has issued a Preliminary Injunction Order dated January 12, 2004 (the "Order").  
1. Enjoining all Scheme Creditors (as defined in the Order) from: (a) seizing, repossessing, transferring, relinquishing or disposing of any property of the Company in the United States, or the proceeds of such property; (b) commencing or continuing any action or legal proceeding in connection with any Claim (as defined in the Order) (including, without limitation, arbitration or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever), including by way of counterclaim against the Company, or any property in the United States that is involved in the foreign proceeding, or any proceeds thereof, and seeking discovery of any nature against the Company; (c) enforcing any judicial, quasi-judicial, administrative or regulatory judgment, assessment or order, or arbitration award obtained in connection with any Claim, and commencing or continuing any act or action or legal proceeding in connection with any Claim (including, without limitation, arbitration, or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever) or any counterclaim to create, perfect or enforce any lien, attachment, garnishment, setoff or other claim arising out of a Claim against the Company or any of its property in the United States, or any proceeds thereof, including, without limitation, rights under reinsurance or retrocession contracts; (d) invoking, enforcing or relying on the benefits of any statute, rule or requirement of federal, state, or local law or regulation requiring the Company to establish or post security in the form of a bond, letter of credit or otherwise as a condition of prosecuting or defending any proceedings (including, without limitation, arbitration, mediation or any judicial, quasi-judicial, administrative or regulatory action, proceedings or process whatsoever) and such statute, rule or requirement will be rendered null and void for proceedings; (e) drawing down any letter of credit established by, on behalf of or at the request of, the Company, in excess of amounts expressly authorized by the terms of the contract or other agreement pursuant to which such letter of credit has been established; and (f) withdrawing from, setting off against, or otherwise applying property that is the subject of any trust or escrow agreement or similar arrangement in which the Company has an interest in excess of amounts expressly authorized by the terms of the contract and any related trust or other agreement pursuant to which such letter of credit, trust, escrow, or similar arrangement has been established;  
2. Requiring that all persons and entities in possession, custody or control of the Company's property in the United States or the proceeds thereof, shall turn over and account for such property or its proceeds to the Petitioner unless such a person or entity has a bona fide defense to this obligation to turn over;  
3. Requiring that all Scheme Creditors that are beneficiaries of letters of credit established by, on behalf of or at the request of, the Company or parties to any trust, escrow or similar arrangement in which the Company has an interest, to: (a) provide notice to the Petitioner's United States counsel of any drawdown on any letter of credit established by, on behalf of or at the request of, the Company, or any withdrawal from, setoff against, or other application of property that is the subject of any trust or escrow agreement or similar arrangement in which the Company has an interest, together with information sufficient to permit the Petitioner to assess the propriety of such drawdown, withdrawal, setoff or other application, including, without limitation, the date and amount of such drawdown, withdrawal, setoff or other application and a copy of any contract, related trust or other agreement pursuant to which any such drawdown, withdrawal, setoff, or other application was made, and provide such notice and other information contemporaneously therewith; and, (b) turn over and account to the Petitioner for all funds resulting from such drawdown, withdrawal, setoff, or other application in excess of amounts expressly authorized by the terms of the contract, any related trust or other agreement pursuant to which such letter of credit, trust, escrow or similar arrangement has been established unless such Scheme Creditor has a bona fide defense to this obligation to turn over; and  
4. Requiring that every Scheme Creditor that has a claim of any nature or source arising out of a Claim and that is a party to any action or other legal proceeding (including, without limitation, arbitration or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever) in which the Company is or was named as a party, or as a result of which a liability of the Company may be established, is required to place the Petitioner's United States counsel (Chadbourne & Parke LLP, 30 Rockefeller Plaza, New York, NY 10112, Attn: Francisco Vazquez, Esq.) on the master service list of any such action or other legal proceeding, and to take such other steps as may be necessary to ensure that such counsel receives: (a) copies of any and all documents served by the parties to such action or other legal proceeding or issued by the court, arbitrator, administrator, regulator or similar official having jurisdiction over such action or legal proceeding; and, (b) any and all correspondence, or other documents circulated to parties named in the master service list.  
The Order shall remain in effect pending determination following a hearing to consider whether the Bankruptcy Court will (i) issue a permanent injunction order, pursuant to Section 304 of the Bankruptcy Code, providing for, among other things, recognition of the Scheme of Arrangement, substantially in the form set forth in the Amended Exhibit "A" filed with the Bankruptcy Court on January 12, 2005, in the United States and/or (ii) continuation of the Order, which hearing is scheduled to be held before the Honorable Cornelius Blackshear, United States Bankruptcy Judge, United States Bankruptcy Court, One Bowling Green, New York, New York on April 6, 2005 at 2:00 p.m. (the "Return Date").  
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Any party-in-interest that has not received a copy of the Petition, supporting papers and/or the Order should contact counsel for the Petitioner at the address below:  
**CHADBOURNE & PARKE LLP**  
Attorneys for the Petitioner • 30 Rockefeller Plaza • New York, New York 10112 • (212) 408-5100  
Attn: Howard Seife, Esq. • Francisco Vazquez, Esq.

# 401(k): IRS rules curb some plan contributions

Continued from page 4

the maximum annual contribution—currently \$14,000—to 401(k) plans depend on the deferral rates of rank-and-file employees.

Under law, the difference in average salary deferrals of higher-paid employees—measured as a percentage of pay—generally can exceed the average deferrals of rank-and-file employees by no more than two percentage points. The purpose of this rule is to ensure that participation in the plan is not unduly skewed in favor of higher-paid employees.

In a bottom-up approach, because the employees selected to receive employer contributions are very low paid, even a small employer contribution can significantly boost their contribution rate—measured

as a percentage of pay—along with that of the entire group of lower-paid employees.

“It was a relatively low-cost way to pass the nondiscrimination test,” Mr. Rumack said.

Still, while the cost may have been low, relatively few employers used it, 401(k) experts say.

“For a lot of employers, it just didn’t feel right,” said Michael Weddell, a consultant in the Southfield, Mich., office of Watson Wyatt Worldwide. “Providing a windfall to a handful of the lowest-paid employees didn’t seem like a very strategic way to allocate dollars,” Mr. Weddell added.

According to the IRS, the bottom-up approach, which it describes as “targeting,” “undermines the integrity” of nondiscrimination test-

ing and flies in the face of congressional intent.

The final rules do permit employ-

**‘Providing a windfall to a handful of the lowest-paid employees didn’t seem like a very strategic way to allocate dollars.’**

Michael Weddell  
Watson Wyatt Worldwide

ers to provide voluntary contributions for nondiscrimination testing purposes to whatever number of very low-paid employees they choose, but only if those

contributions do not exceed 5% of any employee’s compensation.

Contributions exceeding 5% of pay still could be counted in running the nondiscrimination test, but only if a two-prong test is satisfied: the contributions must be provided to at least half of lower-paid employees, and the highest contribution, as a percentage of pay, to any low-paid employee can be no greater than twice as much as the lowest contribution.

While the new restrictions might not kill bottoming up, they will reduce the appeal of the approach.

“It makes it a lot more costly,” said Dan Schwallie, a consultant in the Cleveland office of Hewitt Associates Inc.

Other provisions in the final reg-

ulations include:

- The list of situations in which 401(k) plan participants can make hardship withdrawals from the plans has been broadened to include funeral expenses and damage repairs to an employee’s principal residence.

- Employers generally cannot prefund matching contributions. “An employer is not able to prefund elective contributions in order to accelerate the deductions,” the IRS said.

- Employees who terminate employment and immediately become leased employees working for the same employer are not eligible to receive their 401(k) account balances. In that situation, the IRS said, there has been no severance of employment.

## Disney: Emergency planning pays off

Continued from page 4

ment meeting and caused his departing flight to be canceled.

The potential for thousands of outdoor chairs, tables, umbrellas and carts to become flying debris in a windstorm represents a substantial vulnerability for the massive resort, Mr. Hodge said.

But on his impromptu inspection tour, Mr. Hodge said he came upon a lifeguard who explained that the resort was in “stage three” of a pre-planned emergency response. Her role, the lifeguard said, included placing poolside furniture in an indoor storage area.

He also happened upon a maintenance worker tying up chandeliers and a general manager stacking sandbags to protect a low-lying area from flooding.

Mr. Hodge still had concerns about balcony patio furniture. But upon returning to his room from dinner, he found the balcony furniture had been moved indoors. An attached note explained the safety precaution.

The resort helped keep guests calm with information updates, special entertainment and extra staff to assist anyone in need. To

ensure that the company had plenty of employees on hand, Disney allowed workers’ families to stay on the property, Mr. Hodge said.

Before the 2004 hurricane season, The Walt Disney World Resort in Orlando, Fla., had only two emergency closures, one when Hurricane Floyd struck in 1999 and one because of the Sept. 11, 2001, terrorist attacks, Mr. Wilder said.

But in 2004, the park closed for hurricanes Charley, Frances and Jeanne. It opened immediately after each one passed and didn’t file a single insurance claim, Mr. Wilder said.

Experience from previous hurricanes helped Disney prepare for the 2004 storms. For instance, after Hurricane Andrew in 1995, Disney constructed its Florida roofs to withstand 90-mile-per-hour winds; the company is now constructing them to an even higher standard.

But because Walt Disney World has tens of thousands of employees who know exactly what is expected of them in the company’s contingency and emergency plans, the resort “nailed it perfectly” when preparing for Hurricane Frances, Mr. Hodge said.

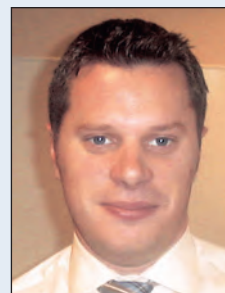
## Comings & Goings



Mr. Whitton



Ms. LeVecque



Mr. Dunn

### Insurers:

**Michael Canter** has been named to the new position of president of New York-based ACE Principal Finance, a unit of ACE Ltd. that underwrites credit risk. Previously, Mr. Canter was executive vp and managing director at ACE Financial Solutions.

New York-based Atlantic Mutual Insurance Co. has promoted **Susan Campbell** and **Curt Goetsch** to senior vp. Previously, both were vps.

**Mark Popolano**, chief information officer for New York-based American International Group Inc., will take on the additional duties of senior vp for AIG Technologies Inc.

Also at AIG:

**Steven J. Bensinger** has been named comptroller and senior vp, in addition to his duties as treasurer.

**Michael J. Castelli**, former comptroller, is now a senior vp and chief administrative officer.

**Dr. David B. Troxel** has been named medical director for The Doctors Co., a Napa, Calif.-based medical malpractice insurer. Dr. Troxel is also a member of the company’s board of governors and is a professor emeritus at the School of Public Health at the University of California at Berkeley.

**Richard R. Whitt III**, currently executive vp and chief administrative officer of Markel International will become senior vp and chief financial officer of

Richmond, Va.-based Markel Corp. in May.

Zurich Financial Services has promoted **Joseph Wells**, previously senior project manager, to director of its workers compensation line of business in Schaumburg, Ill. He replaces **Bob Rheel**, who was named CEO of Zurich’s general insurance operations in Ireland.

### Agents/Brokers:

**George J. Anderson** has been named president and CEO of Nashville, Tenn.-based Synaxis Group. Previously, Mr. Anderson was an executive vp.

New York-based Willis Group Holdings has made several senior-level appointments.

**Ray Pomante** is the new industry leader for North American sports, entertainment and media in Philadelphia. Before joining Willis, Mr. Pomante was a senior vp at Marsh Inc.

**Salvatore J. Dominello** is now a senior vp and sales leader in Farmington, Conn. Previously, he was principal, New England practice leader for compensation, retirement and benefits at Palmer & Cay.

**William E. Yocke** has been named senior vp in the San Francisco office of Willis Risk Solutions. Previously, he was chief financial officer of AVRA Financial Inc.

**Michael Ferreira** has been named executive vp of Willis Risk

Solutions in New York. He previously was a senior vp at Marsh.

**Barry Whitton** has joined Beecher Carlson Holdings Inc. in Atlanta as a senior vp in its global property practice. Previously, he was a senior vp at Marsh.

### Reinsurance:

Norwalk, Conn.-based Carvill America Inc. has named **Patrick Figorito** senior vp, focused on business production. Previously, he was senior vp at Aon Corp.

### Other providers:

Pittsburgh-based Mellon Financial Corp.’s Human Resources & Investor Solutions business has named **Michelle LeVecque** director in the Tampa, Fla., office. Previously, she was a vp at Aon Consulting.

**James Keightly**, general counsel of the Pension Benefit Guaranty Corp.; **William Bayer**, PBGC deputy general counsel; and **Harold Ashner**, PBGC assistant general counsel for legislation and regulations, have left the agency and formed a law firm—Keightly & Ashner—in Washington that will specialize in PBGC-related issues.

**Michael L. Wright** has been named chief operating officer for Indianapolis-based Morris Associates. Before joining Morris, Mr. Wright was senior vp and chief administrative officer for CNA Insurance in Nashville, Tenn.

Heath Lambert Insurance Services, a provider of third-party administration services, has named **Nick Dunn** divisional director of business development. He formerly was account development director at Capita Insurance Services.

*Business Insurance would like to report on senior-level changes at commercial insurers and service providers. Please send news and four-color images of recently promoted, hired or appointed senior-level executives to: Joe Walker, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; jwalker@crain.com.*

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## Airbus: Sky-high liability limits

Continued from page 1

commercial passenger aircraft on the market, significantly larger than the 747 manufactured by Chicago-based Boeing Co.

Currently, 13 airlines have agreed to add the A380 to their fleets.

The A380 will carry 555 passengers in a typical three class configuration, that is 33% more than the 747, which carries 416 passengers and is the largest commercial aircraft currently in use.

In addition, the A380's takeoff weight of 620 tons is 41% greater than the 747, its 263 feet wingspan is 24% longer and its maximum range is 8,000 nautical miles, 10% farther than the 747.

The cost of the A380 is not yet known, though insurance market sources estimate it will be around \$250 million. The maximum cost of a 747, in comparison, is \$227 million.

Airbus to date has assembled four of the aircraft for use in test flights during the next several months. The aircraft is expected to go into active service in 2006.

Brokers will likely present the A380 to underwriters for the first time in the 2005 fourth-quarter renewals.

Underwriting the liability side of the risk will likely represent the biggest challenge to the market, underwriters and brokers agree.

Average compensation awards in aviation disasters are around \$4 million per passenger in the United States, though they are usually lower in other countries, said Florian Karner, head of global aviation for GE Insurance Solutions in Munich.

"If you multiply that by 555, the seating of the A380, you come up with a number that exceeds the currently available limit of \$2 billion, and there is always the possibility of third-party liability," he added.

Airlines will want to purchase more than \$2 billion in liability limits, Mr. Karner said.

Airlines with A380s may need to buy liability limits of between \$2.5 billion and \$3 billion, said Rod Dampier, aviation underwriter at Lloyd's of London insurer Amlin

P.L.C.

Liability coverage will likely become expensive and scarce for limits above \$2.5 billion, said Stephen Riley, a senior executive at Global Aerospace Underwriting Managers Ltd. in London.

Liability limits of \$3 billion "would be a big stretch and not achievable in today's market, but there are markets coming in that could help to do that," said Charles Bridges, managing director of aviation at HSBC Insurance Brokers Ltd. in London.

Reinsurers could provide the cover for the right price if they could justify the exposure to shareholders, he added, noting the launch of Pfäffikon, Switzerland-based Glacier Reinsurance A.G. late last year. Glacier said it intended to offer aviation coverage.

Insurers may be willing to offer additional limits on an excess basis, said Mr. Karner of GE Insurance, for example, offering \$1 billion in excess coverage above the \$2 billion in limits that is currently available. However, the coverage would have to be written as an aggregate limit with one reinstatement, he said.

"The attractive route both for insurers and clients will be to have an excess policy. You do not want to cover your whole fleet for \$3 billion," he added.

Insurers and reinsurers not currently involved in the aviation insurance market could play a role in the excess layer, Mr. Karner said.

Lloyd's of London syndicates that currently write property catastrophe coverage might be willing to offer excess aviation capacity, he said.

Although the A380 has not yet been ordered by any passenger carrier in the United States, the only U.S. buyer to date being Memphis, Tenn.-based FedEx Corp., the insurance programs of U.S.-based airlines will be affected by the introduction of the jet, said Wayne Wignes, president of Chicago-based Aon Corp.'s U.S. aviation practice.

U.S. airlines will likely have to buy higher third-party liability insurance to cover the risk of involve-

ment in an incident with the A380, he said.

The risk "is incredibly remote and incredibly catastrophic, which is why it will need to be handled differently," he said.

Currently underwriters write a percentage of the entire limit bought by an airline, Mr. Wignes said. In the United States, the maximum liability limit is usually about \$1.75 billion, he said.

But to accommodate the \$3 billion third-party limit perceived necessary for the A380, the market should be restructured into a primary and excess arrangement, he suggested.

Some form of alternative risk transfer arrangement, such as a mutual, could provide the excess portion, Mr. Wignes said.

He noted that discussions are already in progress to interest parties outside of the aviation insurance market in participating in such a structure but declined further comment.

Placing hull insurance to cover the A380 does not pose as big a challenge as the liability coverage and should be possible with existing structures and markets, underwriters and brokers say.

The insured value of the aircraft will be higher than the \$250 million that is currently thought to be approximate price of the A380, because the aircraft "will have additional equipment on board," added Mr. Karner.

The insured value will likely be between \$250 million and \$300 million, he said.

This is "well within the capacity of the international market, but it exceeds the current structure of the market placement of \$185 million," said Mr. Wignes.

From an underwriting point of view, it would be disappointing for an insurer to go from writing 10% of \$185 million to 7% of \$250 million, because they are paid a higher premium for lower layers of a policy limit.

"So the underwriters will have to solve that problem or find themselves writing smaller lines and gen-



The unveiling of the Airbus A380 at Toulouse, France. The jumbo jet is the first full-length double-deck airliner.

PHOTO: EM COMPANY

erating smaller revenues," but this should be possible without going to a primary and excess structure, he said.

More capacity may be needed to write A380 hull cover, said Andreas Peter, global head of aviation and space for Zurich, Switzerland-based Swiss Reinsurance Co. But insurers would likely be willing to provide more capacity in return for higher rates, he said.

Airports will have increased liability concerns when the aircraft is introduced, as well.

"Perhaps the most significant liability concern is that a larger aircraft, due to hull cost and passenger volume, creates a greater financial liability in the unfortunate event of a disaster at our airport," said

William Hoyt, insurance risk manager at Minneapolis-based Metropolitan Airports Commission.

"If we were to allow larger aircraft with significantly larger passenger volume at our airport, I would have to assess the aviation insurance liability limits that we currently obtain to ensure we are properly insured," he added.

Airbus will also need to cover the exposure of test-flying the aircraft in its manufacturers' hull program that renews April 1, Mr. Bridges said.

Airbus "will be looking for as much cover as they can buy" but are "supported by all the major markets," which have always provided broad coverage for new aircraft, he added.

## EDS: Outsourcing business to grow

Continued from page 4

lion and a big technological base. Among other things, EDS manages more than 50,000 computer servers and administers about \$100 billion in benefits for Medicare and Medicaid.

Another driver, Mr. Hogan said, is that employers increasingly want a broad range of employee benefits and human resource-related services—often called business process outsourcing—delivered through one provider.

"Clients are looking for a single

provider, from developing strategy to the actual delivery of services. This is market driven," Mr. Hogan said.

Indeed, Hewitt Associates Inc.'s purchase last year of Exult Inc., a big player in the business process outsourcing field, was driven by its desire to broaden its base of outsourcing services.

Others say the Towers Perrin-EDS combination is a good fit, as the benefits and HR-related outsourcing services each now provides largely complement the other.

## EEOC: Sidley suit could affect partnership structures

Continued from page 3

cided to give these lawyers—partner, counsel, or otherwise—our investigation indicated that they had no voice or control in governance of the firm and that they could be and were fired just like any other employees without notice and without the vote or consent of their fellow attorneys. A small, self-perpetuating group of managers at the top ran everything, and that was it, end of story."

A Sidley spokesman said, "The firm has always been committed to a policy of equal opportunity and nondiscrimination. We will vigorously defend against the EEOC action, which has no merit."

The potential implications of an ultimate decision could affect not only law firms but any professional

firm that has a partnership structure, including those made up of accountants, engineers, architects, consultants and surveyors, say observers.

David L. Weinstein, an employer attorney with Wildman Harrold in Chicago, said: "Essentially, the government says, 'Let's disregard the legal form of the entity, let's disregard whatever documentation it may have as to how it operates and let's open up a fact inquiry into evidence showing whether it really is a partnership, as opposed to a corporation, for example, where all persons would be employees whether they're shareholders or not.'"

Dan Croley, an employer attorney with the Jordan law firm in San Francisco, said the central question is, "Who is a partner in these mega

law firms, where you have 1,100 lawyers and 400 partners, of whom maybe seven to 10 have any day-to-

**'I think those who are nominal partners will have equal employment rights. Those who are genuinely partners and who really manage and control the operation, will not.'**

Dan Croley  
Jordan Law Group, San Francisco

day control over the operation." Although the remaining attorneys are highly compensated, "they're not really running the law firm," he said.

One implication of the EEOC lawsuit is that it may become more difficult for firms to get older, less productive partners out, said Mr. Croley. "They'll just have to be more careful in terms of how they do it," said Mr. Croley, who noted other law firms have bought out older partners.

Cheryl Orr, an employer attorney with Carlton, DiSante & Freudenberg in San Francisco, said, "Were it to be determined that these individuals actually were employees, that could obviously open the door to future lawsuits in other law firms" and perhaps even affect firms' partnership structure.

Simply calling individuals partners without being able to demonstrate "they have partner-type authority won't carry the day in

court," said Jeremy Glenn, an attorney with Meckler, Bulger & Tilson in Chicago. Mr. Glenn said that it is hard to predict how the case will turn out without knowing the role Sidley Austin's partners play in the firm's management structure.

"I think those who are nominal partners will have equal employment rights. Those who are genuinely partners and who really manage and control the operation, will not," said Mr. Croley.

Philip M. Berkowitz, an employer attorney with Nixon Peabody in New York, said, though, "I think there's a reasonable chance that cooler heads will prevail." The courts, he predicted, will decide that equity partners, who share in the firm's profits and losses, "are, in fact, owners."

# SBC: Company phases out hybrid pension plans

Continued from page 1

A key reason SBC adopted the cash balance plan was to bring uniformity to the pension offerings for its management staff. In 1996, for example, SBC acquired Pacific Tele- sis, which had provided a cash balance plan to its management employees.

The adoption of a cash balance plan allowed "SBC to approach our merger as one management team with a common pension plan," an SBC spokeswoman said. "This not only provided common pension accruals but facilitated management employee movement between the SBC subsidiaries," the spokeswoman said.

But SBC is now moving away from its cash balance plan and another hybrid, typically called a pension equity plan, that covered management employees of Ameritech, which SBC acquired in 1999. Effective earlier this month, all future

benefits for management employees will accrue under a traditional plan design.

SBC's move away from hybrids followed a corporate decision to do more to reward longer-term employees.

"Upon reassessment, in our judgment, pension benefits are more appropriately used to reward long-service employees," the SBC spokeswoman said.

Pension experts say they are not aware of any other major employers that have returned to traditional pension plan designs after adopting cash balance or other hybrid plan designs. In one highly publicized case, though, Armonk, N.Y.-based IBM Corp., citing legal and regulatory uncertainties, is phasing out its cash balance plan, which it adopted in 1999. IBM instead is beefing up a 401(k) plan. In addition, IBM will appeal a 2003 federal court decision that its cash balance plan was age-

discriminatory.

Indeed, since the mid-1990s, the move has exclusively been in the opposite direction, with more than 1,000 employers converting their traditional plans to cash balance or another hybrid designs. The U.S. Pension Benefit Guaranty Corp., for example, estimated that 25% of the single-employer plans with more than 10,000 participants that it insured in 2000 were hybrids, principally cash balance plans.

Employers moved to cash balance plans for a variety of reasons.

Many cited what they said was increased employee mobility. Traditional plans, in which significant benefits accrue only after many years of service, hold little appeal for employees leaving after only a few years, they said. By contrast, shorter-service employees would financially do much better in cash balance plans, in which benefits accrue evenly throughout an employ-

ee's years of service.

Related to that, some employers favored the pay-for-performance aspect, choosing to tie benefits to corporate and employee performance in any given year, rather than varying the rate at which benefits are earned according to employee longevity.

Finally, some companies were drawn to cash balance plans because of the visibility of the benefits. In a cash balance plan, such as a 401(k) plan, benefits are expressed as a lump sum. That visibility, employers said, leads to increased employee understanding of and appreciation for the benefit.

While the movement in the defined benefit plan arena over the last decade has been one way—away from traditional plans and toward cash balance plans—that could begin to change as employers such as SBC reassess their plan design, benefit consultants say.

"There is no one plan design that fits every company and its workforce. What management has done here appears to be a well-thought-out decision based on an analysis of what it takes to attract and retain the type of workforce that will enable it to succeed," said Ethan Kra, chief actuary for Mercer Human Resource Consulting in New York.

Experts note that demographic trends could spark a renewed interest in traditional plans. As the Baby Boom generation retires and the workforce ages and shrinks, employers increasingly will need to attract and retain older employees, said Stewart Lawrence, a senior vp with The Segal Co. in New York.

"If your goal is to keep older employees, you may need a plan that rewards long service," Mr. Lawrence said. He added that, for that reason, there exists the possibility of "a modest renaissance" of traditional plans.

# CVS: Quits drug benefit plans mandating mail order

Continued from page 1

CVS company spokeswoman said.

The pharmacy chains assert that they are concerned about employees taking away choice from employees and limiting their access to in-person counseling by licensed pharmacists. But medical cost containment experts say the issue is

more about the loss of income.

"The primary issue here is patient choice. Consumers should not be subject to plan designs that force them to forfeit choice and their access to a community pharmacist whom they value and trust," a CVS spokeswoman said.

"We are not opposed to dispens-

ing medications via the mail. In fact, through our PharmaCare subsidiary, CVS operates one of the largest mail-order pharmacies in the country," the spokeswoman added. "What we do oppose are prescription plans that severely limit patients' ability to choose their preferred channel of delivery."

But employees at Toyota Motor Manufacturing have options, maintained a spokesman for the company in Erlanger, Ky.

"Our team members do have a choice. They can do mail order or we have onsite pharmacies at our locations now, where they can come in, talk to a pharmacist and order their maintenance prescriptions that way and pick them up that way," he said.

Nan Neff, benefits administrator for the state of Ohio in Columbus, said CVS' announcement came as a surprise, particularly because the state's self-insured preferred provider organization plan has had a mandatory mail-order requirement since 1992.

"My sense is there are a lot of employers considering mandatory mail. This may, in fact, be part of the reason for the positions that Walgreens and CVS have taken. You just don't know what this decision will do on their losing business on other things as well," Ms. Neff said.

Indeed, according to a 2004 Hewitt Associates Inc. study, about 21% of employer plans incorporated some kind of mandatory mail-order provision in their prescription drug plans, up from 15% in 2003.

And more than half of large employers will mandate mail-order drug purchasing in 2005, estimates Helen Darling, president of the National Business Group on Health in Washington.

"We're starting to see (retail chains) rebel," said Sean Brandle, a vp at the Segal Co. in New York.

"The large chains are just saying 'Baloney!' If the patient doesn't

have choice, we won't fill acute prescriptions either. If somebody doesn't take a stance on this, the retail pharmacies won't be around much longer," said Bruce Roberts, executive vp and chief executive officer of the National Community Pharmacists Assn. in Alexandria, Va.

Mail-order prescription drug sales rose 16% in 2004 to \$32.5 billion, according to IMS Health, a Fairfield, Conn.-based pharmaceutical consulting company.

By contrast, "for the first time in history, we're seeing negative growth of prescriptions filled at retail," Mr. Roberts said.

But the Pharmaceutical Care Management Assn., the pharmacy benefit manager industry trade group in Washington, said this attack is "short-sighted" and will ultimately backfire.

"With today's announcements, CVS is seeking to undermine an important option employers rely upon in addressing prescription drug costs and improving access: the mail service pharmacy option," PCMA President Mark Merritt said in a statement. "At a time when employers are struggling to stretch scarce health care dollars, CVS has effectively told them that they should be paying higher prices for prescription drugs."

PCMA projects that mail order pharmacies will save employers and consumers nearly \$100 billion in prescription drug costs over the next decade.

The retail pharmacies, by contrast, assert that the PBM industry's projections are nothing more than creative accounting used to capture more employers' business.

"PBM profit margins are the highest in health care, triple that of the pharmaceutical industry," said Mr. Roberts.

"Mail order remains a significant threat to drug retailers," states a 2004 research brief from Banc of America Securities, which predicts

that drug retailers will continue to fight back.

In fact, the Michigan Pharmacists Assn. already is lobbying the state Legislature for a prohibition on making mail-order prescriptions mandatory.

The PCMA successfully defeated a package of bills introduced last year in Michigan, though, that would have leveled the playing field by forcing health plans to charge members the same co-payments for prescriptions whether they are filled through mail order or through retail pharmacies.

Some retail pharmacies have also recently begun offering 90-day supplies at retail for the same price that mail order PBMs charge, according to Mr. Brandle.

"They're starting to offer increased-day supplies at retail. So you can call ahead and get a 90-day supply at retail for a designated co-pay which is less than the three co-pays that you'd normally pay at retail and discounts which approach those of a lot of the big mail order vendors," Mr. Brandle said.

Such competition could benefit employers in the long run by forcing the mail order pharmacies to lower their prices even further to recapture business lost to retail pharmacies, he said.

# Suit: Marsh charged

Continued from page 1

The suit seeks actual and punitive damages, and reimbursement for legal expenses.

"This lawsuit—the first in a series anticipated against insurance abuses—shows particular arrogance and avarice in victimizing the state and its taxpayers," Mr. Blumenthal said in a statement. "Whatever name they are called—bonuses, commissions, overrides—the effect of these concealed kickbacks is to steer contracts, corrupt competitive bidding, inflate costs and deceive customers. The resources raided by Marsh and ACE were a public trust to be used for compensating workers. Our investigation is active and ongoing, and additional legal action will be forthcoming shortly involving other companies and consumer victims," he said.

Mr. Blumenthal has been investigating the compensation practices within the insurance industry since last summer. His office has subpoenaed more than 30 insurers and brokers.

The investigation is separate from the ongoing investigation by New York Attorney General Eliot Spitzer and his fraud and bid-rigging suit filed against Marsh last October. That suit has caused widespread reverberations within the industry as well as at Marsh, including the ousting of MMC's Chairman and Chief Executive Officer Jeffrey Greenberg and the announcement

by several brokerages, including Marsh, that they would no longer accept contingency payments from insurers. Approximately \$800 million of Marsh's 2003 earnings were attributable to contingent commissions.

Although ACE was cited in Mr. Spitzer's suit as colluding in a bid-rigging scheme hatched by Marsh, it was not named as a defendant.

Shortly after Mr. Spitzer's suit was filed, Patricia Abrams, an ACE Casualty Risk assistant vp, pleaded guilty to a misdemeanor restraint-of-trade charge and agreed to cooperate with Mr. Spitzer's investigation (*BI*, Nov. 8, 2004). ACE later fired

Ms. Abrams and Geoffrey Gregory, president of ACE Casualty Risk.

Earlier this month Susan Rivera resigned as president of ACE INA Holdings Inc., the holding company for ACE's U.S. operations. Ms. Rivera was mentioned in a Marsh e-mail cited in Mr. Spitzer's complaint, but she has not been accused of any wrongdoing. ACE declined to comment on her resignation (*BI*, Jan. 10).

ACE did not return phone calls seeking comment about Mr. Blumenthal's suit.

A Marsh spokeswoman would not comment on the lawsuit except to say that "We've been providing information to the Connecticut Attorney General and we will continue to cooperate."

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## Late News

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the future of United's massively underfunded pension plans. An earlier agreement by the pilots and United, which is operating under Chapter 11 bankruptcy, called for the termination later this year of all four of United's plans, which are underfunded by more than \$8 billion. But a federal bankruptcy judge threw out that pact, resulting in another round of negotiations between the airline and its pilots. The Pension Benefit Guaranty Corp. already has moved to terminate the pilots' plan, an action that would cost the PBGC about \$1.4 billion. The PBGC, though, said United can afford to continue the three remaining plans. In all, the four plans cover about 123,000 people.

### ReAC plans comeback in Australian market

Reinsurance Australia Corp. Ltd., which went into runoff in 2000, is planning to re-enter the multiline insurance industry. In a letter to the Australian Stock Exchange, the Sydney, Australia-based reinsurer said it was in the process of applying to the Australian insurance regulator for a license and hopes to begin writing business in the first half of this year. ReAC said that its runoff was almost complete, and that as of June 30, 2004, it had net assets of \$83.5 million Australian (\$63.7 million).

### ARAMARK to appeal alcohol liability award

ARAMARK Corp. believes it has adequate insurance to cover the \$105 million verdict delivered against the company this week in an alcohol liability case in New Jersey, but the company has vowed to appeal. A jury found that employees of ARAMARK, the concessions vendor for Giants Stadium in New Jersey, should not have served alcohol to a visibly intoxicated patron who caused the

automobile accident that left 7-year-old Antonia Verni paralyzed.



Wyeth's Pondimin brand of the drug fenfluramine was frequently paired with phentermine in the so-called 'fen-phen' combination.

### Wyeth in talks to settle remaining 'fen-phen' suits

Pharmaceutical giant Wyeth said it is in settlement discussions to resolve "a substantive number" of remaining lawsuits involving two of its recalled diet drugs, Redux and Pondimin. The settlement would resolve cases involving as many as 66,000 users of the diet drugs who opted out of the \$4.83 billion settlement Wyeth reached nearly six years ago in one of the largest product liability settlements ever reached, a company spokesman said. The drugs, which were used with phentermine in the so-called "Fen-Phen" combination, were removed from the market in 1997 after studies indicated they caused heart valve damage in users.

### Swiss Re securitizes life portfolio

Swiss Reinsurance Co. has completed a \$245 million life securitization deal. The reinsurer securitized future profits from a portfolio of U.S. life insurance policies, the first time Swiss Re has structured such a securitization, according to a spokeswoman. The issue consists of three tranches of

securities with expected maturity of six, nine and 11 years, respectively.

### Suit challenges California comp ratings schedule

Applicant attorneys and a new organization representing injured workers filed a lawsuit last week seeking to set aside a key provision of workers compensation reforms signed into law last year by California Gov. Arnold Schwarzenegger. The California Applicants' Attorneys Assn. and VotersInjuredatWork.org said a permanent disability ratings schedule that took effect Jan. 1 will have dire consequences for injured workers by significantly reducing already-meager compensation amounts.

### Alea to increase casualty reserves

Alea Group Holdings (Bermuda) Ltd. will increase its reserves by between \$60 million and \$80 million, the reinsurer announced. The reserve increase for U.S. casualty reinsurance written between 1999 and 2002 and some European reinsurance written in 2000 and prior years, will add between five and seven points to Alea's 2004 combined ratio. The reinsurer will report a combined ratio of between 103% and 105% when it publishes its 2004 results on March 15, according to an Alea statement.

### Canadian pension ruling won't alter employer plans

Most Canadian employers are not planning to change the structure of their defined benefit pension plans as a result of a key pension ruling by the Supreme Court of Canada last year, but some are considering changes to their investment or funding policies. Only 9% of surveyed employers said they were considering converting to defined contribution plans or terminating their defined benefit plans over the next two years due to the July 2004 decision in *Monsanto Canada Inc. vs. Ontario (Superintendent of Financial*

*Services)*, according to a survey by consulting firm Morneau Sobeco. In *Monsanto*, Canada's high court upheld the superintendent's determination that the Ontario Pension Benefits Act requires the distribution of a proportional share of actuarial surplus when a defined benefit pension plan is partially wound up.

### Briefly noted

**USI Holdings Inc.** will pay \$113.5 million in cash and stock to acquire Dallas-based Summit Global Partners Inc., according to U.S. Securities and Exchange Commission filings. The Briarcliff Manor, N.Y.-based broker announced its intentions to acquire the broker last September and reached a definitive agreement earlier this month. The deal is expected to close at the beginning of February....**Munich Reinsurance Co.** said its 2004 profits will be affected by a 2.5 billion euro (\$3.39 billion) extraordinary charge announced by HVB Group, in which Munich Re has a 18.34% stake. Munich-based Munich Re said it now expects its profits for 2004 to be in the range of 1.7 billion euros to 1.9 billion euros (\$2.31 billion to \$2.58 billion). Previously, the reinsurer had forecast 2004 profits of between 1.8 billion euros and 2.0 billion euros (\$2.44 billion and \$2.71 billion)....Final regulations published by the U.S. Centers for Medicare & Medicaid Services last week detail how employers with **retiree prescription drug plans** that will be at least as generous as what Medicare will provide starting in 2006 can obtain a tax-free government subsidy of retirees' prescription drug expenses.

### Check out BusinessInsurance.com

Items in the Late News column originally appeared in *BI's Daily News* feature on [www.businessinsurance.com](http://www.businessinsurance.com). Visit the *BI* Web site to sign up to receive *BI's Daily News* by e-mail.

## Online Poll

[ 1/17 - 1/21 ]

Should employees be required to forfeit unused flexible spending account balances at the end of the year?



No 89%  
Yes 9%  
Do not know 1%

## BI Stock Index

[ 1/17 - 1/21 ]

Up-to-the-minute data for all 87 companies that comprise the *BI* Stock Index can be found at [www.businessinsurance.com](http://www.businessinsurance.com).

Percentage change of *BI* Stock Index vs. key indicators

**BI Stock Index** ↑ 0.0004  
2347.13

**Dow Jones** ↓ -1.56  
10392.99

**S&P 500** ↓ -1.41  
1167.87

### Largest gains

Gainsco Inc.	5.77%
Unico American Corp.	5.39%
Berkshire Hathaway Corp.	4.83%
Aspen Insurance Holdings	4.09%
Penn-America Group Inc.	3.06%

### Largest losses

SAFECO Corp.	-7.55%
Baldwin & Lyons Inc.	-5.52%
CIGNA Corp.	-3.79%
AXIS Capital Holdings Ltd.	-3.44%
St. Paul Travelers Cos. Inc.	-3.44%

### Weekly change by market segment

Brokers	-1.14%
Insurers/Reinsurers	-0.55%
Managed Care Organizations	-1.30%

Source: FinancialContent Inc. (<http://financialcontent.com>)

## Class action: Senate vote expected soon

Continued from page 3

cess. I hope the strategy is successful. The time for passage of the class action bill is long overdue," he said.

"We have been very much looking forward to the class action debate on Capitol Hill beginning formally," said Julie A. Rochman, senior vp at the American Insurance Assn. in Washington.

"We are going to put a lot of muscle behind this bill in cooperation with the U.S. Chamber of Commerce and other business groups who, like AIA, believe that our tort system is totally out of balance. This bill will go along way toward restoring some of that balance," she said.

Joel Wood, senior vp-government affairs for the Washington-based Council of Insurance Agents and Brokers, also hailed the speed with which the Senate leadership chose to move the class action legis-

lation, saying that it could have a positive impact on some other legal reform efforts as well.

"Class action overhaul is not only a desperately needed measure, it is a bellwether for other efforts to achieve meaningful legal reforms in this session of Congress," said Mr. Wood.

"We fully expect it to pass, but not without a fight from Senate Democrats. But if the final vote for cloture easily surpasses the necessary 60, the prospects for medical malpractice reform improve," he said.

Mr. Wood added that the momentum could help foster a "favorable" resolution to the asbestos litigation situation as well.

"Class action would have passed in 2004 but for the threat of time-consuming amendments. Scheduling and timing was the problem last year, given the determined effort by

pro-trial lawyer senators to scuttle it. This is one of those issues where the four-seat Republican gain in the Senate will make a substantial dif-

ference. We expect to see a solid bloc of thoughtful Democrats to support cloture as well," Mr. Wood said.

## Benefit executives invited to take part in cost study

*Business Insurance* and Concentra Preferred Systems are co-sponsoring a national health care cost containment study and are inviting employee benefit managers and benefit executives to take part.

All respondents completing the online survey will receive a benchmark comparison of their results to their industry segment and the nation at large. Each respondent also will re-

ceive a final copy of the report, "The Health Care Cost Containment Index: Measuring the Savings Opportunities for America's Employers."

The deadline for completing the survey is Thursday, Feb. 10. *Business Insurance* will report on the results of the study in an upcoming issue.

To participate in the survey, please visit [www.concentra-mail.com/bistudy](http://www.concentra-mail.com/bistudy).