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Tort, benefits changes on the agenda

Bush calls for health cover initiatives, civil justice reform in key address

By MARK A. HOFMANN

WASHINGTON—President Bush might not have said a great deal about benefits or civil justice issues in last week's State of the Union address, but employers, insurers and risk managers generally like what they heard.

In an address that focused largely on foreign policy and security issues, the president advocated incremental rather than sweeping reforms, particularly in the health care arena.

Among the health care initiatives sketched out by the president were: allowing businesses to band together in association health plans to buy coverage; granting tax credits to low-income consumers to buy health coverage; and granting a tax deduction on premiums for people who buy catastrophic health care coverage using health savings accounts.

The president also called for allowing workers to save a portion of their Social Security taxes in a personal retirement savings account, but gave no details of how such an account would work.

The president also mentioned tort reform twice—once in general terms and once in the context of medical malpractice liability reform.

Business groups welcomed the speech.

"The biggest thing is that the president still understands that the key health care issue is affordability," said Neil Trautwein, a policy director with the National Assn. of Manufacturers in Washington.

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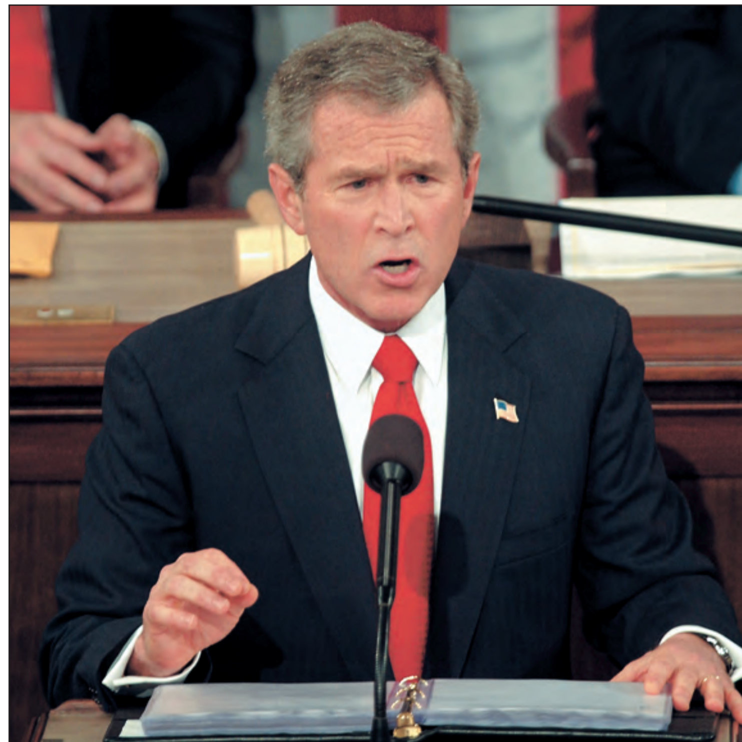

PHOTO: UPI/MICHAEL KLEINFELD

In his State of the Union address, President Bush advocated incremental reforms in the health care and legal arenas.

Insurer, agency trade charges

By DOUGLAS McLEOD

NEW YORK—Bankrupt AlphaStar Insurance Group Ltd. and a Georgia insurance agency are trading fraud charges in a battle over control of the AlphaStar estate, which is nearing a deal to sell its main asset, New York-domiciled Realm National Insurance Co.

The dispute in U.S. Bankruptcy Court in New York is the latest in a long-running series of fights arising from AlphaStar's aborted 2002 plan to sell Realm to Atlanta-based American Insurance Managers Inc. In court filings since then, AlphaStar has accused AIM of issuing workers compensation insurance certificates in Realm's name without authority before the deal was completed and has charged that AIM's actions drove AlphaStar to seek Chapter 11 protection last month.

AIM, however, has contended it had authority to write the coverage and has accused AlphaStar of wrongfully refusing to honor certificates issued to hundreds of employers in 21 states. This month, it sued Realm in federal court in New York, seeking

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Mandates targeted to ease health crisis

By JOANNE WOJCIK

An increasing number of states are trying to ease the nation's uninsured crisis with measures that would allow employers to buy lower-cost health plans stripped of costly mandated benefits, but such voluntary attempts at health reform may not succeed if experience is any indication, some industry experts say.

In fact, states that enacted such reforms more than a decade ago have found that while employers can be led to the bare-bones health plan trough, they won't necessarily buy from it.

It is perhaps for this reason, the experts surmise, that some states are resorting to more desperate measures to reduce the pool of uninsured, which at last count exceeded 43 million people.

California, for example, enacted "play or pay" legislation last year requiring employers to offer health insurance or pay a tax to the state, which would provide it. A similar bill is pending in New York this year. A California court last week, however, paved the way for a referendum on repealing the play-or-pay law (see related story).

But these mandates may not pan out if the experience in Hawaii, which has had such a mandate for three decades, is repeated, health insurance industry experts warn.

Lawmakers in 29 states plan to introduce legislation in 2004 that

See UNINSURED/page 22

Late News

California court OKs 'play or pay' referendum

A California appeals court has cleared the way for a November vote on a referendum seeking to repeal the state's new "play or pay" health care law. Last fall, then Gov. Gray Davis signed S.B. 2, which requires larger employers to either pay 80% of employees' health insurance premiums or contribute to a state fund. In December, a Superior Court judge blocked the petition seeking a referendum on the issue, ruling that the petition contained technical flaws.

United National settles with Bank of America

A unit of United National Group Ltd. has agreed to pay Bank of America N.A. $17.9 million to settle the bank's claims under a series of weather derivative reinsurance policies written through the now-defunct Worldwide Weather Insurance Agency. The underlying derivatives contracts covered Enron Corp. and other energy traders against losses resulting from unexpectedly warm weather over defined periods. United National alleged that the loss-making contracts had been fraudulently bound.

St. Paul to boost med mal reserves

St. Paul Cos. Inc. will take a $228 million aftertax charge against its fourth-quarter earnings to boost reserves for medical malpractice business that is now in runoff. In a preliminary earnings release, St. Paul reported that, despite the reserve increase, it would report substantially higher net income per diluted share for 2003 than for 2002, when the company settled a massive asbestos claim. For all of 2003, St. Paul reports that it expects net income of between $2.70 and $2.72 per share on a diluted basis.

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GLOBAL BENEFIT NETWORKS

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Plant blast to cost insurers $500 million

SKIKDA, Algeria—A Jan. 19 explosion at an Algerian gas plant is expected to cost insurers about $500 million, sources said.

The explosion at the plant, which is owned by La Société Nationale Sonatrach, killed at least 23 workers and injured at least 74, Sonatrach said in a statement.

The three liquefied natural gas units of the plant that were destroyed were insured by Algiers-based insurer Compagnie Algérienne des Assurances Transports and were reinsured internationally, sources said.

PHOTO: AFP

A Jan. 19 explosion at a gas plant in Skikda, Algeria, killed at least 23 workers and injured dozens more.

Units of American International Group Inc. in New York; Munich Reinsurance Co., in Munich, Germany; and ACE Ltd. in Hamilton, Bermuda co-led the reinsurance program, sources said.

A spokeswoman for Munich Re said the reinsurer's exposure would be low, likely tens of millions of dollars.

Another reinsurer on the risk, Pembroke, Bermuda-based PartnerRe Ltd., said in a statement that its exposure to the loss would likely be between $27 million and $30 million.

—*By Sarah Veysey*

BI monthly supplement focuses on insurance industry news

CHICAGO—*Business Insurance* next month will launch a new monthly supplement, *Industry Focus*, to report on news and trends of interest to executives responsible for the sale and administration of commercial insurance products and services.

Business Insurance **Industry Focus**™ www.BusinessInsurance.com

The new publication will incorporate and expand upon two previous monthly demographic editions of the magazine—Agent/Broker Topics and Insurer Topics—that *Business Insurance* has published for more than 30 years. *Industry Focus* will be sent to subscribers of *BI* who are not buyers responsible for the purchase of commercial risk management or employee benefits management products.

Industry Focus aims to reach agents and brokers, insurers and reinsurers, accountants and actuaries, captive managers, third-party claims administrators and claims adjusters, attorneys and consultants, among other providers of risk management and benefits management services.

"Just as *BI* is the leading source of news and information for the buyer, we see *Industry Focus* as an opportunity to also deliver top-quality news and information for the sellers in the marketplace," said Martin J. Ross III, publisher of *Business Insurance*. "Our journalists will use their experience, talents and contacts to uncover important stories, interesting personalities and key news and trends that the market needs to better serve its customers."

Industry Focus Editor Rodd Zolkos

Industry Focus' editorial team will be led by Rodd Zolkos, a senior editor of *Business Insurance* in Chicago, who will serve as editor of *Industry Focus*.

Each issue of *Industry Focus* will offer coverage of important industry trends and issues, regulatory and legislative activity, movers and shakers in the industry, opinions on current topics and business opportunities and challenges. In addition to the monthly print edition of *Industry Focus*, the content will also be available online at *www.businessinsurance.com*.

For editorial queries and feedback about *Industry Focus*, please contact Mr. Zolkos by telephone at 312-649-7784 or by e-mail at *rzolkos@crain.com*.

For information on advertising, please contact Ad Director Ken Luker by telephone at 212-210-0133 or by e-mail *kluker@crain.com*.

Governance guidelines for Canadian companies may have D&O impact

Effect on litigation debated

By GLORIA GONZALEZ

TORONTO—Insurance industry professionals in Canada disagree about whether new corporate governance proposals will lead to an increase in securities litigation against company directors and officers.

Some buyers say the guidelines will increase Canadian businesses' exposure to securities litigation, while others say the proposals are too vague or redundant to have a significant impact.

The proposals, issued Jan. 16 by the Toronto-based Ontario Securities Commission, make recommendations designed to help companies ensure that they have appropriate corporate governance practices. The guidelines address such topics as the composition of a company's board and job descriptions for directors and officers.

The guidelines would be voluntary, but companies that issue securities in Ontario would be required to disclose whether they have adopted the recommendations. If a company does not adopt some aspect of the proposals, its officials would have to explain why in an annual document to be filed with the OSC. However, if the company is applying for a waiver to deviate from any of the proposals relating to codes of ethics, it must immediately issue a press release explaining why. In addition, the OSC may make the guidelines mandatory if voluntary compliance is less than desired, an OSC spokesman said.

The proposals have been circulated for public comment until April 15 and could be revised based on the response.

Several risk managers in Canada warn that the corporate governance proposals, combined with public intolerance of corporate wrongdoing, will lead to an increase in lawsuits against directors and officers.

"It makes the possibility of being sued higher, because you have to meet that standard," said Susan Meltzer, risk manager of Toronto-based Sun Life Assurance Co. of Canada. "If there is an opportunity to bring a lawsuit, they're going to do it. Finding blame with people who run big business is a big thing in Canada."

Canadian businesses are vulnerable to corporate governance lawsuits because some provinces have begun to allow class action lawsuits and contingency fees for attorneys in the last five to 10 years, she said.

However, barriers to filing a class action in Canada cast doubt on whether shareholders would commonly be able to use these lawsuits to assert D&O liability, risk managers say. In addition, shareholders of Canadian companies that trade in the United States are more likely to bring suits in the U.S. tort system, which is more favorable to class actions, they say.

Some insurance experts doubt the OSC guidelines will lead to an increase in lawsuits because many Canadian companies are already abiding by stricter U.S. regulations.

Ann Longmore, senior vp and product leader in the executive risks practice at Willis Group Holdings Ltd. in New York, estimates that most large Canadian

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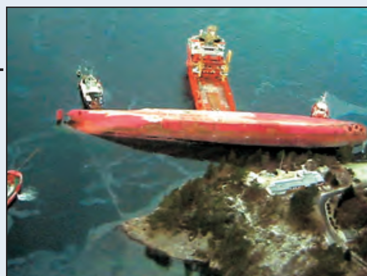
Inside Business Insurance

Insurers may be wary of unprepared ports
U.S. ports that have not taken action to protect against terrorism may face insurance difficulties. Page 4

No, are you *really* ready to rumble?
Paul Winston ponders whether novice pugilists should be protected against their own poor judgment. Page 6

Vote on pension funding nears in Senate
Amid a veto threat, the Senate is expected to pass a bill that would change how pension liabilities are calculated. Page 4

Bush's call for change not loud enough
President Bush should have made a more forceful push for tort reform proposals in his State of the Union address. Page 8



Cargo vessel capsizes off coast of Norway
The Norwegian bulk carrier M/V Rocknes, which capsized last week, is insured by Gard P&I and the Norwegian Hull Club. Page 17

Online

- The **Datebook** calendar lists upcoming industry seminars and meetings and allows you to add info on your own event.
- Searchable **directories** of all the listings of industry vendors found in *BI*'s Market Sourcebook.
- New **Opinion Poll** for readers: Do you think Congress ever will pass legislation to put monetary caps on personal injury awards?

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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS.

Business Insurance (ISSN 0007-6864) Vol. 38, No. 4, is published weekly by Crain Communications Inc., 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to Business Insurance Circulation Department, 1155 Gratiot Ave. Detroit, Mich. 48207-2912. $4 a copy and $97 a year in the U.S. $130 in Canada and Mexico (includes GST). All other countries, $230 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 40012850, GST No. 136760444, Canadian return address: 4960-2 Walker Road, Windsor, ON N9A6J3. Printed in U.S.A. Copyright © 2004 by Crain Communications Inc.

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Senate to vote on pension funding bill

White House opposes relief provision

WASHINGTON—Amid a potential veto threat, the Senate this week is expected to vote on and pass legislation that for the next two years would let all employers use a more liberal way of calculating pension liabilities and reduce temporarily the extra contributions owed by some employers with underfunded plans.

Under the Pension Stability Act, employers in 2004 and 2005 would use the interest rate on long-term corporate bonds to value plan liabilities. The Treasury Department would develop a methodology for determining the rate.

This new methodology for valuing liabilities would replace one based on the yield on the 30-year Treasury bond. Such a change, long sought by employers, would reduce corporate contributions by about $25 billion over two years, according to government estimates.

The legislation is intended as a temporary measure to give Congress time to develop permanent pension funding reform legislation.

The measure also would reduce by 80% in 2004 and 60% in 2005 the extra contributions, known as deficit reduction contributions, that employers with underfunded plans must make.

Under the current measure, the DRC relief generally would be limited to steel companies and commercial airlines. Other employers would have to apply to the Treasury Department for DRC relief.

In addition, no employer opting for DRC relief could increase benefits during the two-year period unless its plan was at least 75% funded after the increase or the increase was required by an existing collective bargaining agreement.

Top Bush administration officials have urged passage of the legislation without any changes to the current DRC requirements, adding they would recommend to President Bush that he veto the measure if it includes "additional provisions that would significantly exacerbate systemic pension plan underfunding," Labor Secretary Elaine Chao, Treasury Secretary John Snow and Commerce Department Secretary Donald Evans wrote in a letter to Senate Majority Leader Bill Frist, R-Tenn.

Efforts to tack amendments onto the measure are expected. The House earlier passed a somewhat different bill.

—By Jerry Geisel

PHOTO: GETTY

Only half of U.S. ports met the federal deadline for submitting plans for safeguarding their operations against terrorism.

Ports' procrastination on anti-terror planning may cause coverage woes

By MICHAEL BRADFORD

WASHINGTON—Many of the country's ports that have failed to meet a federally mandated deadline to submit plans for strengthening anti-terrorism measures could have difficulty finding insurance coverage unless they rectify their noncompliance soon, brokers warn.

Underwriters, who have generally become more comfortable about offering terrorism coverage, will be leery of facilities that do not meet the requirements, they say.

"If a port is not in compliance, then an underwriter might not be interested in writing it," said David D. Carlson, executive vp with Aon Corp.'s Ports and Harbors Group in Seattle.

Ports in the United States were required by the Maritime Transportation Security Act, passed in 2002 and amended last year, to submit to the U.S. Coast Guard by Dec. 31, 2003, detailed vulnerability assessments that included plans for enhancing security. The ports and tenants at their facilities are required to participate in the planning.

Ports face a July 1 deadline for developing or strengthening security measures after the Coast Guard approves the plans.

As of last week, about half the approximately 5,000 ports had submitted plans, according to a Washington-based spokesman for the Coast Guard. The agency is contacting ports that have not filed the anti-terrorism plans and could begin levying fines of up to $25,000 against facilities that are late.

"We are serious about the civil penalties if we don't receive them," the spokesman warned.

While many ports have not yet filed their plans, most of the country's major ports did make the deadline, according to a spokeswoman for the American Assn. of Port Authorities.

The spokeswoman said that, of the association's 84 members—which are the large "major players"—about 75% had

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But rating upgrade means SCA proposal won't be test case

Captive benefits plan gets boost

By JERRY GEISEL

WASHINGTON—The rating upgrade of an Aetna Inc. unit bolsters a Swedish company's bid to fund benefit risks of U.S. employees through its captive, but it also likely eliminates the potential for a groundbreaking regulatory ruling.

Svenska Cellulosa Aktiebolaget, a paper, packaging and consumer products company based in Stockholm, last month asked the Labor Department for approval to use the U.S. Virgin Islands branch of its 13-year-old Ireland-based captive, SCA Re, to fund U.S. benefit-related risks.

As proposed, SCA Re would reinsure life insurance, accidental death and dismemberment policies and long-term disability policies written by Aetna Life Insurance Co. for SCA's U.S. employees (*BI*, Jan. 12).

If approved, SCA would join three other major employers—Columbia Energy Group, Archer Daniels Midland Co. and International Paper Co.—that have received the needed regulatory approval to fund benefits through their captives since the Labor Department several years ago relaxed a stringent test.

In 1999, the department gave employers an alternative to a 20-year-old requirement under which at least half of a captive's business had to be unrelated to its parent for the captive to be used to fund employee benefits.

Alternatively, the department officials said they would look favorably on arrangements in which, among other things, an employer agreed to sweeten benefits of affected plan participants and to use a top-rated insurer to issue policies reinsured by the captives—conditions Columbia Energy, ADM and International Paper met.

However, Aetna Life, the insurer SCA wants to reinsure benefit policies written by its captive, had only an A- rating from A.M. Best Co. when SCA filed its application with the Labor Department.

Benefit experts said that had the SCA application been approved, it potentially could have expanded the number of insurers employers could choose to use as fronting carriers for captive benefit funding arrangements.

But earlier this month, Best upgraded Aetna Life's rating to A, likely boosting SCA's chances of winning regulatory approval for its proposal but eliminating the possibility of a ruling that could make it easier for other employers to fund benefit risks through their captives.

It isn't known when the Labor Department will rule on SCA's application.

Calif. druggists may just say 'no'

Threaten to shun workers comp scrips over fee schedule

By ROBERTO CENICEROS

SACRAMENTO, Calif.—California pharmacists say they may have to stop filling prescriptions on workers compensation claims because of recently implemented caps on the payments for prescription drugs.

Their threats follow the passage last year of a workers compensation reform measure that caps pharmacy payments, among other things. The law took effect Jan. 1 and capped payments to pharmacies by creating a fee schedule for workers comp prescription drugs.

The law directly linked the new workers comp fee schedule to an existing reimbursement schedule for Medi-Cal prescriptions. Medi-Cal is California's Medicaid program (*BI*, Sept. 15, 2003).

Now both chain store pharmacies and independently owned drug stores are threatening to stop filling workers comp prescriptions, said Carlo Michelotti, chief executive officer of the California Pharmacists Assn. in Sacramento. They are making the threat because the fee

schedule payments do not cover administrative costs and risks peculiar to filling workers compensation-related prescriptions.

"We know there are a lot of people that are shaking their fist at the medical payment level right now," Mr. Michelotti said. "I think that a lot of the people that are shaking their fists will, in fact, turn away workers comp."

Recent cuts in Medi-Cal payments are exacerbating the situation, because a reduction in Medi-Cal reimbursements means payments made under the workers comp pharmacy fee schedule also must be reduced.

In November, Deerfield, Ill.-based Walgreen Co. announced that if a 5% cut in Medi-Cal reimbursements is enacted, 365 of its stores may have to withdraw from that program, and it would "negatively impact Walgreens ability to serve

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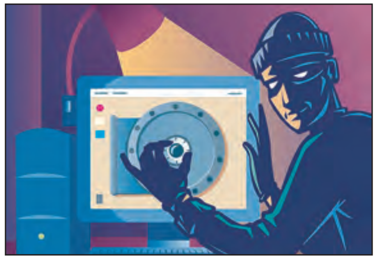
Products & Services

Euclid Managers offers high-tech coverage

ITASCA, Ill.—Euclid Managers has introduced three new professional liability products—Internet liability, technology liability and media liability—available on a nonadmitted basis.

Euclid Managers' ClickStream Internet liability and HyperDrive technology liability policies both offer security protection, including



protection for a policyholder's failure to prevent identity theft or credit/debit card fraud. In addition, both policies feature coverage for personal injury perils and content—such as copyright and trademark infringement—as well as errors and omissions protection.

The Disseminator, Euclid Managers' media liability form, addresses a media company's traditional concerns, including protection for confidential sources and newsgathering activities, as well as providing E&O coverage. The Disseminator's E&O coverage is not limited to just a media company's broadcast or published material; it is designed to address all of a media company's covered services.

Itasca, Ill.-based Euclid Managers has just opened a Kansas City, Mo., branch office, which developed the three products and will handle all claims administration and underwriting for the policies. For more information, contact Marcia Jenson at 816-448-3263 or at *mjenson@euclidmanagers.com*.

AIG site offers M&A information

NEW YORK—American International Group Inc.'s mergers and acquisitions division has launched a Web site offering information and products pertaining to transaction-related risks.

The site, *www.aigmergerrisks.com*, addresses topics such as transactional trends and techniques; deal summaries; and alternative risk solutions for insurance brokers, investment bankers and other professionals who advise commercial clients about transaction-related risks. The site also contains third-party articles and commentary and provides detailed information about policies designed to facilitate mergers and acquisitions, divestitures and other transactions.

For more information, contact William Vreeland, vp of the AIG mergers and acquisitions division in New York, at 212-458-1816 or visit the division's Web site.

Partnership provides benefits administration

PURCHASE, N.Y.— Diversified Investment Advisors has teamed up with FlexBen Corp., an employee benefits consulting and management firm, to create a new integrated benefits administration program.

The services offered include administration of flexible spending accounts, health care reimbursement accounts, dependent care accounts, transportation management accounts and retiree health reimbursement accounts.

Information on the services can be obtained by contacting Laura White, director of marketing for Purchase, N.Y.-based Diversified, at 914-697-8680.

T.J. Adams opens human resources unit

LOMBARD, Ill.—T.J. Adams Group L.L.C., an independent insurance brokerage, has established a new practice unit to offer human capital management to its clients.

Human capital services available from Lombard, Ill.-based T.J. Adams include human resources, risk management, payroll and benefits administration, recruiting, employee development and regulatory compliance.

The company has partnered with AdvanTech Solutions, a Tampa, Fla.-based human resources and consulting company, to provide technology and outsourcing services, and it has appointed Gregory E. Crawford to head the human capital management group as vp.

Information on the services is available at *www.tjadams.com*.

Aon launches Web tool for captive data

LONDON—Aon Captive Services Group in London is launching an Internet-based tool that allows captive owners to get instant data about their captives as well as market information.

The Web site is divided into two sections. One, e-Captive, gives risk managers and captive owners access to a secure repository of information on their captive programs, such as financial data and minutes from meetings. The second section, ARTeFACTS, contains information such as industry-specific reports and surveys.

Aspects of the site can be customized; captive owners, for example, can post their insurance submissions on the site.

More information about the site can be obtained by contacting Marina Dempster at *marina.dempster@irmg.com* or Vikki Roberts at *vikki.roberts@irg.co.uk*.

BI Workers Compensation Conference streaming video now available online

Readers wishing to learn from a diverse group of workers compensation experts can now view presentations from *Business Insurance*'s Workers Compensation & Disability Management Conference in streaming video at *www.BusinessInsurance.com*.

Speakers at the conference included risk managers, disability benefit managers, loss control specialists, medical specialists, attorneys, consultants and insurance company executives.

Among the topics discussed are building successful workers comp programs, fighting workers comp fraud, reducing liability exposures as well as information on legislation, safety strategies and more.

The 11th Annual *Business Insurance* Workers Compensation & Disability Management Conference was held Oct. 20-22, 2003, in Boston.

Complete coverage of the conference is available online at *BI*'s Web site. To access the presentations in streaming video, visit *www.BusinessInsurance.com/images/random/files/videosessions.html*.

Paul Winston

Tough to legislate common sense

If someone voluntarily steps into a ring for a boxing match, with no experience or training, you might think he or she is nuts. You might also think that this novice, having accepted the challenge willingly, ought to bear the risk of whatever ensues.

That issue is at the crux of a battle being waged in several states over whether to ban or impose tighter regulations on so-called Toughman contests. So far, a handful of states has banned these contests in their states. In a few, efforts have been made to regulate the contests with rules similar to boxing tournaments, including forcing promoters to provide contestants with a minimum level of life and health insurance. Elsewhere, the fights go on, without regulations.

Paul Winston

Toughman contests are weekend-long contests in which amateurs with no boxing experience pony up some cash, sign a liability waiver and an affidavit that they have trained for at least 30 days and enter the ring in pursuit of a little glory. Some come away winners, progressing through the contest until a champion prevails and receives a token cash prize. Along the way, many others are bruised, battered, and in some rare cases, seriously injured or killed.

In Florida last year, a young mother—who, despite signing on the dotted line, was out of shape and unprepared—stepped into the ring in a contest in Sarasota, Fla., against another amateur. The 240-pound woman, Stacy Young, was beaten so badly by her opponent after three one-minute rounds that she collapsed in the ring and died from blunt trauma to the head.

Shortly thereafter, her estate filed a lawsuit against the organizers of the bout, the operator of the county fairgrounds that hosted the event and the referee who was present at the match, charging them with failing to warn of known hazards in connection with the contest. That suit is still pending in Florida. In the meantime, Toughman bouts continue in the state and elsewhere.

The law firm representing Ms. Young's family contends that she entered this contest with the expectation it would be "safe and fun," but alleges that in reality the Toughman promoters were conducting a "barbaric, vicious, unregulated, bloody slugfest."

I'd have to agree with that characterization based on my understanding of how these operate. It's blood sport, pure and simple, without the finesse of professional—or even amateur—boxing. There's no sweet science in these contests. For the audience, Toughman contests provide the cheap thrill of watching two unskilled and often unfit people trying to beat the snot out of each other. I can't imagine what the contestants get out of it that they couldn't also get from repeatedly running into a brick wall, head first.

It's ironic that most, if not all, states outlaw cockfighting and pit bull fights because they regard it as cruelty to animals. What does it say about us that we continue to allow humans to engage in public brawls without similar intervention?

Of course, the reason is that we think people ought to know better. We assume that people who step into these rings have the common sense to weigh the risks, whereas an animal does not. And such fights, unlike those involving animals, are not expected to result in the death of a combatant.

As tragic as Ms. Young's death was, she showed an amazing lack of good judgment in getting into the ring. So did her husband, who apparently was there encouraging her to fight (but is now suing over his loss).

So society is left once again to ponder the question of whether we have to protect people from themselves. This issue is debated in the courts, city council meetings and in legislatures. It's a question that comes up repeatedly these days, in matters ranging from cigarettes to fast food to skateboard parks.

I generally come down on the side of personal responsibility when it comes to risk taking. But there is a difference between an individual taking a risk and participating in an organized, for-profit event. If state and local governments are going to allow such contests to continue, they ought to consider common-sense regulations to provide a safer contest for contestants.

Some states have done so. Provisions in such bills typically include: not allowing anyone to sign up for a Toughman match less than 30 days in advance; imposing a 30-day waiting period between bouts for fighters who are knocked out; requiring licensed physicians to be present; requiring referees to be trained and licensed; and providing a reasonable level of health and life insurance to participants. Amazingly, in many jurisdictions, none of that is required.

We can't legislate common sense, but we can legislate safer rules for these brawls and that's a start.

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SUBSCRIPTIONS: Detroit: 888-446-1422

Business Insurance is published by Crain Communications Inc.

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Published weekly at 360 N. Michigan Ave., Chicago, Ill. 60601-3806, Fax: 312-280-3174, *biweb@crain.com*. Offices: 711 Third Ave., New York, N.Y. 10017-5806, Fax: 212-210-0704; 71121 Minkler St., Abita Springs, La. 70420; Fax: 985-871-4006; Suite 814, National Press Building, Washington, D.C. 20045-1801, Fax: 202-638-3155; 6500 Wilshire Blvd., Suite 2300, Los Angeles, Calif. 90048- 4947, Fax: 323-655-8157; 967 Bermuda Court, Sunnyvale, Calif. 94086-6750, Fax: 408-774-1155; 34 Southwark Bridge Road, London SE1 9EU, Fax: 207-457-1440; 8157 N. Torrey Place, Tucson, Ariz. 85743, Fax: 520-579-3476; 777 E. Speer Blvd., Denver, Colo. 80203-4214; Fax: 303-733-2244; 11133 W. 108th St., Overland Park, Kan. 66210, Fax: 312 280-3174. 77 Franklin St., Suite 809, Boston, Mass. 02110-1510; Fax: 212-210-0704 $4 a copy and $97 a year in the U.S., $130 in Canada and Mexico (includes GST). All other countries, $230 a year (includes expedited air delivery). Rudolf Von Bartesch, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, *Business Insurance*, 711 Third Avenue, New York, N.Y. 10017-5806. Microfilm copies available: University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48013. Microfiche copies: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For reprints or reprint permission: Karen Brown Tucker, *Business Insurance*, 360 N. Michigan Ave., Chicago, Ill. 60601-3806, 312-649-5319, Fax: 312-280-3174.

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Editorial

Tort reform deserved more

BURIED AMID OTHER ISSUES, President Bush's call for tort reform in last week's State of the Union address may have seemed fine as far as it went.

Unfortunately, it didn't go nearly far enough.

We say this because the Senate appears poised to deal with at least two—and possibly three—critical tort-related issues in the next few weeks. The first will be class action reform, the second will be asbestos liability reform and the third—admittedly a long shot—could be medical malpractice liability reform.

Senate Majority Leader Bill Frist, R-Tenn., says he definitely wants to move on the first two issues by the end of March. He has also said he would consider bringing malpractice reform legislation back to the Senate floor, where it failed to garner enough support to block a filibuster last year, but hasn't set any timetable for doing so.

Sen. Frist's commitment is more than welcome. The chances of enacting class action reform are better than ever. And the odds of winning backing for a reasonable solution to the seemingly intractable problem of asbestos-related litigation, while much more daunting, still justify making a push in this area, too.

But a call for a push on either of these issues simply wasn't mentioned in the State of the Union address. Instead, the president—who hasn't been reticent to talk about tort reform in the past—devoted half a sentence to protecting businesses from "junk and frivolous lawsuits" and a single sentence to providing physicians with the same protections. That's collectively less time than the president devoted to a call for combating steroid use in professional sports.

With the stakes so high in the civil justice area, we expected more from the president concerning tort reform in last week's address. Civil justice reform is not a throwaway issue; it deserved more than a couple of throwaway lines.

Not all mandates are bad

IT WOULD BE EASY to take a strong position on the move by some states to enact legislation that would enable employers to purchase low-cost health insurance policies, stripped of state-mandated benefits, as we report on page 1.

Any measures that make health insurance more affordable increase the likelihood that employers will purchase coverage for the benefit of employees. We have long questioned the value of some mandates, both at the state and federal level, that seem more designed to enhance health care providers' incomes than meet a widespread need.

But it would be wrong to eliminate all mandates. While mandates often are tilted in favor of providers, others are clearly intended to protect consumers and to enhance their care and coverage.

Consider maternity benefit mandates, for example. As late as the mid-1970s, it was not uncommon for employers, even the nation's biggest and most respected companies, to cap health insurance coverage for childbirth at a low level, while providing full coverage for most other medical conditions. It took an act of Congress to end this outrageous discrimination as there was no sign that employers were going to do so on their own.

Similarly, state and federal lawmakers in the mid-1990s stepped in to provide a needed mandate of coverage for 48-hour hospital stays for maternity patients. This was done to stop health plans from putting pressure on hospitals to discharge women and infants after normal deliveries within 24 hours, which was a misguided effort by employers and health plans to hold down costs.

Many states also have enacted mandates that prevent insured health care plans and employers from discriminating against people with mental health claims, requiring plans to provide the same coverage for severe biologically based mental disorders as for other medical conditions.

In short, benefit mandates cannot be said to be either all bad or all good. Some may help a very few at the price of making health insurance more costly for all. Others, though, give real value to health insurance. How valuable would a health insurance policy be if, for example, it capped maternity benefits at $500?

State legislators must tread carefully. Instead of axing all mandated benefits or blindly adding them, they must examine each one carefully, weighing potential added costs to the potential benefit they may deliver.

Schillerstrom

Letters to the Editor

Article may give false impression

To the editor: I greatly enjoyed the Jan. 19 article, "ISO Seeking to Narrow CGL Cover for Additional Insureds," but was concerned that readers not be left with the impression that everyone in the construction industry agrees that all risk of worker injury lawsuits and construction defect lawsuits should be shifted to the lowest-tier subcontractors, through "additional insured" endorsements.

In fact, attempting to achieve the same end through "hold harmless" clauses is illegal under anti-indemnity statutes in most states (a chart of anti-indemnity laws and other risk transfer information is available at *www.asaonline.com/STRAP.htm*). Viewed properly, additional insured requirements exploit a loophole to circumvent the anti-indemnity laws.

Avoiding accidents and construction defect claims is a priority for contractors, at least in part, because of the prospect that suits will increase their future premiums. Mechanisms like hold harmless clauses and additional insured requirements thwart those incentives and thus undermine safety and quality in construction. The general contractor who is an additional insured has no concern that a claim will increase premiums, because those will have to be paid by the named insured subcontractors, and not by the general contractor who makes the claim as an additional insured. As a result, the additional insured general contractor has a greatly reduced incentive to avoid hazardous working conditions or risky "value engineering" decisions that cut costs at the expense of quality.

Also, general contractors who provide additional insured coverage for project owners take far less risk that a claim will be made than do subcontractors who provide the same coverage for a general contractor. The general contractor has people on site who can cause accidents or make decisions that cause accidents. In many cases, the project owner has turned the site over to the general contractor and cannot be held liable without proof that it negligently hired the general contractor, which shrinks the prospect and potential cost of any claims for defense made by an owner as an additional insured. A general contractor's sequencing decision, on the other hand, could be directly responsible for putting one subcontractor's employees at work several floors beneath the employees of another subcontractor, resulting in a hazard of falling debris. Or a decision could require a concrete pour during inappropriate weather or require installation of drywall before the dry-in of a building site, resulting in mold infestation. When general contractors bear the financial responsibility of their decisions, there will be fewer accidents and fewer construction defects, because general contractors will have more

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Global Benefit Trends

Spotlight Editors: Sarah Veysey and Regis Coccia

Demographic changes spur pension reform efforts in Europe

By SARAH VEYSEY

Against the backdrop of aging populations and overburdened social security systems, many governments across Europe are introducing, or are considering, pension reforms.

Employers in Europe are also looking at new ways to provide supplemental pension benefits, including proposals for the introduction of pan-European pensions once European Union legislation allowing for the creation of such structures comes into force.

Tim Reay, a consultant at Hewitt Bacon & Woodrow in London, said that pension changes in Europe are being driven by a shift in demographics. "Some of the state schemes only work if there is a steadily growing population," which most European countries no longer have, he explained.

"We are seeing that, across the whole of Europe, there is much more emphasis being placed by the state on employers to provide supplementary employer-sponsored schemes, because the governments really can't afford to continue to keep paying benefits at the level they have previously been doing," Mr. Reay said.

Governments in European countries where the state has traditionally played a very important role in retirement benefits are anxious to reassure workers that they are not abandoning state-sponsored pensions but must scale back overly generous benefits to cope with the costs generated by aging populations, noted Mr. Reay.

Germany

"Germany, historically had a very generous social security system providing pensions, so that most people up to middle-management level would get a pretty adequate retirement benefit linked to their salary," said Simon Dudley, practice director at Watson Wyatt Worldwide in Reigate, England. "So the typical company practice has been—at that middle-management group and

See PENSIONS/page 13

Expatriate health coverage often hard to coordinate

By JOANNE WOJCIK and SARAH VEYSEY

Employers sending workers abroad face a host of benefits-related issues, regardless of the duration of the assignment, ranging from how employees should receive medical coverage to how claims will be administered.

When companies dispatch workers overseas—particularly for the first time—they tend to anchor the employees to the home plan, but that approach has both advantages and disadvantages, noted Imran Qureshi, senior international consultant at Watson Wyatt Worldwide in Chicago.

Indeed, most U.S. employers keep their expatriate workers in their domestic insurance plans even after they have been assigned overseas, said Drew Thompson, vp of Aon Consulting's international practice in Somerset, N.J. And such an arrangement can create headaches for both the expatriate and the benefit manager, he said.

"If you've got a person in China, the claim will be in Chinese in local currency. How will this be handled? Poorly," he said. "That's why there's a dire need for specialty providers."

Often, U.S.-based plans cannot cope well when employees submit claims from overseas and want reimbursement in multiple currencies, said Mr. Qureshi.

It is possible to design expatriate health care programs that cover all regions under one plan, said Simon Ball, manager of international health care at Aon Consulting in London. But it is often not easy to put local nationals into such plans, because local laws tend to dictate what coverages they can buy, he noted.

And claims costs can be higher for overseas workers, Mr. Qureshi noted.

"Expats are essentially going to hospitals and receiving treatment from out-of-network facilities and, therefore, pay a higher cost," Mr. Qureshi said. Employers generally absorb any fees for out-of-network care "because obviously the U.S. domestic plans have networks within the U.S. but they don't have networks outside of the U.S."

Mike Hartung, chief product development officer at Radnor, Pa.-based HTH Worldwide, said that his research indicates that "only 25% to 30% of U.S. expatriates are in a specialized group expatriate plan that resembles U.S. coverage." HTH, a travel insurer and third-party administrator of international health plans, also hosts a Web site that provides information on health care and security issues in countries around the world.

"The rest are overseas with domestic (U.S.) coverage and getting by without network benefits. This creates confusion in the claims-paying process and, oftentimes, providers in foreign countries don't get paid," he said.

"Getting claims processed by a nonspecialized insurer is almost always a mess—it takes forever and

See EXPAT/page 15

U.K. embracing adoption of flexibility in benefits, working terms

By CAROLYN ALDRED

British employers are taking a much more flexible approach to working practices and the provision of benefits as a means of recruiting and retaining staff, executives say.

This approach also is being encouraged by the government, which introduced new working laws last year, including flexible working arrangements for the parents of children under six and disabled children under 18. Under the new law, an employee with a young or disabled child must set out in writing the form of flexible work conditions he or she wants to help meet child care responsibilities, and the employer must meet and discuss how they can be accommodated.

"The result is a happier, more motivated and more loyal workforce and a business better able to adapt to changing market conditions. In other words, a little flexibility benefits everyone," according to the U.K. Department of Trade and Industry.

Flexibility both in benefit provision and working conditions is certainly becoming more accepted among employers in the United Kingdom, according to Charles Cotton, reward adviser for the London-based Chartered Institute of Personnel & Development, a professional association for human resource managers.

Flexible benefits, whereby employees can choose from a range of benefits according to their preferences, including medical insurance, vacation time and automobile allowances, have been offered by larger companies and those in competitive industries such as the financial, information technology and consulting sectors for some time now, said Mr. Cotton. But advancements in administration software, a change in the tax system and a competitive workplace are encouraging more companies to adopt flexible benefits, he noted.

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Top international benefit networks page 12

Growth slow for U.K. private health insurance page 16

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International benefit networks

Companies that offer health care and welfare benefit programs worldwide

Network/Address	Phone/Fax/Web	Number of countries in network*	Master contracts*	Offices*	Total employees*	U.S. contact
AIG Global Benefits Network 80 Pine St., 35th Floor New York, N.Y. 10005	212-770-1289 Fax: 212-785-0687 *www.aig.com*	104	124	122	939	Jim Long, worldwide multinational director -Group Management Division
All Net All Net Central Unit, Reinsburgstrasse 19 Stuttgart, 70178 Germany	49-711-663-5314 Fax: 49-711-663-1901 *www.allnet.allianz.com*	73	90	7	28	Lance Henderson, regional director -North America and South America
GMC Services 10 Rue Henner Paris, 75009 France	33-1-44-82-4444 Fax: 33-1-44-82-4218 *www.henner.com*	150	55	8	410	Jacques Duchamp, general manager -North America, Africa and Middle East
Generali Employee Benefits Network Ave. Louise 149 Brussels, 1050 Belgium	32-2-537-2760 Fax: 32-2-537-5226 *www.generali.com*	70	NA	5	56	Mauro Dugulin, regional director-Americas
Gerling Pooling Instrument Gereonshof Cologne, 50597 Germany	49-221-144-63526 Fax: 49-221-144-5256	30	35	NA	NA	Michael Zyball, head-Gerling Pooling Instrument
John Hancock International Group Program John Hancock Place, P.O. Box 111 Boston, Mass. 02117	617-572-8677 Fax: 617-572-8628 *www.igpinfo.com*	50	NA	3	70	Geraldine F. Pangaro, executive vp
Insurope 27 Ave. des Arts Brussels, 1040 Belgium	32-2-286-5060 Fax: 32-2-286-5070 *www.insurope.com*	62	430	7	27	Dave Bryan, director-U.S. operations
MIA Benefits 25 Ave. Louis Dehoux Brussels, 1160 Belgium	32-2-663-0680 Fax: 32-2-673-1810 *www.miabenefits.com*	45	NA	2	105	Anne Swain, consultant
Swiss Life Network General Guisan-Quai 40 Zurich, CH 8022 Switzerland	41-1-284-3797 Fax: 41-1-284-3997 *www.swisslife-network.com*	46	460	3	45	Stephan Beit, executive vp/head-international sales
Zurich Employee Benefits Network P.O. Box 8045 Zurich, CH 8085 Switzerland	41-1-628-8638 Fax: 41-1-623-8638 *www.zurichbusiness.com/* *international-pooling*	48	NA	2	9	Mike Brown, senior consultant

*All data provided by all companies is estimated for 2003. Annual reports were not released at press time.
Source: *BI* Survey

The full Directory of International Benefit Networks is available online, in the directories area of *www.businessinsurance.com.* The searchable directory allows users to locate international benefit networks by network name, total premiums and total employees, among other information. PDF copies of the directory can be purchased by calling the Crain Information Center at 312-649-5476.

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Pensions: Demographic changes spur reform efforts

Continued from page 10

above—to provide some form of supplementary pension."

The most-typical structure, Mr. Dudley said, is a defined benefit model "linking benefits to salary at, or near to, retirement."

The German government has been introducing incremental reforms to the state-funded pension system for many years, according to Mr. Dudley, "but the latest situation has got quite a bit more publicity. There is a recognition that the social security scheme will continue to decline in terms of the level of replacement income that individuals will get from it, and so there is a push to try and encourage more saving from company-sponsored retirement plans and also personal savings."

Because population trends indicate that Italy could become Europe's 'oldest' country by 2050, the government is seeking to ease the growing strain on its social security system by encouraging people to work longer.

German law now permits the creation of defined contribution pension plans, Mr. Dudley noted. "Until a couple of years ago, you really couldn't do (that) at all; the tax environment was totally against it," he said. "But having said that, the tax-deductible levels for these defined contributions are really very low, so even if you put in place such plans, you are not going to build up very significant retirement pots for individuals. So there is quite a lot of work still to be done in the German environment."

The German government is also proposing raising the retirement age in the country to 67 from 65.

Another proposed reform in Germany would permit the social security contributions that employees make toward health care and retirement benefits to be invested separately, explained Alan Hewitt, head of the international benefits practice at Aon Consulting in London. Employers currently are required to set up savings funds into which these worker contributions are invested, he noted, but they are not required to contribute to the accounts.

Despite recent moves by some large German employers—including Commerzbank A.G., Gerling Group and Schering A.G. (*BI*, Jan. 19)—to reduce or eliminate their pension plans, "a lot of companies are still sticking with their traditional defined benefit top-ups that provide above the social security ceiling," Mr. Dudley said. "The big German employers are still heavily providing this sort of benefit."

Still, he acknowledged, many German multinationals have been taking steps to reduce their pension costs, including moving away from "top-ups," pension plans that integrate private benefits with social security payments.

"In other words, they might (previously) have promised to someone, 'We'll give you 60% of your final salary inclusive of what you'll get from social security,' but now they will have moved away to saying, 'We'll provide you with, say, 10% of your salary up to the social security ceiling and 60% of your salary in excess of the social security ceiling,'" Mr. Dudley said. "So they are no longer fully covering any decline in social security."

The introduction of International Accounting Standard 19, which requires companies operating defined benefit pension plans to provide information about those plans on their balance sheets is making some companies look carefully at whether they want to be offering a defined benefit plan, noted Mr. Hewitt.

Italy

Italy also historically has offered early retirement ages and very generous social security benefits—with workers often receiving state-funded pensions worth up to 80% of their final salaries.

But that system is now under economic and demographic pressure, benefits experts say, as Italy's population ages and the country's working population is failing to generate sufficient social security tax revenue to pay for the government's promised benefits.

Currently, the Italian state pension is mandatory and is funded by payroll taxes paid by employees.

Some employers augment state-provided benefits with supplementary occupational pension plans. And industry-specific top-up pension plans also exist in Italy, according to Watson Wyatt's Mr. Dudley.

Because population trends indicate that Italy could become Europe's "oldest" country by 2050, the government is seeking to ease the growing strain on its social security system by encouraging people to work longer.

In pension reforms currently being debated in the Italian Parliament, the government proposes that, beginning in 2008, the number of years an employee must work to receive the full state pension be raised to 40.

Currently, an employee age 57 or less must work for 37 years to receive the full benefit, while employ-

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Pensions: Demographic changes spur reform efforts

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ees age 57 or older must work for a minimum of 35 years to receive the full entitlement.

The proposal has met with fierce opposition from labor groups in Italy. In December, 1 million people marched in Rome to protest the bill, and labor unions have pledged strikes if the proposal is adopted.

While historically there has not been much demand for Italian employers to offer top-up pension provisions, calls for such pensions are increasing as it becomes more and more likely that state benefits will have to be reduced to cope with the aging population, noted Aon's Mr. Hewitt. And while employer-backed pension benefits in Italy currently tend to be only for senior staff, with increased demand from lower-level employees, "it is a matter of time before we see that changing," he said.

United Kingdom

In the United Kingdom, employer-backed pensions are much more common than in other European countries and, as a result, there is far less reliance on the state-backed pension, benefits consultants say.

But a new pension reform proposal is causing some U.K. employers concern.

In June 2003, the U.K. government announced its intention to set up a so-called Pensions Protection Fund, similar in structure to the United States' Pension Benefit Guaranty Corp., to be funded by a levy on employers.

'A lot of employers are looking at this and saying, 'Yes, we understand the political need to introduce a safety net for the employees of those employers that go bust, but we don't see necessarily why it should be the other (solvent) employers that have to pay for it.'

Ian Fairweather
Watson Wyatt

The fund, which would begin operating in 2005, is intended to protect members of employer-sponsored defined benefit pension plans should the plan sponsors become insolvent and unable to meet their pension obligations.

Employer groups have reacted cautiously to the government's plan.

Richard Greenhalgh, chairman of Unilever U.K. and of the Confederation of British Industry's pensions strategy group, expressed concern that the plan would not give adequate protection for plan members at an acceptable cost to employers.

Some companies are currently lobbying the government to ensure that the proposed employer levies be weighted on a risk-related basis, said Ian Fairweather, senior consultant at Watson Wyatt in London. The weighting would be based on both the financial strength of an employer and how well its plan is funded.

As proposed, the Pensions Protection Fund would pay out only if and when a sponsoring employer of a defined benefit pension plan were to become insolvent, he noted. "And a lot of large employers are rather concerned, because the risk of them becoming insolvent is very, very small," Mr. Fairweather explained.

"They could actually end up paying rather a large amount of money into a scheme that the members of their (pension) scheme will never benefit from. It is a source of great concern," he said.

"A lot of employers are looking at this and saying, 'Yes, we understand the political need to introduce a safety net for the employees of those employers that go bust, but we don't see necessarily why it should be the other (solvent) employers that have to pay for it.'"

Pan-European pensions

The question of whether there ever will be a truly pan-European pension plan is one that is "ongoing" within the European Union, according to Aon's Mr. Hewitt.

In 2003, the European Union issued a directive that would make pensions mutually recognizable among E.U. nations and enable pan-European pensions to be set up, explained Mr. Reay of Hewitt Bacon & Woodrow. This directive, which should give workers who move around the European Union more-portable pensions and reduce the administrative burden on multinational employers that move employees from place to place, will come into force in 2005, he said.

A report on what a pan-European pension could, and should, look like was produced recently by a group of employers, consultants and insurance companies, said Mr. Hewitt. "And there are ongoing discussions," he said.

"One of the biggest hurdles to a pan-European pension is the differences in state systems," explained Mr. Hewitt, because in some countries employer-sponsored pensions are directly linked to the benefits paid by state plans.

One of the biggest concerns for employers centers on how the tax deductibility of pensions contributions would be handled across national borders, he added.

But Mr. Hewitt said he believed such a pan-European structure can, and will, eventually be introduced.

Operating a pan-European pension plan would enable multinational companies to enjoy significant cost and administrative savings compared with the current system, according to Mr. Reay.

And pension plan governance would also be made easier for companies if they operated just one or two pan-European pension plans rather than separate plans for each of the countries in which they have employees, he said.

Mr. Reay added that several European multinational companies are already making plans to set up pan-European pension plans.

Flex: More-supportive benefits, work conditions seen

Continued from page 10

Demand for flexible benefits and working conditions has increased markedly during the last year, partly because of the new working laws and increases in National Insurance, said Kim Plummer, flexible benefit director for Gissings Consultancy Services Ltd. in London. National Insurance is an income-related tax imposed on employers and employees to help pay for the state-run National Health Service and pension system.

By introducing flexible benefits, employers can improve employees' total remuneration, including pension and other benefits, with little increase in National Insurance payments, Ms. Plummer noted.

Meanwhile, companies also are recognizing that nonfinancial benefits such as flexible working hours are just as attractive to employees and an important tool in retaining staff.

For example, more companies are including additional paid vacation, in some cases up to 60 days a year, into their flexible benefits programs, said Ms. Plummer.

New legislation and increased pressure on employers to retain staff has led to a "willingness to be flexible," said Mike Emmott, CIPD's employee relations director. Mr. Emmott added that the issue also has links to corporate "brand and reputation."

The Royal Bank of Scotland has introduced a range of policies allowing employees to move away from a traditional 9-to-5, Monday-to-Friday workweek if they desire.

The Edinburgh-based bank adopted the strategy to give staff more support in juggling their family and work commitments, said RBS' group human resources director, Neil Roden.

"There are very high levels of employment, and in many geographic areas, effectively, we have full employment, so individuals have much more choice about which companies they want to work for," said Mr. Roden.

"In order to stand out from the pack, we have brought in this range of flexible policies which allows us to support different working practices. This enables the business to attract and retain key skills and experience within the organization and will also have a positive effect on staff morale and loyalty," he said, pointing out that women make up 60% of the bank's workforce of 84,000 employees.

"People are thinking more about their work/life balance, more women are concerned about going back to work full time, and there is less mobility within the workplace. We want to provide our staff with the kind of working environment and working hours they want," Mr. Roden added.

Among the policies offered by the bank are:

- Short-term career breaks, which enable employees who have worked for the bank for more than two years to take unpaid leave of between eight and 13 weeks.
- Compressed workweeks, allowing employees, for example, to work 35 hours in four days rather than the conventional five days.
- In vitro fertilization leave, which lets female employees take paid time off to undergo up to three IVF treatments, which are covered by the National Health Service. Male staff accompanying their female partners also may take paid leave.

Other policies offered by RBS include school term-time working; working part time for three months after maternity leave while on full salary; adoption, parental and dependents leave; long-term employment breaks and winding down to retirement on full pay.

'In order to stand out from the pack, we have brought in this range of flexible policies which allows us to support different working practices. This enables the business to attract and retain key skills and experience...and will also have a positive effect on staff morale and loyalty.'

Neil Roden
Royal Bank of Scotland

"Employers across all sectors are having to be more imaginative in the workplace to ensure they attract and retain talented people," said Allan Hogarth, a director of the Confederation of Business & Industry in Scotland.

One of the United Kingdom's largest supermarket chains, ASDA—which is owned by Bentonville, Ark.-based Wal-Mart Stores Inc.—also has adopted a wide range of flexible work policies to retain and motivate staff, said an ASDA spokeswoman.

More than half the supermarket's 133,000 employees are female, and many are parents who work part time. Flexible work packages aimed at parents include:

- Shift-swapping plans.
- A school-starter plan, allowing a parent to take a half-day vacation for his or her child's first day at school.
- Emergency family leave, granting time off to deal with family needs.
- Grandparents' leave, with up to a week's leave available for a grandparent involved in care duties after the birth of a grandchild.
- Job-sharing, to help balance work and home life.
- Parental leave, whereby a parent may stop work for a period of between one and four weeks a year or take extended leave of up to eight weeks during the summer school vacation.

Career breaks of up to two years, IVF leave, study leave, store-swapping plans and caregivers leave also are offered. Long-term employees are offered additional vacation days, and older employees are offered "Benidorm leave," up to three months of unpaid leave regardless of job, hours worked or length of employment. Benidorm is one of several coastal resorts in Spain popular among older Britons who wish to escape the U.K. winter.

Financial benefits offered by the company include an employee bonus plan, a supermarket discount card, discounted auto services, a pension plan, discounted medical insurance and a stock option plan.

ASDA—along with the Royal Bank of Scotland and companies such as British Airways, BT P.L.C. and the British Broadcasting Corp.—is a member of the Benefits Alliance, a business forum at which companies exchange new employee benefit ideas and policies.

But while flexible working conditions are now being adopted by more companies, employers still are grappling with the issue of home-based work.

"Although there is a lot of interest among employees in home working, many employers are wary of remote working because of issues such as loss of control and isolation," said the CIPD's Mr. Emmott.

A report published by Waterlooville, Hampshire-based facilities management company Johnson Controls Ltd. and the University of the West of England on the impact of flexible working by businesses in the United Kingdom found that while 80% of managers "were comfortable about the working regime of their working staff…75% of them did not have a detailed knowledge of their working environment, either at home or while they worked remotely."

The survey found little specialized training for the managers of home-based or mobile workers.

"The role of managers and employers in supporting the development and implementation of the flexible working structure is paramount, according to our findings," said Marie-Cecile Puybaraud, who ran the research project at the UWE.

Employers should adopt human resource policies that define the boundaries of both managers' and flexible workers' responsibilities, the report recommends.

A short report and summary paper of the "U.K. Flexible Working Survey 2003" can be viewed at http://environment.uwe.ac.uk/fi/flexi_work.asp.

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Expat: Health cover challenges

Continued from page 10

nobody ends up satisfied," said David Leboff, president of Expaticore Services L.L.C., a New York-based firm that provides international workforce management and consulting services.

In addition, "non-FDA-approved drugs may also present a problem for nonglobal plans. The international programs have expertise with these sorts of issues," he said.

Specialty expatriate insurance providers can make currency conversions, translate claims into English and categorize procedures into standard codes used to adjudicate claims, which generally are not applied outside the United States, experts say.

In some cases, the insurers have established provider networks with which they have negotiated fees and direct-pay contracts.

Interest in expatriate health care coverage also is growing among U.K. companies, according to Danny Bossom, a sports disability and health care broker with Miller Insurance Services Ltd in London.

Indeed, U.K. and Europe-based companies recognize both that there are potential costs savings to be reaped from an expatriate health care program and that employees are unlikely to consent to overseas assignments unless they can get health care comparable to that available in their home country, said Mr. Ball of Aon Consulting.

Expat programs

Currently, there is a handful of providers of health insurance coverage for U.S. expatriates: Aetna Global Benefits of Hartford, Conn.; CIGNA International Expatriate Benefits in Wilmington, Del.; and BluesWorldwide Expat, a product of the Blue Cross & Blue Shield Assn. in Chicago. These providers differ from international benefit networks, which provide coverage for indigenous employees of multinational employers.

CIGNA is one of the largest providers of expat benefits, with 700 international client companies covering more than 200,000 expatriates and their dependents. Aetna has about 900 client companies covering about 100,000 expatriates and their dependents. And BluesWorldwide, launched in March 2003, has just three clients so far covering about 300 expatriates and their dependents.

In addition to covering most standard medical services and procedures, the policies often cover emergency medical evacuations, repatriation of remains and the cost of accommodations, in certain cases. For example, if an expatriate must be treated in a hospital away from his or her foreign residence, the coverage may provide transportation and housing assistance to family members.

Because expatriates are typically healthier than the general U.S. working population, premiums are about 20% to 30% less than for similar domestic health insurance, according to Martha Temple, vp of Aetna Global Benefits.

The coverage is written on a group basis, with a minimum of two expatriates required per group.

Until recently, most expatriate coverage resembled traditional indemnity health insurance, with employees filing claims to receive reimbursement after they have already paid out of pocket.

But now, because of technological innovations, direct billing is becoming the norm, and providers worldwide are submitting bills directly to insurers via the Internet or fax. Insurers then translate and adjudicate the claims, make currency conversions and reimburse providers using electronic fund transfers. In some cases, the turnaround time is less than two weeks.

Both Aetna and CIGNA have been direct-billing for about two years. BluesWorldwide receives bills directly from hospitals, but plan members must still pay first and submit claims to receive reimbursement for prescription drug and outpatient services.

Specialty expatriate insurers have also formed global preferred provider networks.

CIGNA's network includes more than 2,800 globally credentialed hospitals and clinics, primary care doctors and dentists.

Aetna's PPO network includes 415 hospitals worldwide, which is supplemented by a network created by HTH Worldwide.

"We have identified 12,000 doctors around the world who meet the criteria set by HTH," said Mr. Hartung. Among the criteria are that physicians speak English and are board certified in the United States or meet the certification of the British Royal College, he said.

Both CIGNA and BluesWorldwide have relationships with International SOS Assistance Inc., a large medical assistance company with its own provider network.

To make finding a doctor easier, all of the specialty insurance providers offer information on their Web sites. They also have toll-free numbers with customer service representatives available around the clock, seven days a week.

One of the main providers of expatriate insurance programs in the United Kingdom is British United Provident Assn.

London-based BUPA offers programs for employers with three or more employees working abroad. The insurer offers several types of international programs, which include such coverages as maternity, dental, prescription drug and home nursing, and customized programs are available.

In addition, the insurer offers translation services, noted Anthony Cabrelli, commercial director of BUPA in London.

Other approaches

Some employers put employees into any health care plans that their overseas subsidiaries might already be operating, said Mr. Qureshi.

"That has the advantage that the expatriate employee would be working alongside local nationals and there is an equitable treatment in the way that that expatriate receives benefits," he said. "Plus, you get better coordination on benefits and a more tailored benefit to that particular environment."

Many multinationals, particularly those with a large number of expatriate employees or third-party nationals, set up a specialized international plan for health care benefits geared specifically to those workers' needs, said Mr. Qureshi.

And in some cases, where employers want to provide expatriate employees with access to health care but do not wish to alienate local workers, they may put "key local nationals" into those international plans, he added.

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Between the Lines

Compiled by Joanne Wojcik

Dating for the risk-averse

Perhaps just as entertaining as the box office hit "Along Came Polly" is the film's promotional Web site, *www.alongcamepolly.com*, which features the "Riskmaster 3000 Assessment Quiz" to determine an individual's risk tolerance through questions derived from the film's plot.

In the film, Reuben Feffer, played by Ben Stiller, an insurance company risk analyst whose motto is "Nothing ventured, nothing lost," becomes romantically linked with his polar opposite, Polly Prince, a fun-loving, free-spirited waitress played by Jennifer Aniston.

Depending on answers to such queries as "Have you ever tried base jumping?" and "Do you have an adequate supply of duct tape in your home?" Riskmaster 3000 will rate test-takers from "Thrill Seeker," and definitely a "Good Catch," to "Bench Warmer" and a "Safe Date."

The site also lists insurance limits purchased by stars of the silver screen to secure their creative assets, such as World War II pinup queen Betty Grable, whose legendary legs were insured at Lloyd's of London for $1 million.

U.K. surgeons supplementing NHS fees

Moonlighting British surgeons charge the highest fees in the world, in some cases nearly twice those of U.S. physicians, according to a study by Boston-based National Economic Research Associates, a unit of Marsh & McLennan Cos. Inc.

The study, available at *www.nera.com*, compared nine common surgical procedures: total abdominal hysterectomy, inguinal hernia, total hip replacement, endoscopy, hemorrhoidectomy, coronary artery bypass graft, adult tonsillectomy, varicose vein surgery and cataract surgery.

Commissioned by the Financial Times and British health insurer Norwich Union Healthcare, the study found that the fee for coronary bypass surgery averaged $3,545 in the United Kingdom, compared with $1,936 in the United States. A tonsillectomy on an adult would cost $554 in the United Kingdom vs. $271 in the United States. And U.K. cataract surgery averages $1,200, compared with $673 here. Only endoscopy cost less: $240 in the United Kingdom, compared with $338 in the United States.

Doctors employed by the NHS can operate as self-employed practitioners after hours and generally do so to reduce the long waiting times for surgery.

More employers screening job applicants

Concerned about the potential for workplace violence, employers are conducting more pre-employment background checks than ever before, according to the Society for Human Resource Management.

The number of employers conducting criminal background checks has increased by 29% since 1996, with 80% of human resource professionals reporting they now conduct such checks. In addition, 35% conduct credit checks to screen potential employees, an increase of 16% from 1996, SHRM reported in a press release announcing the survey findings.

Further information is available at *www.shrm.org*.

D&O exposures increasing, survey finds

Nearly two in five privately held companies expect to be sued by shareholders, customers or vendors in 2004, according to a survey sponsored by Chubb Corp. Executives at 37% of the companies surveyed anticipate that customers will sue their directors and officers in the coming year, while 30% say vendors and 21% say shareholders may sue. By comparison, just 18% of private companies report that customers sued them or their directors and officers during the past few years, according to "The Chubb 2004 Private Company Risk Survey," which is available online at *www.chubb.com*.

Tips and feedback from readers are welcomed. Please send information to jwojcik@crain.com.

Cost of care rising in U.K., too

Inflation stunting growth of private health insurance

By CAROLYN ALDRED

The United Kingdom's private medical insurance market has seen little growth in recent years, and the lack of interest in such products stems mainly from health care cost inflation, analysts say.

In the United Kingdom, private medical insurance supplements the state-funded health care provided by the government-funded National Health Service, which is available to all U.K. residents. Most large employers offer private coverage to some employees—mainly those at the executive level—that allows participants to avoid the long waits sometimes encountered for certain treatments provided through the NHS program and to use private facilities.

Philip Blackburn, an economist with health care analysts Laing & Buisson Ltd., said that about 8% of the U.K. population was covered by private medical insurance in 2003, with an additional 1.4% covered by self-insured company programs. That compares with a total of 7.5% a decade previously, he noted.

However, over that same period, U.K. employers' annual medical insurance premium volume has roughly doubled, increasing to £1.5 billion from about £800 million (to $2.69 billion from $1.44 billion). In comparison, the NHS had a budget of about £65.4 billion ($117.48 billion) for 2002/03.

"The company-paid health insurance market has been pretty stagnant for many years," said David Cross, a partner with Watson Wyatt Worldwide in London. "Corporate sponsored programs have witnessed double-digit inflation for many years, and with the NHS free to everyone, there is little incentive for employers—or indeed employees—to extend medical insurance," he noted.

The main advantages of private medical insurance are that it allows an individual to avoid NHS waiting lists and that it covers the cost of services performed at private health care facilities, Mr. Cross said. But while hastening an employee's return to work through private medical treatment offers productivity benefits, extending medical cover to all employees—and, in some cases, their families—is an expensive option compared with many other benefits a company might offer, he pointed out.

One British company that offers health care coverage to midlevel and senior-level managers, Nationwide Building Society, is looking at ways to trim the rising costs associated with the benefit.

Evan Davidge, rewards consultant for the Swindon-based Nationwide Building Society, said he is working with several insurers in looking at ways to contain the company's employee health care costs, he said.

> **'Private medical insurance is a valued benefit, but the problem is that we are experiencing escalating costs.'**
>
> *Evan Davidge*
> *Nationwide Building Society*

"Private medical insurance is a valued benefit, but the problem is that we are experiencing escalating costs," he said.

"One of the issues we are looking at is the number of employee dependents who have medical insurance through the company. We are finding increasing loss ratios with increasing dependents," he said.

"We also are looking at increasing contributions from employees and encouraging employees to shop around for the best-value medical treatment," said Mr. Davidge.

Tim Barnes, manager of national accounts for London-based British United Provident Assn., agreed that growth in the U.K. private medical sector has been "fairly stagnant" due to the availability of state-provided care but noted there has been "modest" growth in the prevalence of employer-provided insurance. BUPA says it has a 40% share of the corporate medical insurance market in the United Kingdom.

"The majority of large U.K. companies offer (private medical insurance) as a benefit to some employees, particularly senior staff," he said, noting that the increase in employers' use of flexible benefits (see story, page 10) has allowed more junior staff to access the cover.

Mr. Blackburn of Laing & Buisson said that, during the past decade, there has been an increase in the number of skilled, semiskilled and manual employees covered by medical insurance.

He noted that in 1990, 28% of professional workers and managers had private medical insurance, compared with just 3% of skilled, semiskilled and manual workers and 7% of self-employed workers. Ten years later, 18% of professional and managerial employees had medical insurance, while the proportion among skilled, semiskilled and manual workers grew to 6% and to 14% among self-employed workers.

In addition, Mr. Blackburn said there has been growth in company-funded medical plans during the past five years, often through captive insurance companies.

In addition to checking the growth of employer-sponsored medical insurance, the increasing medical costs have resulted in the development of new, less-expensive forms of private coverage, such as BUPA's Hospital Network product. That coverage allows policyholders to choose from among 80 hospitals throughout the United Kingdom, rather than the full range of 800 hospitals BUPA policyholders normally choose from, said Mr. Barnes.

BUPA also offers policyholders a financial incentive to choose NHS hospital care over private care. Policyholders electing NHS hospital treatment are paid a certain amount for each night spent in an NHS hospital.

While Mr. Barnes does not expect dramatic growth in employer-provided medical insurance, he said he does believe there is growth potential in occupational health management.

"Our corporate customers are becoming more concerned about managing health risks. Occupational health risk management and rehabilitation need to become more sophisticated and provide an opportunity for the private and public health sectors to work closely together," he said. Mr. Barnes noted that government agencies—such as the Health and Safety Executive and the Department of Health—and employers alike are "very keen to reduce the amount of sickness absence in our country."

BUPA's occupational health management offerings include employee absence management plans, drug and alcohol testing, smoking-cessation programs, health assessments and healthy eating programs.

Another U.K. medical insurer, AXA PPP Healthcare Ltd., is developing corporate products to help reduce employer health care costs. Like BUPA, the Tunbridge, Kent-based insurer believes there is greater growth potential in occupational health management than in corporate health insurance.

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Latin America modernizes its pensions systems

By ROBERTO CENICEROS

Latin American nations continue to move from defined benefit to defined contribution pension plans, with hybrid approaches emerging in several countries, benefit consultants say.

Although pension systems vary significantly across Latin America, recent pension law reforms and tax advantages are helping fuel the modernization of retirement systems throughout the region, they add.

In Brazil, for example, employers must comply this year with a pension portability and vesting law, said Peter Mills, a Latin America specialist and consulting actuary in Coral Gables, Fla., for Watson Wyatt Worldwide.

The mandate will enable an employee who changes jobs to transfer funds accumulated in one private employer's pension plan to another employer's plan. Previously, portability was uncommon in employer-sponsored plans in Brazil, Mr. Mills said. Vesting was not required, he said.

That measure, like others being adopted by Latin American countries, will help ensure that employees can retire with a degree of financial security, Mr. Mills said.

To some extent, it also advances an ongoing movement from defined benefit plans to defined contribution plans in Brazil. It does so by helping build an investment culture among workers, said Douglas Almeida, human resources manager in Sao Paulo, Brazil, for General Electric Co. Latin America.

The country was already moving from a preponderance of defined benefit plans to one of defined contribution plans, Mr. Almeida said, but the new law will bolster employee appreciation for long-term investing through pension plans. That, in turn, will make them more willing to participate in defined contribution plans, added Mr. Almeida, a Watson Wyatt client.

He noted that while Brazilian workers in the past stayed at their jobs for decades, many employees today change jobs much more often.

In general, employers supported passage of the portability and vesting law approved three years ago, Mr. Almeida added. The enhanced benefits employers must provide under the law will improve their ability to attract and retain workers, he said.

But on the negative side, the law is "quite aggressive," Mr. Almeida said. The costs and administrative burden will be significant. The law requires that employees vest after three years of employment. Employers would prefer a five-year vesting period to help offset administrative costs.

The average vesting period among Brazilian employers currently is five years, Mr. Almeida said. That had already dropped from an average of 10 years that was common about five years ago, he added.

Brazil also has adopted other measures to make retirement plans increasingly secure for workers.

Last year, for example, the South American country implemented a law calling for independent actuarial audits of employer retirement plans, Mr. Mills said.

"For those retirement funds that were not being managed properly, the actuarial audits are helping rectify the situation," he said. "For example, if a retirement system is being financed on the basis of unreasonable actuarial assumptions, this will help."

But Mr. Mills acknowledged that the high degree of regulatory involvement does add to employer

See PENSIONS/page 20

AMRAE 12th annual conference

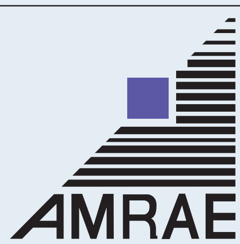
Host of new risks calls for nontraditional strategies

By SARAH VEYSEY

NICE, France—Businesses today face a growing array of exposures, prompting new risk management strategies and new risk financing challenges, according to speakers at the Assn. pour le Management des Risques et des Assurances de l'Entreprise's 12th annual conference in Nice, France.

Companies face a whole host of new risks, said Gérard de la Martinière, president of the Fédération Française des Sociétés d'Assurances, the Paris-based French insurers association.

New technology is one such source of new risks, Mr. Martinière noted during a session at the conference. A computer virus, for example, could "bring a company to its knees."



Coverage continues on page 19

Patrick Lucas, president of Paris-based broker Gras Savoye, said that companies are more aware of their vulnerabilities than ever before, and that risk management is now at board level for many companies.

A broker such as Gras Savoye, he said, is now increasingly being called upon by clients to help them assess and analyze the risks they face in various parts of their busi-

See RISKS/next page

AMRAE 12th annual conference

Much remains to be done to foster good governance

By SARAH VEYSEY

NICE, France—During the past two or three years, there has been an evolution in corporate governance, and the issue has become very important for companies across the world, according to a round table of governance experts at the Assn. pour le Management des Risques et des Assurances de l'Entreprise's 12th annual conference in Nice, France.

And in the wake of the accounting scandal being unearthed at Parmalat S.p.A., a food retailer and a subsidiary of Parma, Italy-based Parmalat Finanziaria S.p.A. (*BI*, Jan. 12), the topic is very newsworthy, Jean-Hervé Lorenzi, professor of economics at Paris' Dauphine University and moderator of the session, told delegates.

The debate about how to ensure good corporate governance is central to the role of the risk manager, according to Mr. Lorenzi, because corporate governance exposure is one of the biggest risks that companies face.

But Pierre Bollon, managing director of L'Association Française de la Gestion Financière—the Paris-based industry body for the French asset management industry—said he doubted that many risk managers currently talk regularly with their management boards about the running of their companies.

And while progress has been made in introducing corporate governance guidelines such as the Sarbanes-Oxley Act in the United States, there is still some way to go in combating scandals such as Parmalat, the experts say.

The Parmalat affair has made it apparent

See GOVERNANCE/next page

PHOTO:AFP

Police say the Norwegian carrier M/V Rocknes appears to have capsized after hitting a submerged rock in a fjord near Bergen, Norway.

Norwegian ship hull value set at $70 million

By SARAH VEYSEY

BERGEN, Norway—The Norwegian bulk carrier M/V Rocknes, which capsized Monday in a fjord near Bergen, Norway, has liability coverage written by Norwegian protection and indemnity club Gard P&I.

Bergen police and the Norwegian Rescue Centre mounted a rescue operation after the ship capsized. So far, 12 survivors have been found, and four crewmembers are confirmed dead, while the remaining 14 crewmembers are missing and presumed dead.

The Rocknes, which was built in 2001 and is owned by Bergen-based Jebsens Management

See SHIP/next page

World Updates

RSA to divest of Mutual & Federal

London-based Royal & SunAlliance Insurance Group P.L.C. has agreed to sell its 37.1% shareholding in Johannesburg, South Africa-based Mutual & Federal Insurance Co. Ltd. to Old Mutual P.L.C. Old Mutual, the majority shareholder of Mutual & Federal, will pay about £100 million ($179.6 million) in cash, minus the amount of any final dividend for 2003 payable by Mutual & Federal to RSA. RSA said in a statement that Mutual & Federal contributed about £17 million ($27.4 million) to its profits in 2002.

Willis expands European operations

London-based Willis Group Holdings Ltd. has acquired the remaining 70% share of Copenhagen, Denmark-based Assurandeoergruppen, which changed its name to Willis A/S when Willis acquired a 30% stake in the brokerage in 1998. Willis A/S, which has about 300 employees, had revenue of $50 million in 2003. Terms were not disclosed.

ZFS to unite European, South African operations

Zurich Financial Services Group plans to combine all of its European and southern Africa operations into one business division. The new division, Business Division Europe, will consolidate the insurer's operations in continental Europe with the division that comprises Zurich's operations in Ireland, South Africa and the United Kingdom. The move follows the announcement of the retirement of Alexander Leitch, who heads the United Kingdom, Ireland and southern Africa operations. Axel Lehmann, the current continental Europe chief executive, will head the new unit.

Benfield places treaty program in China

In one of the first foreign reinsurance placements for a Chinese government agency, Benfield Group Ltd. said it has placed a proportional treaty program for the China Export & Credit Insurance Corp. The reinsurance, led by Munich Reinsurance Co. with participation from other U.S., U.K. and Bermuda-based reinsurers, is designed to cover short-term export credit insurance business.

Lochain Patrick to buy London Special Risks

Lloyd's of London broker Lochain Patrick Insurance Brokers Ltd. has agreed to acquire specialty insurance and reinsurance broker London Special Risks Ltd. Lochain Patrick said the acquisition would boost its marine hull brokerage operations.

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Risk: New risks need new strategies

Continued from previous page

ness.

While such an exercise can take a fairly long time, it can trigger a great deal of interest within a company and create a much greater, collective awareness of risks, Mr. Lucas said.

And such exercises can lead to the identification of risks and solutions "beyond the boundaries of the traditional insurance and reinsurance market," he added.

Mr. Lucas said that after one such analysis at French electricity supplier Électricité de France, for example, the broker found a nontraditional solution for the company's climate hazard risk.

Rather than using an insurance policy, Paris-based EdF instead issued a catastrophe bond to protect it against weather risk losses. This marks the first time that an electricity company in Europe has turned to the capital markets to finance risk, according to Mr. Lucas.

The insurance industry must be willing to underwrite the new risks that its clients are encountering, said Mr. Martinière. Insurers also must update the tools they use to analyze risks, he said.

One factor that could affect the industry's ability to assume new risks is recent merger and acquisition activity. Mr. Martinière said this trend could lead to a reduction in the amount of capacity available to cover risks.

Despite such challenges, Mr. Martinière said that the insurance industry should be able to "control the great transformations we are going through."

In order to do so, he maintained, insurers must not only talk to their clients but also be supported by them.

Denis Kessler, chairman of Paris-based reinsurer SCOR S.A., said that a new risk environment is also evolving for reinsurers.

Risks caused by cloning and genetics, social and ethical risks and reputational risks are all growing in importance, Mr. Kessler said in a separate speech at the AMRAE meeting. Liability risks are also becoming more significant because of society's apparent need to find someone to blame for events that cause injury or damage, he noted.

But Mr. Kessler also cautioned that this emergence of new risks does not mean that traditional risks, such as fire risk, have disappeared.

Insurers and reinsurers are now redefining the risks they are willing to take on and the terms on which they will accept them, Mr. Kessler said. At the same time, they are seeking to reorganize their portfolios to reduce their own exposures, he noted.

Mr. Kessler predicted that, among other things, reinsurers in the future will ask their clients for more-detailed information on each risk. There is also likely to be an increase in risk pooling, he said, and reinsurance cycles will likely be shorter than before.

Ship: Hull valued at $70 million

Continued from previous page

AS, has hull coverage from the Norwegian Hull Club of Bergen. The hull is valued at about $70 million, sources said.

The double-hulled vessel was carrying a cargo of stone when the accident occurred. In a statement, Jebsens said the ship also was carrying more than 124,000 gallons of heavy fuel oil when it sank, and it is not yet known how much of the fuel oil has leaked.

Arendal, Norway-based Gard P&I said in a statement that the ship was also carrying more than 25,000 gallons of marine gas oil. Jebsens noted in its statement that there is no evidence that the vessel is leaking that oil.

The Department for Emergency Response of the Norwegian Coastal Administration is organizing a pollution prevention operation.

Governance: Much left to do

Continued from previous page

that problems of corporate governance are not limited to the United States, said Olivier Pastré, professor of economics at l'Université Paris VIII.

"It is not an American problem; it is a global one," Mr. Pastré said.

Furthermore, many of the measures that have been put in place to counter corporate governance breaches have proved insufficient, he said.

And in some cases, he added, regulators have not reacted as quickly to potential problems as they might have.

But Mr. Bollon said the problem was not just one of regulation.

Financial markets are still largely ruled by the "sell side," he said, and shareholders have not generally exercised much power. But shareholders have an objective interest that risks at companies should be reduced, he said, and that risks should be avoided or insured against.

The French financial markets regulator, the Paris-based Autorité des Marchés Financiers, encourages companies to present clearly and transparently the risks they face in their reports to shareholders, according to Hubert Reynier, departmental head of commercial deals and information at the AMF.

What is important is that directors become more conscious of the potential risks their companies face and their role in avoiding those risks, says Hubert Reynier of the Autorité des Marchés Financiers.

For example, there are clear guidelines governing how stock exchange-listed companies must present environmental risks in their accounts, he said.

But the introduction of too many reporting requirements might, conversely, increase the risks companies face, Mr. Bollon suggested.

New reporting requirements are coming out all the time, he said, but these may lead to confusion at some companies, and that confusion might heighten the corporate governance risk.

One move that has been suggested to improve corporate governance is the introduction of greater numbers of independent directors onto the boards of companies, said Mr. Pastré.

But he noted that this might not necessarily guarantee an improvement in corporate governance and pointed out that the Houston-based energy company Enron Corp. had several independent directors at the time of its accounting scandal.

What is important, said Mr. Reynier, is that directors become more conscious of the potential risks their companies face and their role in avoiding those risks.

The circulation of information in a company is fundamental to the governance of that company, said Mr. Pastré. In some organizations, he said, too little information is disseminated, while in others too much information is circulated, potentially leading to confusion.

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AMRAE 12th annual conference

Higher retentions here for the long haul

By SARAH VEYSEY

NICE, France—The trend of insurance buyers retaining more risk is likely "irreversible," according to a panel of risk managers.

Although the market is beginning to soften for some lines, risk managers will continue to take large self-insured retentions in the coming years, panelists said at a risk management round table at the Assn. pour le Management des Risques et des Assurances de l'Entreprise's 12th annual conference this month in Nice, France.

'If we are not happy, we must have the courage to change things.'

Gérard Lancner
Yves Rocher S.A.

After the terrorist attacks in the United States on Sept. 11, 2001, risk managers suffered a "crisis" as insurers pushed through large rate increases and restricted coverage, said Jean-François Marchand, director of risks, insurance and the environment at Paris-based automotive supplier Valeo S.A.

François Filhol, director of risks and insurance at Paris-based building supply company Groupe Lafarge, said that, in the wake of those price increases, many risk managers greatly increased their self-insured retentions, and they will likely maintain those retention levels even as the market softens.

Mr. Filhol warned that risk managers need to isolate themselves from the fluctuations of the insurance market. He said that it is unacceptable that even companies with good loss records were subjected to massive rate hikes, and that is why, he said, he believes the trend of increased retentions is "irreversible."

The recent hard market has prompted risk managers to re-examine the risks their organizations face, said Gérard Lancner, director of risk management at Paris-based cosmetics company Yves Rocher S.A.

Mr. Lancner said that when risk managers find themselves unable to buy all the insurance coverages they previously could obtain, they are forced to carefully consider and clarify their risks, and, in some cases, to look for options other than insurance.

Mr. Lancner also noted that in 2001 and 2002 he changed both his insurer and broker because of dissatisfaction with rates and service. "If we are not happy, we must have the courage to change things," he said.

And when the soft market arrives, risk managers should prepare for the next turn in the insurance cycle, seeking out those policies with the most favorable terms and conditions, said Mr. Marchand.

"We need to harvest like squirrels in the good years," he said.

The coverage problems precipitated by the terrorist attacks also prompted many risk managers to examine their supply chains and the potential risks they posed, Mr. Lancner said.

Supply chain risks are particularly pertinent when companies use suppliers in geographically diverse locations, the panelists said.

Such situations make it more difficult for a risk manager to assess the risks related to the suppliers, said Mr. Marchand. And while a risk manager could insist that suppliers buy certain types of insurance, this alone might not give a risk manager confidence that all risks are being managed, he said.

Michel Chevrier, corporate risk manager for Eurotunnel S.A. in Paris, and Michel Pozzo di Borgo, a risk manager at Paris-based Banque de France, also took part in the round table.

Franck Baron, director of global insurance and risk management at perfume company Firmenich & Cie. S.A.S. in Paris, moderated the session.

AMRAE meeting draws 1,200

NICE, France—The Assn. pour le Management des Risques et des Assurances de l'Entreprise, the Paris-based French risk management association, held its 12th annual conference in Nice, France, Jan. 14-16.

About 1,200 people attended the conference, which was held at the Nice Acropolis conference center.

The association's next annual conference will be held in Biarritz, France, on Jan. 26-28, 2005.

For information, visit AMRAE's Web site, *www.amrae.fr*.

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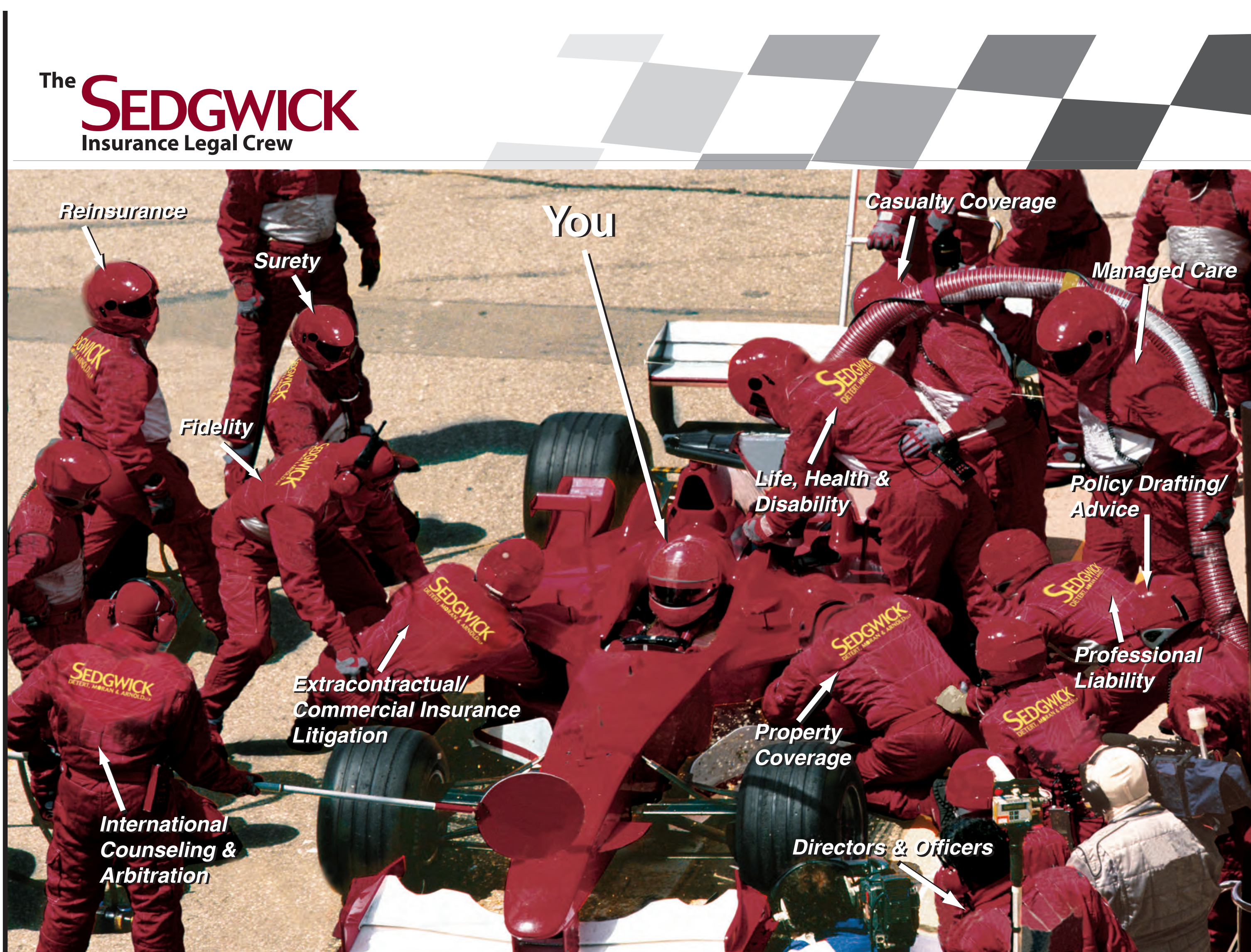

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Ports: Anti-terror plans unready

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filed plans as of last week.

The requirements call for ports to assess physical security, passenger and cargo security, protection systems, procedural policies, contingency response plans and other areas essential to a facility's security. The purpose of the assessment is to identify weaknesses in those areas and develop plans for rectifying those deficiencies.

The Coast Guard and a consulting firm working with the agency are reviewing and approving the plans and can call for changes. The Coast Guard can shut down ports that do not make the July 1 implementation deadline.

Many ports have already put into effect enhanced security measures in anticipation that their plans will be approved, according to the Coast Guard spokesman. He also said that the ports' tardiness in responding to the requirements doesn't necessarily mean that they are in danger. "We've made tremendous strides since Sept. 11, 2001," he said. "Failure to have 100% of all the plans in is not an indication that port security is lax."

But ports that are not in compliance may have difficulty finding insurance coverage, said Mr. Carlson of Aon.

He said that while no insurer has declared it won't offer the coverage to ports that aren't in compliance, that is a likely scenario. "We know our markets pretty well," he remarked.

Insurers might write the coverage at a higher price for a port that doesn't make the July 1 deadline, but it is more likely that underwriters would stay away from the risk, Mr. Carlson said. "If they are buying terrorism coverage and not in compliance, that is going to make the underwriter pretty nervous," he said.

The Coast Guard and a consulting firm working with the agency are reviewing and approving the anti-terror plans and can call for changes. The Coast Guard can shut down ports that do not make the July 1 implementation deadline.

Large ports on both coasts have generally bought significant amounts of terrorism insurance coverage, according to Deborah Bovee, executive vp with Aon's Ports and Harbors Group. "Just about all California ports are buying as much terrorism insurance as they can get," Ms. Bovee said.

And, she said, the California ports and others on the U.S. coasts prefer to buy coverage that is broader than that called for in the Terrorism Risk Insurance Act, which requires insurers to offer terrorism insurance.

Coverage costs generally amount to 10% to 15% of the premium charged for insurance that covers the risk to be protected by terrorism insurance, Ms. Bovee said. Insurers are required to offer the terrorism protection for each line that they write for a policyholder. So if, for example, a policyholder were to pay $1 million for property insurance, the terrorism premium on its property risk would generally cost from $100,000 to $150,000.

Ms. Bovee said ports can find terrorism insurance limits of from $300 million to $500 million for property risks and from $100 million to $150 million for liability risks. "As we have gotten further away from 9-11, it's like getting further away from an earthquake," she said. "Insurers are more comfortable with it."

Pensions: Systems modernizing

Continued from page 17

expense and administrative burden.

In Mexico, the vast majority of private employer pension plans remain defined benefit systems, said Alfredo Villas, managing director of actuarial services in Mexico City for Aon Consulting. But the Mexican Assn. of Actuarial Consultants found that the adoption of defined contribution plans has doubled each year over the past three to four years, Mr. Villas said.

Related to that shift are laws allowing private employers in Mexico to offer a flexible benefit program that includes both medical and retirement benefits. Contributions to those plans can accumulate for retirement pensions or be used to meet major medical expenses after retirement, Mr. Villas said.

The use of such flexible benefit programs is rapidly growing among private employers. The pension offerings within the flexible benefit plans typically are a hybrid of defined contribution and defined benefit arrangements, he added.

The tax advantages that such plans offer employees and employers are helping drive their spread, Mr. Villas said. They are also prompting Mexico's overall move to greater use of defined contribution plans.

Latin American pension plans often have a defined benefit component payable at retirement even though the employer may have a defined contribution mechanism while a worker remains employed.

Hybrid plans with defined benefit and defined contribution components are being adopted in several Latin American countries, Mr. Villas said.

The labor and social security laws of Latin American countries often mandate that employers provide employees with specific severance payment amounts at retirement, Mr. Villas said. So employers that offer defined contribution plans—somewhat similar to 401(k) plans in the United States—may be obligated to add more to an employee's funds at retirement if, for example, the investment returns in that employee's defined contribution account do not meet mandated severance payment levels.

So the plans have a defined benefit component payable at retirement even though the employer may have a defined contribution mechanism while a worker remains employed, Mr. Villas said.

The movement to defined contribution systems in Latin America follows Chile's pioneering lead. From 1979 to 1981, Chile privatized its social security system. It moved from a pay-as-you-go defined benefit system to a defined contribution approach in which workers have individual retirement accounts administered by private fund managers.

Since then, many other Latin American countries have privatized their social security systems to some extent. Private employers have followed the trend, by increasingly moving to defined contribution systems.

Even significant setbacks—such as severe financial losses in Argentina's retirement system due to the nation's current financial problems—are not likely to reverse the move to defined contribution plans, observers say.

The situation, though, may lead to more reforms, Mr. Mills said. For example, Argentina could eventually allow privatized retirement funds to be invested abroad. Investing abroad typically is prohibited when nations first privatize their retirement systems, he noted.

But "if you can do that, then workers are going to have a higher level of confidence in defined contribution privatized systems," Mr. Mills said.

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AlphaStar: Trading charges of fraud

Continued from page 1

declaratory judgment that the certificates are valid. AIM is also asking a bankruptcy judge to appoint an independent trustee to oversee the estate, charging that AlphaStar officials have produced false financial filings and are guilty of "gross mismanagement."

AlphaStar—formerly Stirling Cooke Brown Holdings Ltd.—denies the charges and counters that AIM is merely trying to block Realm's impending sale to a third party so that it can press its own claim to ownership of the insurer.

Stephen A. Crane, AlphaStar's chairman and chief executive officer, said last week that AlphaStar was close to a sale agreement but would not identify Realm's potential buyer.

AlphaStar will soon notify the bankruptcy court of the deal—which will require court approval—and of a debtor-in-possession financing agreement that will be used to restore Realm's policyholders surplus, Mr. Crane said.

As of last Sept. 30, Realm's surplus had fallen to $3.8 million, about $1 million below the minimum required by New York insurance law, he said.

Meanwhile, U.S. Bankruptcy Judge Stuart M. Bernstein last week gave AIM permission to pursue discovery on its trustee motion, including taking depositions of AlphaStar officials.

Bermuda-domiciled AlphaStar, a holding company for several brokerage and underwriting units, has had more than its share of troubles in recent years.

The company's heavy involvement in loss-plagued workers comp carve-out reinsurance business mired it in a number of reinsurance lawsuits and arbitrations starting in the late 1990s. A London court last year found that two former managers of AlphaStar brokerage units in the United Kingdom aided a scheme to defraud Sphere Drake Insurance Ltd. on millions of dollars of money-losing carve-out placements (*BI*, Jan. 12; July 21, 2003).

AlphaStar's U.K. units filed for the equivalent of bankruptcy protection soon afterward, and Realm—which ceded carve-out risks to Sphere Drake—later agreed to rescind its treaties for a return of premiums, resulting in losses to Realm of $590,000 in last year's second and third quarters.

As it grappled with these problems, AlphaStar was also trying to cope with the AIM debacle.

In October 2002, AlphaStar reached a tentative deal to sell Realm to AIM for $12 million. Pending the completion of several agreements and regulatory approval, AIM was to advance $3.5 million of the purchase price, secured by a pledge of all the stock of Realm's intermediate holding company, Stirling Cooke North American Holdings Inc., according to AlphaStar's court filings.

AIM advanced only $1.5 million of the agreed amount, though, and within weeks of the deal—before final terms and regulatory approvals were in place—AlphaStar discovered that AIM was issuing workers comp insurance certificates in Realm's name without authority, AlphaStar charges.

In all, AIM issued $10 million in certificates covering 600 clients of professional employer organizations in 21 states, according to AIM's court filings.

AIM, which says Realm knew and approved of the business, has retained the premiums and has paid claims itself, rather than turning the money over to Realm, court filings say.

AlphaStar denied liability for the business, though, and regulators in several states launched investigations into the program. At least one state, Texas, has ordered AIM to cancel the disputed coverage for Texas policyholders by March, court filings say.

The two sides took their dispute to court and last year appeared to have reached a new deal to complete the Realm sale. That deal fell apart, though, and AIM filed suit in a Delaware court to foreclose on the pledged stock of Realm's holding company.

The Delaware suit was pending when AlphaStar and several of its U.S. subsidiaries filed for Chapter 11 protection last month, halting the litigation.

In bankruptcy court, AIM is now arguing for the appointment of an independent trustee to manage AlphaStar, charging "fraud, dishonesty, gross mismanagement and incompetence."

Among other things, AIM cites the U.K. court's 2003 finding of fraud by former AlphaStar officers, along with alleged false statements in Realm's financial reports and AlphaStar's Securities and Exchange Commission filings.

AlphaStar denies any false statements and counters that the U.K. ruling did not involve AlphaStar itself or its current management. The company also charges that its financial problems are not a result of mismanagement but were "brought about largely because of costs associated with unraveling the mess caused by AIM's issuance of bogus insurance certificates in Realm's name and with defending the business against AIM's attempts to steal Realm."

Noting it is close to a new deal to sell Realm to another buyer, AlphaStar charges that AIM's trustee action—and its suit in a New York federal court this month to enforce the validity of its workers comp certificates—are attempts to block the sale.

"Clearly, AIM desperately wants to divert the energies and efforts of (AlphaStar's) management away from consummating a transaction which will put an end to AIM's claims of ownership of Realm," AlphaStar's court filings charge.

A bankruptcy court hearing is scheduled for next month.

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Letters to the Editor

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incentive to take care.

The American Subcontractors Assn. must disagree with William S. McIntyre IV's suggestion that blanket, broad form additional insured coverage "avoids a lot of legal fees stemming from splitting hairs." More care, and fewer claims, would be a much better way to reduce legal fees for everyone. Additionally, there is no evidence that coverage disputes have become less common as additional insured coverage has proliferated. In fact, the article quotes Mr. McIntyre as saying "We are fighting a lot of court battles with insurers of our subcontractors that are trying to weasel out of providing coverage," so plainly coverage disputes have not disappeared.

Brian Cubbage
Construction Law & Contracts Counsel
American Subcontractors Assn. Inc.
Alexandria, Va.

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Drugs: Pharmacists protest payment cuts

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workers compensation patients."

The 5% Medi-Cal cut was to take effect Jan. 1, but the California Pharmacists Assn., the California Medical Assn. and other health care provider organizations sued to block its implementation. They won a temporary injunction pending further court proceedings.

Meanwhile, Gov. Arnold Schwarzenegger has proposed another 10% cut in Medi-Cal reimbursements as part of an overall budget reduction strategy.

To minimize damage to its members, the California Pharmacists Assn. also is backing current legislation. Senate Bill SBX4 10 would essentially sever the link between workers compensation pharmacy payments and Medi-Cal's fee schedule, Mr. Michelotti said. Sen. Bob Margett, R-Diamond Bar, introduced the bill on Jan. 5.

Pharmacies do not earn as much money filling workers comp prescriptions as they do filling Medi-Cal prescriptions, Mr. Michelotti pointed out.

Medi-Cal participants have an electronic swipe card that quickly tells pharmacists whether a prescription is covered. Once a prescription is dispensed, the pharmacy receives its payment in about two weeks, he said.

But under workers comp, "there are few, if any, automated systems," Mr. Michelotti said. Pharmacists often must call employers to obtain insurance policy group numbers and hope they get the correct information. Then they must bill insurers or third-party administrators. It can take from 60 to 90 days to receive payment.

> **'Every time anybody makes a change that saves money for employers, special-interest groups come unglued. They run back to the Legislature' and seek an exemption from whatever law has been enacted.**
>
> *Charles Bacchi*
> *California Chamber of Commerce*

Additionally, pharmacists complain that they do not receive payment about 18% of the time customers say they need a prescription for a work-related injury. Claims disputes between insurers and employees, among other factors, are to blame, Mr. Michelotti said.

Employers say they are assessing the situation and are not certain just how serious the pharmacists are about turning away workers compensation business.

But the pharmacists' complaints show why it is so difficult to reform California's workers comp system, said Charles Bacchi, a workers comp legislative advocate for the Sacramento-based California Chamber of Commerce.

"Every time anybody makes a change that saves money for employers, special-interest groups come unglued," Mr. Bacchi said. "They run back to the Legislature, and they start getting bills put through to exempt the m from whatever law has been enacted. Then we go right back to the way the system was before."

The potential for undermining a law providing workers comp savings for employers is a concern, said Willie Washington, legislative director for the California Manufacturers & Technology Assn. in Sacramento. He estimates that SBX4 10 could annually reduce by about $60 million to $75 million the savings that employers expected to garner from last year's reforms.

"It's not as though you are breaking the bank there, but, in the scheme of prescription drugs, that is still a sizable savings," Mr. Washington said.

In total, the reforms passed last year should generate between $4.1 billion and $4.8 billion in annual savings, according to the San Francisco-based Worker's Compensation Rating Bureau of California. Pharmaceutical-related savings should total about $400 million annually, according to the WCIRB.

When employers supported the workers compensation reforms passed last year, their intent was that all participants in the system—from attorneys to rehabilitation clinics to doctors—should share in cost reductions, Mr. Bacchi said.

Employers also wanted to encourage greater use of generic drugs, which the reforms do by requiring pharmacies to dispense generics when they are available, observers say.

But it was legislators hoping to make significant cuts in workers comp medical costs—and not employers—who set the fee schedule determining how much pharmacists would be paid, Mr. Bacchi said.

The threat from pharmacists raises an interesting issue that state laws have never addressed, Mr. Bacchi said. Should pharmacists stop filling prescriptions, he asked, who ultimately would be responsible for seeing to it that injured workers' medication needs are met—employers or pharmacists?

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Address: Change on the agenda

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"Each of his proposals in this area is designed to help improve the affordability of health care—medical malpractice reform, tax credits, AHPs and particularly the enhancements on the recently enacted health savings accounts."

But the call for allowing the formation of AHPs underscored a rift between insurers and some employers. Health insurers have long opposed AHPs, claiming that because the plans would not be subject to state regulation, they could defraud participants. Business groups have countered that AHPs would permit small businesses to enjoy more clout in the health care marketplace and therefore result in lower costs. The House has already given its approval to AHP legislation, but the Senate has yet to move. That could change soon, however.

"We were pleased that the president had identified association health plans as an important solution to the uninsured problem," said George Pantos, Washington counsel for the Simpsonville, S.C.-based Self-Insurance Institute of America. Mr. Pantos noted that Senate Majority Leader Bill Frist, R-Tenn., shortly after the address, pointed to AHP legislation as an issue he wanted to work on with White House.

"We feel that private market solutions to the problems of the uninsured are preferable to a big-government program and certainly support any activities that support the employment based system," said Mr. Pantos.

"AHPs, we believe, are bad policy," said a spokesman for the BlueCross BlueShield Assn. in Washington. "We all want to find the solution sooner rather than later, while AHPs look attractive on the surface, you don't have to dig very deep to see that the approach is flawed and in many cases is going to hurt far more than it helps," he said.

He noted that the Blues have advocated tax credits for small businesses with low-wage earners as a preferable way to reduce the number of uninsured.

The president's health care policy statements were "very consistent with where the administration has been all along—which is to reduce the number of uninsured and to bring down health care costs through a series of incremental steps," said James Klein, president of the American Benefits Council in Washington. "This administration, unlike the prior administration," is not seeking reform "through broad brush change but through a series of more targeted efforts," he said.

"Let's face it, Medicare reform—the prescription drug benefit—was the signature domestic policy issue of this president's first term," he said. "I thought it was kind of a gutsy move for him to bring up the issue of private Social Security accounts, inasmuch as that issue is often seized upon by his political opponents. I wouldn't make too much of the fact that he didn't talk at all about the private retirement savings initiatives that will be part of the budget."

During his address, the president also called for protecting businesses—particularly small businesses—"from junk and frivolous lawsuits" but did not use the speech to push specific legislation such as the Class Action Fairness Act. A few minutes later, he broached the subject of medical malpractice liability by saying, "we must eliminate wasteful and frivolous medical lawsuits."

The lack of specific policy initiatives did not bother tort reform advocates. "The nature of the state of the union is such that to have the issue mentioned twice very clearly demonstrates that the president supports the legislative agenda that's already underway," said Sherman Joyce, president of the Washington-based American Tort Reform Assn. Mr. Joyce praised the president for not only mentioning civil justice as a business and economic issue but as a health care issue as well.

The Risk & Insurance Management Society Inc. also welcomed the address.

"RIMS is pleased that tort reform is on the president's agenda for 2004," said Christopher Mandel, chief risk officer and secretary of New York-based RIMS. "We are heartened that President Bush understands how critical this reform is to the growth of the U.S. economy. The risk management community continues to work for the passage of class action lawsuit, asbestos liability and medical malpractice liability reform. RIMS will take this message directly to Capitol Hill in March when our members convene in Washington for the 'RIMS on the Hill' legislative conference," said Mr. Mandel, a former RIMS president who is also assistant vp-enterprise risk management at United Services Automobile Assn. in San Antonio.

"The Property Casualty Insurers Assn. of America commends President Bush for stressing the need for legal reform as part of his 2004 agenda for jobs and economic growth," said Carl Parks, the PCI's Washington-based senior vp-federal government relations. The property/casualty trade group "strongly supports the need for class action reform, medical liability reform and asbestos litigation reform, and we hope to see legislation early this year that will help consumers and businesses protect themselves against the current rash of frivolous lawsuits crippling our economy," he said.

"Any time the president of the United States uses his bully pulpit to remind the American people that an out-of-control legal system hurts consumers, that is a good day," said a spokesman for the American Insurance Assn.

Uninsured: Low-cost plans

Continued from page 1

would attempt to make health insurance coverage more accessible and affordable by allowing small employers to buy lower-cost health insurance policies, the National Council of State Legislators reports.

Another 16 legislatures plan to introduce play-or-pay legislation like California's and New York's, according to the 2004 State Health Care Priorities Survey Report published in December by the NCSL.

The majority of the measures target small employers, because many do not provide health insurance to employees or dependents. Nationwide, 96.7% of employers with 50 or more employees provide health care coverage, while just 46% of employers with fewer than 50 employees provide such coverage, according to the Kaiser Family Foundation.

Reducing the number of uninsured also would bring down the cost of health care overall by increasing the number of people in the insured pool, experts theorize.

"If we can reduce the burden of the uninsured population on the public payers, that would decrease the cost-shifting to the private-sector payers," said Geoff Schick, regional manager, health care, at Daimler-Chrysler in Kenosha, Wis.

A group of Wisconsin employers, health care providers and insurers are proposing health care reforms that would allow small employers to buy low-cost, bare-bones insurance policies stripped of most state-mandated coverage provisions, such as chiropractic care and infertility treatments. Changes in state law would be required, though, to implement the proposal by the Wisconsin Manufacturers & Commerce, the Wisconsin Assn. of Health Plans and the Wisconsin Hospital Assn.

Similar legislation was passed last year in Louisiana, said Kip Wall, chief executive officer of the state Office of Group Benefits in Baton Rouge. The state's large percentage of uninsured is a major cause of skyrocketing health care costs, which are making health insurance premiums soar, Mr. Wall said.

"Louisiana has a charity hospital system, and many residents use them because they can't be turned away," he said. Faced with the burden of this uncompensated care, the hospitals shift the cost to patients who have insurance, he added.

Enabled by the newly enacted legislation, Mr. Wall is developing a product for state employees who currently don't participate in the state's health insurance program because they cannot afford their share of the premiums. While the state pays 75% of the cost of the coverage, employees are required to pay 25%. The state offers three self-insured plans and a fully insured HMO.

"We did a survey a couple of years ago and found there may be as many as 9,000 state workers without coverage," he said. "Primarily it's due to price."

Many lawmakers support the concept of allowing employers to purchase low-cost, bare-bones health plans because it is cost-neutral, doesn't require any contribution from government and is voluntary.

But the effectiveness of such programs in reducing the uninsured population is questionable.

"They have not sold," said Randy Kammer, vp of regulatory affairs and public policy at Blue Cross & Blue Shield of Florida in Jacksonville. Ms. Kammer chaired a committee to develop standard and basic plans in the early 1990s and in 2002.

"In states like Florida, it's a margin issue. The cost of health plans is still beyond the reach of many employers," she said.

Furthermore, "we've had a change in the economy where firms don't need to offer health insurance to attract employees," Ms. Kammer said. "The erosion began in the small group market with employers dropping dependents, then employees."

A bare-bones health plan measure is being discussed in Pennsylvania, though no legislation has been introduced, according to Kim Kockler, director of policy management at Blue Cross of Northeastern Pennsylvania in Harrisburg, Pa. Also under consideration is putting a moratorium on new benefit mandates, she added.

While the Blues support the ban on new coverage mandates, it has not taken a position on the bare-bones health plan concept.

"We're taking a look at it. The concern is the reality of whether it will sell in the marketplace. There's also the fear that employers will 'dumb down' benefits," Ms. Kockler said, referring to the possibility that employers already offering health insurance might reduce those benefits if they are permitted to do so by law.

Legislation passed in California in 1993 to extend coverage to small business by forcing insurers to guarantee issuance of coverage regardless of a small group's claims experience and by allowing employers to purchase coverage through a cooperative also has produced mixed results.

While PacAdvantage "has led to creativity at the health plan level, unfortunately, it has not increased the number of the insured," said John Grgurina, president of the program based in San Francisco.

Health care is considered a discretionary cost by most small businesses, Mr. Grgurina explained. In difficult times, he said, small employers ask, "How can I make it?" Pointing out that workers compensation is a mandate that they must have, Mr. Grgurina said that small businesses would like to keep health insurance as a benefit available to their employees, but they must find packages that have lower monthly costs or many of them will just drop it, saying they can no longer afford it.

It has been suggested that California's play-or-pay mandate was passed at the end of the last legislative session in response to the low take-up rate of PacAdvantage plans, Mr. Grgurina said.

"There are many who viewed the play or pay as the next step," he said. But to make the measure more palatable to small business, it was amended to exempt employers with fewer than 50 employees unless the state provides a subsidy or the legislature enacts a tax credit.

This concept is being tested in a pilot project in Sacramento County called SacAdvantage. The county is using some of its tobacco litigation settlement money to pay 40% to 65% of the monthly premium of a health plan in PacAdvantage. So far, about 25 employer groups are enrolled in it, Mr. Grgurina said.

There has to be some type of subsidy to make it work, he said.

But even play-or-pay efforts may not yield the desired results if other states mirror Hawaii's experience, suggested Ms. Kammer.

Employers in Hawaii are required to provide health insurance to their employees under the Prepaid Health Care Act of 1974.

"Look at Hawaii. Some employers hire part-time workers to get around the mandates," she said. "Malicious obedience doesn't work."

"Whenever you add a type of mandate to employers of low-wage employees, it's likely to have significant negative effect on employment, because here's a group that doesn't have employer-based health insurance for a very good reason. Given the compensation of these people, that's not what these people want to spend their money on," observed Paul Ginsburg, president of the Center for Studying Health System Change, a Washington-based think tank.

"Unless you're prepared to subsidize employers, which usually a play-or-pay system involves, it's going to be very difficult to get a substantial expansion of health insurance coverage without a lot of the negative effects like loss of employment," Mr. Ginsburg added.

Rather that relying on bare-bones health plans or mandates and subsidies, Ms. Kammer suggested that the focus of reform be on reducing the overall cost of health care so that insurance premiums, which reflect this increasing cost, don't continue their upward spiral.

Randy Klepper, executive director of the Center for Practical Health Reform in Jacksonville, Fla., agreed.

"The cost of care has gone up so fast and so high that the only alternative is to narrow the benefit structure," Mr. Klepper said. "However, I think it will be ineffectual because all it does is narrow access to certain services or to certain people. It doesn't do anything to infuse the system with management capabilities that have the capacity to control costs."

"This is typical American health reform," Mr. Klepper said. "It addresses everything but the problem."

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Late News

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ELIC investigation yields guilty pleas, settlement

Crédit Lyonnais S.A. and several others associated with the purchase of Executive Life Insurance Co. in 1991 have pleaded guilty to criminal charges in connection with the deal and were fined more than $770 million.

According to the U.S. Attorney's Office, Crédit Lyonnais, through its investment banking subsidiary Altus Finance S.A., orchestrated a scheme in which it obtained ELIC's bond portfolio using secret "parking" agreements to gain illegal control of Aurora National Life Assurance Co., a successor company created to assume ELIC's liabilities.

CNA Re chief joins Aon unit

Debra McClenahan, formerly chief executive officer of CNA Re, has joined Aon Corp. as president and CEO of Aon Underwriting Managers. At Aon, Ms. McClenahan will be responsible for Aon's managing general agency and underwriting subsidiaries. She replaces Dan R. Osterhout, who is seeking opportunities elsewhere, Aon said. Since CNA Financial Corp. sold the renewal rights for most of its treaty reinsurance business to Folksamerica Reinsurance Co. last fall, Ms. McClenahan has been overseeing CNA Re's runoff business.

County offers residents Canadian drugs

Westchester County, N.Y., residents can now buy lower-priced prescription drugs from Canada through a new program being offered by the county government. The program, Westchester Rx, allows all Westchester County residents to purchase discounted prescription drugs from a network of participating pharmacies, including a Canadian pharmacy, according to a spokeswoman for the county government. Residents can enroll in the program now and begin making purchases on Feb. 1.

Senate passes freeze on cash balance regulations

Included in the big federal spending bill cleared by the Senate last week is a provision that bars the Treasury Department, through Sept. 30, from implementing cash balance plan regulations the agency proposed in December 2002. Those proposed regulations would make clear that the basic design of cash balance plans—giving plan participants pay-related credits and interest on their account balances—does not violate age discrimination law. The provision also would require the Treasury Department to produce a legislative proposal within 180 days of the measure's enactment on the transition relief that employers must provide to older and longer-service employees when employers convert traditional defined benefit plans to cash balance plans.

California trucking companies form RRG

Five California-based intermodal trucking companies have formed a risk retention group in response to what they term a "growing liability insurance crisis." Intermodal Insurance Co., a Risk Retention Group, is domiciled in the District of Columbia. It will issue occurrence-based liability insurance policies with a $1 million combined single limit, according to a statement from the trucking companies. The RRG has purchased excess insurance from approved reinsurers, which will limit its net retention to $250,000 per occurrence.

Buyers seeing relief from rate hikes

Commercial insurance buyers are seeing long-awaited price breaks in some lines of coverage, according to two recently released surveys. Buyers reported paying 8.8% less for property insurance during last year's fourth quarter, according to the RIMS Benchmark Survey conducted by the New York-based Risk & Insurance Management Society Inc. And a fourth-quarter survey by the Washington-based Council of Insurance Agents & Brokers shows a similar trend. One-third of all respondents to that survey renewed coverage at costs that remained at expiring levels or dropped.

Briefly noted

Nicholas Brown, chief executive of XL Capital Ltd.'s insurance operations, is retiring. Mr. Brown, 49, will retire effective April 1. He will be replaced by Clive Tobin, chief executive officer of XL Insurance Global Risk, the Bermuda-based insurer's large commercial account unit.... **Paula Cox**, daughter of the late Bermuda Finance Minister Eugene Cox, has been named to fill his position. Mr. Cox died in office earlier this month of cancer. Ms. Cox previously served as the island's attorney general and minister of justice....**Bruce Guthart**, president of Hub International Ltd.'s Kaye Group Inc. in New York, has assumed the role of chief operating officer of Hub. Mr. Guthart, who will maintain his role as Hub's president of U.S. operations, succeeds Richard Gulliver, Hub's president, who will now dedicate all of his time to the Chicago-based broker's acquisition program.

Check out BusinessInsurance.com

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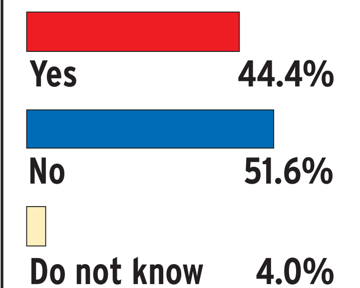
Online Poll

[1/19-1/23]

Do you think covering the uninsured will emerge as a major campaign issue in the presidential race?



BI Stock Index

[1/19-1/23]

Up-to-the-minute data for all 87 companies that comprise the *BI* Stock Index can be found at *www.businessinsurance.com.*

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

Index	Value	Change
BI Stock Index	2291.88	1.18
Dow Jones	10,568.30	-0.30
S&P 500	1141.55	0.15

Largest gains

Company	Change
ESG Re Ltd.	36.36%
SCPIE Holdings Inc.	15.11%
RLI Corp.	8.90%
Argonaut Group	7.54%
PXRE Corp.	7.14%

Largest losses

Company	Change
Trenwick Group Ltd.	-9.09%
Unico American Corp.	-8.77%
Vesta Insurance Co.	-7.57%
Hilb, Rogal & Hobbs	-3.29%
Oxford Health Plans	-2.81%

Weekly change by market segment

Segment	Change
Brokers	1.67%
Insurers/Reinsurers	2.21%
Managed Care Organizations	2.16%

Source: FinancialContent Inc. (*http://financialcontent.com)*

D&O: Guidelines' effect on litigation debated

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companies are at least 90% compliant with OSC guidelines because they already comply with the provisions of the Sarbanes-Oxley Act or New York Stock Exchange rules.

For example, the OSC proposals suggest that company boards adopt a written code of business conduct and ethics that would apply to directors, employers and employees, but most companies already have a code of conduct, she said.

Canadian companies "clearly have been watching what's been going on south of the border," Ms. Longmore said. "There is nothing here that outdoes Sarbanes or the NYSE rules in any way."

In addition, the proposed guidelines may be too ambiguous to have a significant impact on the number of D&O lawsuits, as they fail to address key issues such as a separation of roles between the chairman and chief executive officer, she suggested.

The fact that not all Canadian provinces have adopted similar proposals also could limit their impact, Ms. Longmore said. Although security regulators in most provinces and territories are considering adopting the proposals, neither Quebec nor British Columbia have agreed to consider them.

Because there is doubt about whether the OSC guidelines will lead to an increase in D&O lawsuits, their impact on the D&O market in Canada also remains uncertain.

If the frequency of D&O claims increases, driving up the price of coverage, some Canadian companies may have to seek D&O cover in other countries due to a limited amount of D&O capacity in Canada and lower coverage limits, risk managers say.

"If it's too expensive, (insurers are) either going to get out of the business or they're going to charge appropriately," said Robert Patzelt, risk manager for Bedford, Nova Scotia-based Scotia Investments Ltd. "Only time will tell what the premiums will be."

However, there may be a long-term benefit because an increase in premiums could encourage more insurers to begin offering D&O coverage, said Dave Griffiths, senior vp and national practice director for specialty products for Aon Corp. in Toronto.

"We believe these new rules, while they might increase the claims situation in Canada, are going to be very positive for the D&O market," he said. "Premium levels will probably continue to increase for large publicly traded companies, but they will have more options for carriers and will probably be able to craft coverage with more options then they have had recently."

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