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Business Insurance

www.businessinsurance.com

February 18, 2002

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\$4

COBRA subsidy proposal added to Senate bill

Benefits snake in the grass?

By JERRY GEISEL

WASHINGTON—A “stealth” COBRA provision added to a trade assistance bill now headed for a Senate floor vote could further add to soaring health care costs and complicate health plan administration for employers.

Earlier this month, without debate, the Senate Finance Committee approved, as part of S. 1209, a bill that provides federal assistance to workers who lose their jobs because of foreign competition, a provision under which the federal government would pay 75% of the cost of COBRA premiums for affected employees. The subsidy would continue until the individual's coverage under the Consolidated Omnibus Budget Reconciliation Act expired. The Treasury Department would establish the program no later than 90 days after the legislation is enacted and continue it through 2006.

Under the legislation, employers would be responsible for notifying employees of their new right to federally subsidized COBRA coverage. The legislation, though, is vague on exactly how the premium subsidy would operate. It simply says premium assistance would be provided through direct federal payment arrangements with group health plans.

The inclusion of the COBRA provision in the trade bill caught some business groups by surprise. They note that a similar trade bill passed by the House of Representatives late last year lacks a comparable provision and the Finance Committee

held no hearings on the COBRA provision in its trade bill.

“This is, in effect, a stealth COBRA expansion,” said Mark Ugoretz, president of the Washington-based ERISA Industry Committee, a benefits lobbying group. And the provision would have a major impact, benefit experts say. In theory, COBRA premiums are supposed to cover participants' claims, but claims' costs, on average, exceed premiums paid by about 50%. That is because COBRA

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Late News

Enron employees get say in reorganization

A group of former Enron Corp. employees has won a seat at the bankruptcy table. In response to a request from the Severed Enron Employees Coalition, U.S. Trustee Carolyn Schwartz, who is handling the company's bankruptcy proceedings, will appoint an official committee to focus on issues relating to Enron employees. The SEEC represents the more than 4,500 laid-off Enron employees. In a letter to the SEEC, Ms. Schwartz said: “Because of issues peculiar to these cases, including the facts that there are more than 20,000 participants in the Debtors' employee benefits plans and many suits brought relating to the Debtors' 401(k) plan, I have determined that separate representation is appropriate.” Ms. Schwartz also invited the SEEC to make recommendations concerning the composition of the employee committee.

Scandinavian Re stops underwriting

Scandinavian Reinsurance Co. Ltd., a Bermuda-based finite risk reinsurer, has ceased new and renewal underwriting after contributing to parent company Sirius International Insurance Corp.'s \$138 million loss for 2001. ABB this week reported a \$691 million net loss for 2001 after absorbing a variety of losses and charges. Among these were the \$138 million loss from insurance operations—including \$48 million stemming from the Sept. 11 terrorist attacks—and a \$295 million noncash charge related to Scandinavian Re's no longer holding certain reinsurance reserves on a discounted basis.

Coalition to promote federal terrorism coverage

Twenty-six companies and trade groups representing commercial insurance policyholders have formed a new coalition to push for enactment of a federal terrorism insurance plan. A spokesman for the National Assn. of Manufacturers, which is a member of the new Coalition to Insure Against Terrorism, said the group is not endorsing any particular piece of legislation. Instead, it is seeking swift creation of some sort of federal guarantee to cover

See LATE NEWS/page 2

Terror risk hits new construction

Not all projects finding cover



'Trophy' construction projects, such as high rises, find terrorism cover scarce and costly.

By RODD ZOLKOS

An inability to obtain terrorism insurance coverage on new construction projects is a slowly developing crisis, according to the top executive of one of the country's largest commercial real estate lenders.

While some suggest that newly created stand-alone terrorism insurance facilities have kept construction projects moving forward, David E. Creamer, chairman and chief executive officer of GMAC Commercial Holding Corp. in Horsham, Pa., says there are projects that have been stalled over the lack of coverage.

“No one's going to give specifics on this stuff, but I can tell you there are three or four trophy-type loans that we walked away from because nobody could provide terrorism coverage,” he said.

“This company will not do any significant construction loans without a terrorism policy that would

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OPL to close, citing capital restraints

By MICHAEL BRADFORD

HAMILTON, Bermuda—Overseas Partners Ltd. is solving a persistent shareholder liquidity problem by shutting down most of its operations.

The Bermuda-based reinsurer's board of directors announced last week that after “several reviews of strategic alternatives,” it concluded that the company's “capital structure” would not allow OPL to grow and compete in the current reinsurance market. The board said the company's 98,000 shareholders—most of whom are employee shareholders of United Parcel Service of America Inc.—have long wanted greater liquidity in their investments, which is a challenge for a company that is not publicly traded and had no plans to offer its shares to the public.

OPL will place most of its opera-

tions in runoff, even though it has \$1.3 billion in capital and reinsurance rates are rising in the current marketplace.

The units that will be placed in runoff are reinsurer Overseas Partners Re Ltd., OPFinite, its finite reinsurance division, and Overseas Partners Assurance Ltd., a rent-a-captive facility.

Overseas Partners U.S. Reinsurance Co., based in Philadelphia, will continue its operations while OPL negotiates the sale of the unit.

The company's property catastrophe business written by Overseas Partners Cat Ltd. will remain in force under a deal with Bermuda-based RenaissanceRe Holdings Ltd. That business, which generated more than \$60 million in premiums last year, was written through Renaissance Underwriting Managers Ltd. on behalf of OPCat.

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Special Report

ENTERPRISE RISK MANAGEMENT

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Inside

Blues expect liability expansion

Several states are seeking to expand health plan liability this year, according to a survey by the Blue Cross & Blue Shield Assn. **Page 4**

Coming soon to a theater near you

With a little work, many movies nominated for Oscars this year could become insurance classics, Editor Paul Winston writes in Commentary. **Page 6**

Be wary of 401(k) reform pitfalls

In the aftermath of the Enron scandal, 401(k) reform is needed, but lawmakers should be aware that their actions could have adverse effects, this week's editorial says. **Page 8**

Risk management consultants ranked

The top 10 risk management consultants in the United States are ranked by consulting revenues. **Page 17**

P&I club members face sharp hikes

Shipowners around the world face sharply higher rates for their liability insurance as protection and indemnity clubs renew their coverage this week. **Page 17**

Stand-alone terror cover demand grows

Demand for stand-alone terrorism cover is rising in the wake of the Sept. 11 terrorist attacks and the almost blanket exclusion of terrorism from standard property policies, underwriters and brokers say. **Page 17**

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REPORTING WEEKLY ON CORPORATE RISK, EMPLOYEE BENEFIT AND MANAGED HEALTH CARE NEWS

Business Insurance (ISSN 0007-6864) Vol. 36, No. 07, is published weekly by Crain Communications Inc., 360 N. Michigan Ave., Chicago, IL 60601-3806. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to Business Insurance Circulation Department, 1155 Gratiot Avenue, Detroit MI 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. 0293512, GST No. 136760444, Printed in U.S.A. Copyright © 2002 by Crain Communications Inc.

CONTINUED FROM PAGE ONE losses stemming from future terrorism attacks. "Gaps in insurance coverage against acts of terrorism weaken our economy and pose a very real threat to our homeland security," said Martin DePoy, vp-government relations for the National Assn. of Real Estate Investment Trusts.

CNA posts net loss of \$1.6 billion

Chicago-based CNA Financial Corp. posted a net loss of \$1.6 billion for 2001, compared with net income of \$1.2 billion for the previous year. CNA's total revenues declined 15% to \$13.20 billion. The net loss for 2001 included: \$304 million in aftertax losses from the destruction of the World Trade Center; \$165 million in aftertax charges related to restructuring; \$52 million in aftertax Enron-related losses, net of anticipated reinsurance recoveries; and \$69 million in aftertax reserve strengthening in CNA's London-based commercial and marine operations.

Asbestos claims sink Kaiser Aluminum

Kaiser Aluminum Corp. has filed for bankruptcy reorganization, citing growing asbestos liabilities along with weak aluminum market conditions and debt as reasons for the move. The Houston-based company reported 112,400 pending claims as of Sept. 30, 2001, compared with 110,800 at year-end 2000, despite the settlement of more than 25,000 claims in the interim. During the first nine months of last year, Kaiser paid \$86.9 million in asbestos settlements and defense costs compared with \$99.5 million for all of 2000. In its third-quarter 2001 10-Q filing, Kaiser also reported carrying a \$633.1 million liability for future asbestos-related costs—up from \$492.4 million at year-end 2000—partially offset by a receivable of \$501.1 million for expected insurance recoveries.

Late News



PHOTO: ZUMA PRESS

Silverstein settles WTC claims with ACE/XL

World Trade Center leaseholder Silverstein Properties Inc. has completed previously reported settlements with ACE Bermuda Insurance Ltd. and XL Insurance (Bermuda) Ltd. of claims for the complex's destruction. Under single-limit payouts, ACE will pay \$298 million and XL \$67 million by mid-March, Silverstein announced. Silverstein continues litigation with about 20 other insurers on the WTC's \$3.55 billion property program over whether the terrorist attack was one occurrence or two.

Sept. 11, other losses push ACE into the red

ACE Ltd. reported a \$146.4 million

loss for 2001, compared with a profit of \$543 million for the previous year. The loss was largely attributable to claims related to the Sept. 11 terrorist attacks in the United States and a series of property losses in Europe, said Brian Duperreault, chairman and chief executive officer of the Hamilton, Bermuda-based insurer. Sharp increases in insurance rates last year, however, led to a 34.2% increase in ACE's gross written premiums, which rose to \$10.2 billion, ACE said. In particular, reinsurance premiums more than tripled to \$740 million. "We are poised to have the best year we've ever had," Mr. Duperreault said.

XL posts net loss of \$576 million

XL Capital Ltd. posted a net loss of \$576.1 million for 2001, largely due to the Sept. 11 terrorist attacks. The Bermuda-based insurer's loss compares with net income of \$506.4 million in 2000. The loss for 2001 included a \$680 million aftertax loss stemming from the terrorist attacks in the United States. In addition, XL reported losses in the fourth quarter related to the bankruptcy of Enron Corp., the crash of American Airlines Flight 587, large European property losses and prior-period loss development on XL's U.S. casualty reinsurance business. But substantial rate increases helped push XL's revenues up more than 50% to \$4.1 billion in 2001.

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All the material in the Late News column, as well as other content in this week's issue, is generated from daily news postings that appeared on the Web site in the previous week.

EEOC chair urges Senate panel not to create new legal remedies

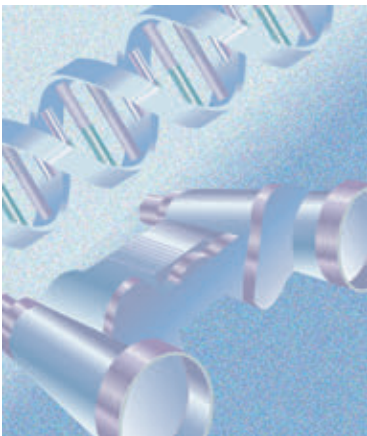
Panel views threat of genetic bias in jobs

By MARK A. HOFMANN

WASHINGTON—Legal remedies for victims of genetic discrimination should be the same as those available to victims of other forms of unlawful discrimination, the head of the Equal Employment Opportunity Commission says.

Doing otherwise would be "manifestly unfair," said EEOC Chairwoman Cari M. Dominguez as she testified last week before the Senate Health, Education, Labor and Pensions Committee. Ms. Dominguez was one of several witnesses offering their assessments of the adequacy of existing law to protect job applicants and those seeking health insurance from being unfairly denied employment or coverage on the basis of a genetic predisposition to certain ailments.

"We know it's understandable" that employers and insurers would



have concerns about applicants whose genetic makeup could present potential problems, said Sen. Hillary Rodham Clinton, D-N.Y., who chaired the hearing. Yet Sen. Clinton and others made clear that they thought such concerns should not allow discrimination against applicants who might or might not

eventually develop a genetically related disease.

"Employers should not be permitted to discriminate based on protected genetic information. Employment decisions should be based on merit, not on speculative information about a medical condition that may or may not ever develop," said Ms. Dominguez.

But any genetic nondiscrimination bill should be consistent with existing nondiscrimination statutes, she said.

Republican members of the committee echoed that sentiment. As Sen. Mike Enzi, R-Wyo., put it, "We must be careful to avoid enacting legislation that puts employers between a rock and a hard place" as they struggle to meet possibly contradictory requirements set by various laws.

Sen. Judd Gregg, R-N.H., noted that "we haven't seen a great deal of

Briefly noted

California Gov. Gray Davis on Friday signed into law a measure that will increase **workers compensation benefits** in California. Employers had opposed the bill, A.B. 749 (*BI*, Feb. 11)....California's Supreme Court has agreed to review *Department of Health Services vs. The Superior Court of Sacramento County (McGinnis)*, a **sexual harassment case**. An appellate court in November ruled in the case that taking immediate steps to correct complaints of harassment does not shield employers from liability....Chicago-based **CNA Financial Corp.** will pay \$18 million to settle litigation brought by survivors of a woman who was killed in 1999 by glass that fell 29 stories from a broken window at the insurer's headquarters (*BI*, Oct. 18, 1999), according to an agreement approved Wednesday by a Cook County Circuit Court judge. CNA later reinforced all of the windows in its building and is now replacing them as part of an agreement with the city of Chicago,, a CNA spokesman said.... **Honeywell International Inc.** says it will appeal a New York Supreme Court jury's award of \$53.5 million to the family of a man who died from asbestos-related disease. The suit named various defendants, including Bendix, a brake manufacturer acquired by Allied-Signal Inc., which later merged with Honeywell. Morristown, N.J.-based Honeywell said that its share of the award will amount to about \$1.2 million and that it is insured for any eventual liability....The ranking minority member of the House Financial Services Committee—Rep. John J. LaFalce, D-N.Y.—has introduced legislation that would allow insurers to choose an **optional federal charter**. "The current state-by-state regulation of the insurance industry does not reflect either the economic centrality of the industry or the reality of today's market," said Rep. LaFalce as he introduced the Insurance Industry Modernization and Consumer Protection Act last week.

Comp insurers turning to cat models

By **ROBERTO CENICEROS**

To better understand their workers compensation exposures in the wake of such disasters as the Sept. 11 terrorist attacks, insurers and reinsurers are turning to predictive catastrophe models.

Use of the models, which were developed for property exposures, to evaluate the cost of employee injuries and deaths could lead insurers to raise rates to account for earthquake- and terrorism-related risks, say risk management sources. Cat modeling also could lead insurers to reduce workers comp capacity in certain regions. Insurers are particularly concerned about an aggregation of covered employees in catastrophe-prone areas.

There already are signs that workers comp rates may rise to account

for catastrophic losses. The Boca Raton, Fla.-based National Council on Compensation Insurance Inc., for example, is asking regulators in 33 states to approve a "catastrophe provision" in which 2002 rates would increase by 4%.

State regulators have yet to act on the NCCI's filing, said Peter Burton, NCCI senior division executive for state regulations in Wayne, Pa. Meanwhile, the NCCI is planning to use cat modeling to evaluate the impact of natural disasters on workers comp losses and rates.

A catastrophe rate load of 1% was common in workers comp underwriting until the early 1970s, but it eventually vanished because catastrophes were not regarded as having a significant effect on workers comp, Mr. Burton said. Until recently, insurers ignored the possible

impact of catastrophes on workers comp because reinsurance was readily available and relatively inexpensive, industry sources said.

In the wake of the Sept. 11 terrorist attacks, insurers began clamoring for predictive models to help them better assess possible workers comp losses.

Insurers also traditionally have resisted using cat models to help them assess possible workers comp losses, said Peter Ulrich, managing director-enterprise risk management for Risk Management Solutions, a catastrophe modeling com-

pany in Newark, Calif.

But that changed after Sept. 11. In the wake of the terrorist attacks, insurers began clamoring for predictive models to assess workers comp losses, just as property underwriters demanded models after Hurricane Andrew struck in 1992, cat modelers said. Total workers compensation losses from the terrorist attacks have been estimated at \$3 billion to \$5 billion.

Now, many risk managers renewing their coverage say workers comp insurers are asking previously unheard-of questions, such as the number of employees at specific locations, building construction types, the number of floors in a building an employer occupies, the number of employees on each floor and how many employees work in a building during different shifts.

Such information is needed to satisfy cat model data requirements, said Bryon Ehrhart, president of Aon Re Services Inc. in Chicago. Because reinsurers increasingly will require such data, Mr. Ehrhart is advising insurers to begin collecting the information.

Most workers comp insurers previously gathered only rough data on the class—or professional level—of employees they insure in each state, explained Uday Virkud, senior vp for Applied Insurance Research Inc., a Boston-based catastrophe modeling company.

To obtain precise results, cat models need data that is more sophisticated than that used for state-level reporting. They need information such as specific addresses where employees work, Mr. Virkud

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Brokers post gains in core revenues

Charges dampen profits at top 3

By **SALLY ROBERTS**

Rate increases, improved organic growth and acquisitions combined for double-digit gains in revenues and profits among many of the world's largest publicly held brokers in 2001.

Special charges and slumping equity markets, on the other hand, plagued the results of Marsh & McLennan Cos. Inc. and Aon Corp., the world's two largest brokers, which saw their 2001 profits fall sharply.

age revenues for the year—a 39.3% rise to \$359.7 million. Brown & Brown, which was not among the world's 10 largest brokers last year, reported higher 2001 brokerage revenues than Hilb, Rogal & Hamilton, which was the world's 10th-largest broker last year. Brokerage revenues at Glen Allen, Va.-based HRH increased 26% to \$323.1 million.

Itasca, Ill.-based Arthur J. Gallagher & Co. reported a 14.3% increase in brokerage revenues in 2001 to \$859.3 million.

In general, brokers' financial performance "has been pretty phenomenal across the board," said Hugh Warns, a senior analyst with J.P. Morgan Equity Research in Baltimore, who tracks Marsh, Gallagher, Willis and HRH. "A large part of that is driven by the mechanics of the operating models of the brokers," he said. Brokers have been able to absorb rate increases, increase their margins and drive significant earnings growth.

So "you're seeing earnings growth because of their operating leverage, and you're seeing greater demand in the marketplace right now from clients for brokerage services and advice," Mr. Warns said. "This is probably the best performing sector in the insurance industry from an earnings point of view," he said.

"For the regionals, 2001 was an outstanding year; really the best year in a decade," said Adam Klauber, managing director at Cochran Caronia Securities L.L.C. in Chicago. "Most of the brokers saw revenue and income growth of 20% to 30%," he said, noting that the increases came from a

See **BROKERS**/page 23

CEO indicted for insurance fraud

By **RODD ZOLKOS**

CHICAGO—A federal grand jury last week indicted Michael Segal, former chairman and chief executive officer of Chicago-based Near North National Group, on one count of insurance fraud.

The indictment alleges that Mr. Segal caused the company's Near North National Insurance Brokerage Inc. unit to file a false statement to Illinois insurance regulators concerning an insurance premium trust fund account maintained by the brokerage.

The indictment alleges Mr. Segal caused the false statement on Jan. 26, 2001, in a renewal application for an insurance producer license. "That application allegedly falsely declared that he properly main-



Mr. Segal

tained premiums in a premium fund trust account, when in truth, he knew that he failed to properly maintain pre-

miums in such an account as required by state law, and that the fund was millions of dollars deficient," federal prosecutors said in a statement.

Mr. Segal remains free on a \$750,000 unsecured signature bond following his arrest Jan. 26. At that time federal prosecutors brought in-

surance fraud and mail fraud charges against him in a criminal complaint in connection with an alleged deficiency last fall of as much as \$20 million in the Near North premium fund trust account (*BI*, Feb. 4).

Mr. Segal had been scheduled to appear at a preliminary hearing today on the two earlier charges, though that was canceled following the indictment.

Harvey M. Silets, a partner with the Katten Muchin Zavis law firm in Chicago who is representing Mr. Segal, suggested that federal prosecutors sought the indictment to avoid the preliminary hearing, to which he had subpoenaed the two former Near North employees named as "cooperating individuals" in the original complaint.

BI Executive Forum

Not all Sept. 11 claims covered

By **GAVIN SOUTER**

NEW YORK—Business interruption insurance will not cover all the costs of disruption to businesses caused by Sept. 11 terrorist attacks on the World Trade Center, according to New York's top insurance regulator.

"At some point it can't be expected that an insurance policy is going to cover all that ails a certain business," said Gregory V. Serio, New York insurance superintendent.

Instead, government funds will need to be layered with insurance payments, he said at an Executive Forum on business interruption insurance, sponsored by *Business Insurance* in New York last week.

Still, many businesses should have some substantial business interruption claims paid, several other speakers said.

In particular, they said, policyholders with manuscript policies,

which give broader coverage than standard Insurance Services Office Inc. policies, should receive payments under their business interruption policies for losses incurred not only by operations around the site of the World Trade Center but also those located elsewhere.

So far, the New York Insurance Department has received only 30 policyholder complaints related to business interruption claims after the Sept. 11 attacks, said Mr. Serio.

That minimal amount of complaints to date is in large part due to the cooperation between government authorities and insurers, he said. Insurance adjusters were given early access to the site after the attacks and were kept informed about changes in the perimeter that restricted public access to the area, he said. Knowledge of which parts of Manhattan were within the perimeter on a given date could dictate business interruption recoveries.

Despite policyholders' satisfaction with the treatment of their claims so far, insurers will not meet all lost business costs, Mr. Serio said.

"We have to draw the line between insurance policy coverage and coverage by public policy," he said.

Public money, which has been made available through a series of grants, will in many cases compensate policyholders above the limits of their insurance coverage, Mr. Serio said.

Policyholders that retrieve the most from their insurers are likely to be those that have manuscript policies, said John Dempsey, managing partner at Dempsey, Myers & Co. L.L.P., a claims consulting company in Wilton, Conn.

Generally, there are three types of business interruption policy wordings available, he said: the ISO

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Brokers Year-End RESULTS

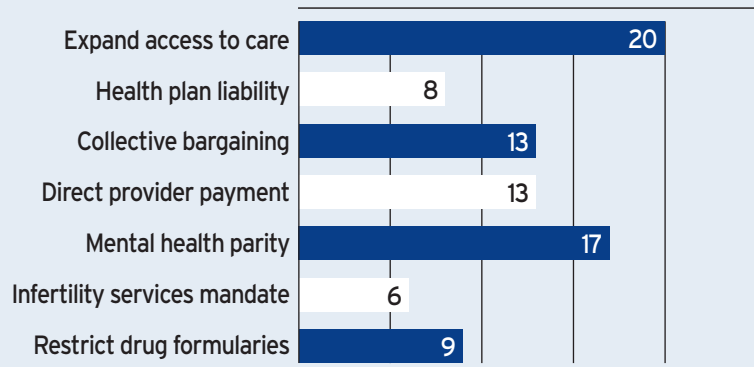
Business Insurance's annual look at the world's largest publicly held brokers' annual results saw the return of London-based Willis Group Holdings Ltd., which issued stock to the public in 2001. Chicago-based Acordia Inc., the world's fifth-largest broker, also gave up private status in 2001 as a result of its purchase by publicly traded Wells Fargo & Co. The banking giant, however, does not break out Acordia's results in its Securities and Exchange Commission filings.

Each of the largest publicly held brokers reported better top line results for their brokerage operations in 2001.

Buoyed by more than a dozen acquisitions, Daytona Beach, Fla.-based Brown & Brown Inc. turned in the largest increase in broker-

BLUES' LEGISLATIVE PRIORITIES

Number of states considering health plan legislation



Source: Blue Cross & Blue Shield Assn.

GRAPHIC BY ADAM DOI

Blues predict state attempts to expand health plan liability

By MARK A. HOFMANN

Legislation seeking to expand health plan liability for certain actions is likely to emerge in several states this year, according to the Blue Cross & Blue Shield Assn.'s annual survey of its member plans.

But such efforts—which the Blues expect in at least eight states this year—may encounter obstacles, said Susan Laudicina, director-state service research for the Blues and author of the ninth-annual “Health

Care and Insurance Issues: 2001 Survey of Plans.” Although nearly half of the states last year considered legislation that would expand health plan liability for such things as coverage decisions, only four states actually enacted a measure.

One of those states was New Jersey, said Hank Meisner, director-government affairs for Horizon Blue Cross & Blue Shield of New Jersey, who spoke at a press briefing to release the survey last Thursday. Plans in that state can now be held liable

for punitive and noneconomic damages for harm arising from coverage denials or delays, he explained. He said that the measure has yet to become the basis of any court cases, and judicial review will be necessary to determine exactly what some of the terms in the bill mean. He predicted the measure would lead to higher premiums and have the “unintended consequence” of dragging employers that sponsor plans into the liability net.

The Blues expect 17 states to push for mental health care coverage parity this year.

Ms. Laudicina said she believes that states will put less emphasis on regulating health care plans this year than they have in the past, both because they've already put some regulations in place and because they need to address other pressing concerns, such as coping with bioterrorism.

Ms. Laudicina also said the survey indicates that 13 states will debate legislation that would allow providers to enter into collective bargaining arrangements. In addition, 13 states are likely to consider legislation that would require managed care plans to make direct payments to nonparticipating health care providers, she said. Such arrangements “undermine” the workings of managed care, Ms. Laudicina said. According to the report, only three states enacted such legislation last year.

Many states also are expected to continue to introduce benefit mandates, she said. The Blues expect 17 states to push for some sort of mental health coverage parity, while six states are expected to consider mandating benefits for infertility services, she said.

But Ms. Laudicina said that a “countervailing” trend has emerged in response to benefit mandates: Eight states last year enacted legislation to restrain mandates, through such approaches as requiring that cost/benefit analyses of certain mandates be presented to lawmakers. Lawmakers in North Carolina have approved a moratorium on new mandates beyond those in effect on June 30, 2003, according to the survey.

The top priority for state lawmakers this year will be the “same as it was last year—expanding access to care,” said Ms. Laudicina. She said there is a “new sense of urgency about health care inflation and its impact on the uninsured,” particularly given the state of the economy and the increasing number of employers that require employees to assume a greater portion of the costs of their benefits.

Copies of “State Legislative Health Care and Insurance Issues: 2001 Survey of Plans” are available at <http://bcbshealthissues.com/state>.

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Commentary

Lights. Camera. Actuaries!

The long-awaited nominations for the Academy Awards were released last week, and I must express my disappointment that only one insurance industry-related film was nominated.

Consider past insurance classics—all nominated for or recipients of awards—such as: "The Apartment," "Barton Fink," "Double Indemnity," "The Thomas Crown Affair" (the good one, made in 1968), and "To Catch a Thief."

This year's lone insurance-related Academy Award nominee is "Memento," and it was nominated for film editing, not best picture. Clearly, Olympic figure skating judges are doing double duty at the Academy of Motion Picture Arts & Sciences.

"Memento" tells the tale of an insurance investigator who suspects that a disability claimant, Sammy Jenkins, is faking a brain injury. Following a car accident, Sammy displayed no short-term memory, though he retains long-term memory and can perform complex tasks. The investigator demands a battery of tests and concludes there is nothing physically wrong with Sammy. Since the policy does not cover psychiatric illness, the claim is denied. Sammy's wife takes the claims denial as proof that her husband is faking his illness and sets out to trick him into displaying his true awareness of what is going on, with tragic consequences.

There was some other stuff that happens in the film, but since it had nothing to do with insurance, I don't remember it.

Looking at some of the other front-running movies that were nominated, it would be relatively easy to make them more appealing with an insurance theme. Just a few months in rewrite and a little sound editing and they could be improved. Imagine these films:

- **"A Beautiful Mind"**: The tragic but true story of a brilliant claims adjuster who is driven insane trying to calculate a contingent business interruption claim from the Sept. 11 tragedy.

- **"Black Hawk Down"**: Action drama about a group of elite insurance CEOs who are dropped into a hornet's nest of warring factions, called Congress, to try to capture some terrorism insurance relief. They come under heavy fire and must be airlifted to safety without succeeding in their mission.

- **"Harry Potter and the Sorcerer's Stone"**: A family friendly picture about the young wizard of Omaha, who, with the aid of Ron

and Ajit, foils treacherous efforts to drive up his mystical combined ratio and drive down the magical price of Berkshire Hathaway stock. Along the way, he leads the Omaha Royals to the quidditch championship and invents several disgusting new flavors of Dairy Queen treats inspired by Bertie Bott's Every Flavor Beans.

- **"I Am Sam"**: About a simple risk manager with a big heart who struggles to retain custody of his own risks as the parent of a captive. Some outsiders question his ability to manage and fund his exposures as well as a more traditional risk caretaker could, and seek to sabotage his efforts by whispering these damning

comments in the ears of his CFO. But he proves that his will, commitment and relationship to the risks makes him a capable parent.

- **"The Lord of the Rings: The Fellowship of the Ring"**: The story of a young risk manager struggling under the oppressive and evil hard market that has spread across the land and threatens

to destroy his people. He sets off on a quest to restore the cheap coverage and expansive terms found during the ancient epoch known as the soft market. He is aided by his aged broker, who performs acts of wizardry to try to keep the risk manager's limits intact and guide him through the market's perils.

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I think I better get an agent.



Paul D. Winston

Editor Paul D. Winston's commentary appears fortnightly and on www.businessinsurance.com. He can be reached at pwinston@crain.com.

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COMMUNICATIONS: New York: 212-210-0132

SUBSCRIPTIONS: Detroit: 888-446-1422

Business Insurance is published by
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E-mail: biweb@crain.com. Offices: 711 Third Ave.,
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11133 W. 108th St., Overland Park, Kan. 66210, Fax:
312-280-3174. \$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). Don Mierendorf, circulation manager.
Four weeks' notice required for change of
address. Send subscription correspondence to
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Schillerstrom



Editorial

401(k) reform needed, but be wary of pitfalls

AS CONGRESS DECIDES what 401(k) reforms are needed in the wake of the Enron Corp. debacle that cost hundreds, if not thousands, of Enron employees their lifetime retirement savings, legislators should be mindful of the law of unintended consequences.

Back in the 1980s and early 1990s, legislators conveniently ignored that premise as changes in federal law made defined benefit plans far less attractive to employers. Benefits that could be provided to higher-paid employees were drastically cut, while the rules employers had to follow to administer the plans became ever more complex.

While certainly not the intent of legislators, the result of their actions was the termination of thousands of plans amid the disincentives Congress created for employers to offer the plans.

That same mistake can't be repeated in the 401(k) arena, which has boomed as employers embraced the plans for their low cost, while employees valued the plans for their portability and ability to control account balances.

Having said that, the failure of Enron and the resulting devastation of the company's 401(k) plan is dramatic evidence that reasonable reforms are needed to protect employees' savings and give employees confidence that their plans are administered in their best interests.

One needed reform—and one that would have better protected Enron employees from such devastating losses—is to eliminate the long waiting periods that many employers impose before employees can trade stock their companies have contributed as a matching contribution.

Imagine a 49-year-old Enron employee, who worked for the company 20 years and knew the company's fortunes were declining, wanted to diversify his or her 401(k) investments and sell company-contributed stock. That employee couldn't, though, because of Enron's rule—not uncommon in the corporate world—that barred 401(k) plan participants from selling company-contributed stock before age 50.

That age-based restriction doesn't strike us as right, and we are not persuaded by employer arguments that such lengthy holding periods are needed to ensure employee loyalty. Indeed, those comments seem somewhat disingenuous, as employers often say one of the reasons they set up the defined contribution plans is to give employees a benefit that is real and meaningful even for those workers who stay only a few years.

This isn't to say that employees shouldn't be required to hold on to company-contributed stock for a certain period—somewhere between three and five years seems about right—but an age 50 requirement not only is excessive but also potentially dangerous to the security of employees' savings.

Other reforms, while perhaps not as controversial, also are needed. When employers lock down their 401(k) plans, such as when there is a change in plan administrators, and employees can't conduct transactions, employers need to provide ample advance notice to participants, of at least 30 days, that this will occur.

In addition, during such lockdowns, all employees—top management and rank-and-file—should have to abide by the same rules when it comes to selling company stock. Fair is fair.

As to what not to do, we are dead set against imposing a percentage limit on how much company stock a 401(k) plan can hold. These plans are all about flexibility and choice. If employees choose to invest the bulk of their deferrals in their company's stock, that should be their right.

We are also opposed to proposals that would require employers that match employee's salary deferrals in company stock to give employees a second investment choice. Unquestionably, the consequence of such a mandate would be the elimination of matching funds by many employers.

Congress rightly should take steps to assure other employees are protected from the fate of Enron's employees. But lawmakers must take measured, sensible steps, or else the unintended consequence could be more harm.

Letters to the Editor

Premium trust system beneficial to buyers

To the editor: I strongly disagree with your Feb. 11 editorial calling for a change in the handling of premiums. An entire industry should not change the way premiums are collected because one agency has been accused of mishandling their premium trust account and a couple of industry consultants estimate that nearly 30% of the thousands of insurance agents are out of trust.

Just because some industry consultants estimate something does not make it accurate. What is the basis of their estimate? Your editorial never mentioned that Ken Cramer, president of the Council of Insurance Agents & Brokers, stated that he does not believe any members are out of trust, per your Feb. 4 article on Near North.

You also indicate that buyers' money is held for 30 to 45 days by agents. This is false, as many customers pay much closer to the agency payment date.

There is much good in the current system. Customers can have one invoice with one payment, even though they may have many different insurers on their risk. If the insurance company makes an error, it's found by the agent and never reaches the customer. If a customer is late in paying, an agent will remind the customer of the agency payment date. There are many more.

Finally, the change you are calling for will disrupt many people. Accounting jobs in insurance agencies will be eliminated all around the country as premium collection and payment is eliminated.

Instead of calling for a debate on the subject, which would be reasonable, you had the debate and based on very little subjective information decided the outcome without even considering the benefits of the current system.

Gary L. Burton

Chief Operating Officer

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Online Commentary

In a new online commentary, Dr. George L. Head argues that insurers should view writing coverage for terrorism risks as an opportunity to serve their policyholders and the nation, while earning underwriting profits. Read his comments in the Commentary area of www.businessinsurance.com.

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Enterprise Risk Management

[Spotlight editor: Dave Lenckus]

Interest growing in DFA's usefulness

Dynamic financial analysis sheds light on range of what-ifs

By JUDY GREENWALD

Dynamic financial analysis may be among the most useful tools in the risk manager's enterprise risk tool chest.

DFA, whose roots are in post-World War II scenario planning developed by the Rand Corp., is a systematic approach to financial modeling. Its "stress testing" models present, often in statistical form, possible "what if" scenarios based on a variety of business, competitive and economic factors. This information is used to help prepare a company for a variety of situations.

DFA was developed in and has been most commonly used by the insurance sector. Primary insurers and reinsurers may use DFA to determine how much reinsurance or retrocessional coverage to buy, while life insurers use a related approach—asset-liability management—to test various interest-rate scenarios.

But DFA also can be applied to noninsurance operations in "an attempt to measure all the different moving parts within an organization. And that's really the enterprise risk management approach," said Barry Franklin, managing director and actuary with Aon Risk Consultants in Chicago.

But because it is much more difficult to build a comprehensive model of a noninsurance company, due to its greater complexity, "the enterprise risk management approach has really taken longer to evolve, and the initial focus has been more in the identification, assessment and prioritization of risks," said Mr. Franklin. "Only more recently have we really started to focus on quantification using tools similar to DFA."

DFA "is a platform for (the risk manager) to bring it all together and see the holistic risks for the company, whether it be hazard, labor or supply, or even the economy," said Thomas Hettinger, managing director of Paratus Consulting Ltd. in San Diego.

"Probably the greatest use of the DFA model is helping the capital allocation process, because one of the things that enterprise risk management is moving toward and focusing on is how do we allocate a company's limited amount of capital by various risks," said Mark Charron, principal with Deloitte & Touche L.L.P. in Hartford, Conn. "That's well beyond what an insurance risk manager would be looking at." It is really how the chief financial officer and a company's risk committee look at "the entire spectrum of risk," he said.

Risk managers who are interested in using DFA would be best served by first applying it to the area they know best—their insurance

See DFA/page 13



Programs aim to tackle spectrum of enterprise risks

Risk-hedging tools becoming popular

By RODD ZOLKOS

As companies try to come to grips with the host of risks they face, several tools beyond traditional insurance coverage are available to help them do so.

A growing sense that "risk is risk" is prompting many companies to look across their organizations to identify exposures that may threaten earnings. Often, certain risks are inherent in a business and can't be eliminated altogether. But identifying those risks and crafting a way to hedge them can reduce the volatility they bring to a company's balance sheet.

"There's a big difference between enter-

prisewide risk management and the risk financing mechanisms you use to manage the risk," said Michael J. McAndless, corporate risk manager at United Grain Growers Ltd. in Winnipeg, Manitoba.

"The process is the process. There really isn't a computer model or anything for that. It is whatever the organization does to try to identify risks across the organization," Mr. McAndless said. "One of the steps of the process is risk financing."

In the aftermath of such recent events as the Enron Corp. collapse and Kmart Corp.'s bankruptcy, one business risk-financing tool that's likely to get more attention is credit

See TOOLS/page 15

Titles vary, but status of CRO on the rise

More organizations turning to holistic approach to risk

By JOANNE WOJCIK

Once a position exclusive to the financial services industry, chief risk officers can now be found in most business sectors as more and more organizations move to address their risks in a more holistic way.

Corporations also are increasingly creating chief risk officer posts because many of the exposures they face today—credit risk, market risk and reputation risk—traditionally have not been insurable, experts say.

"The profession is really coming into its own," said Art D'Elia, managing director of risk management at New York-based recruiting firm Korn/Ferry International, which recently placed a chief risk officer at Ford Motor Co.

When the Dearborn, Mich.-based automaker's former risk manager retired, its board of directors decided to expand the role, rather than simply hire a similarly qualified individual, Mr. D'Elia explained.

Ford is just one example of how "boards of directors increasingly are creating chief risk officer positions" to manage their risks on an enterprisewide basis, he said. "The enterprise risk concept is spilling over into corporate America."

Freeman Wood started working at Ford about two years ago. Although he doesn't hold the title of chief risk officer—he is director, global risk management—his job duties definitely are those of a CRO.

Mr. Wood is responsible for managing Ford's financial risks, including currency risk, commodities risk, interest rate risk, derivatives risk and credit risk as well as traditional hazard risks. Four other Ford risk managers report to him: one who manages insurance risk, one who manages currency risk, one who manages commodities risk and one who manages interest rate risk.

Mr. Wood said he reports directly to Ford's assistant treasurer, and his office functions as part of a global risk management committee that is chaired by the company's chief financial officer.

Mr. Wood began his career as an options trader, later moving on to work at the Federal Reserve in banking, regulation and supervision. Prior to joining Ford, he was the head of market risk management at the French investment bank BNP Paribas in New York.

Learning about the world of insurance and incorporating that knowledge into other areas of financial risk management has been "interesting," Mr. Wood said, especially because he began working in insurance during the soft

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INSURER TOPICS

A MONTHLY EDITORIAL SECTION SENT EXCLUSIVELY TO INSURERS AND REINSURERS

Global Strategies

Insurers subject to money laundering law

By **RODD ZOLKOS**

A new law adopted following the terrorist attacks on the United States last September puts new responsibilities on the insurance industry and other financial service companies in the battle against global money laundering.

As part of the country's war against international terrorism, President Bush in October signed the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001.

Among the provisions of the USA PATRIOT Act, as the law is known, is the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001.

Most elements of that anti-money laundering requirement apply to any company defined as a "financial institution," including U.S. banks, agencies and branches of foreign banks in the United States, securities broker/dealers and insurance companies.

In seeking to combat money laundering, the PATRIOT Act imposes several requirements, including one that all financial services firms have some sort of procedure in place for verifying customers' identities by Oct. 1.

"Under the PATRIOT Act, insurance companies are considered financial institutions that will be required to have a money laundering program in place," said Ellen Zimiles, principal and national financial services industry leader for forensics practice of KPMG L.L.P. in New York. "There will be an audit."

"This is an issue that has been addressed by insurance companies somewhat, but not on a large scale," Ms. Zimiles said.

Ms. Zimiles noted that last summer the U.S. Office of Foreign Assets Control issued compliance guidance on money laundering to insurance companies doing business overseas. The U.S. Treasury Department agency maintains lists of countries, foreign companies and individuals with which U.S. companies are prohibited from doing business because of their involvement in terrorism or the drug trade.

"Then Sept. 11 hit, and this became even more of an issue," she said.

"Now, I think insurance companies really have to focus not just on financial issues but on how their products may be used to launder funds," Ms. Zimiles said.

European governments have subjected

insurance companies to their anti-money laundering regulatory regime for some time, he said.

The PATRIOT Act gives the U.S. Treasury Department sole authority to promulgate its anti-money laundering regulations, said Scott Harrison, leader of the national insurance regulatory practice of KPMG in Washington. "The statute does not carve out a role for the states on this issue," Mr. Harrison said.

Still, he expects the federal officials to look to state regulators and the industry for help with the insurance industry issues. The Treasury Department is looking to the banking industry for help with regulations for that industry, he said, and, because it is less familiar with insurance, will seek insurance regulator and industry help in applying the insurance regulations, he said.

From a regulatory perspective, the PATRIOT Act will require some changes in

regulators' approach to monitoring insurance companies, Mr. Harrison speculated.

"This will require a significant change in thinking for the regulators who regulate these industries. They have traditionally regulated for solvency," he said. Now, those regulators also will have to develop new examination techniques to address these compliance issues, Mr. Harrison said.

The National Assn. of Insurance Commissioners recently directed its federal liaison committee to approach the federal officials to assist in developing the insurance regulations.

U.S. Treasury officials expect to have insurance industry regulations in place by the early part of the second quarter, Mr. Harrison said, noting that he thinks insurance companies are beginning to recognize the issue.

"I think insurance companies are

becoming more aware," he said. "I think it was helpful for the NAIC to do what it did. That will get a lot of attention."

With the focus on terrorism increased and as anti-money laundering efforts become more and more rigorous in the banking and securities industries, there might be increased attempts to use insurance products to launder funds, Ms. Zimiles said. "People are going to have to look for someplace else to go," she said.

"I think one thing companies will have to address is, I would call it 'agnosticism' about the ability of money launderers to use insurance products," Mr. Harrison said.

"It's impossible to determine the extent of the activity," he said, but "it's likely some (insurance products) have been used in the past or are being used for this purpose."

But the potential for money laundering activity through insurance products is much more obvious for life companies than for property/casualty companies, said Phillip Schwartz, associate general counsel with the American Insurance Assn. in Washington.

"The (regulations) may very well be applicable to property/casualty insurers," Mr. Schwartz said. "They certainly are applicable to life insurers."

"There's no way that we can figure out that they can use (property/casualty products) for money laundering, unless they engage in a fraudulent transaction," Mr. Schwartz said.

He cited the example of someone buying and insuring a building and then burning it down to collect the insurance as one such possible fraud. "But if you have a building, you could sell the building" rather than destroy it, Mr. Schwartz said.

"Or, if you were a terrorist, you might go out and say you were hit by a car," he continued. "But we deal with these things all the time."

"So we've started talking to Treasury, discussing with them what we can do and how we can help out," Mr. Schwartz said. "Because the USA PATRIOT Act covers all financial institutions, including insurance companies. So we're covered."

Among the things insurance companies will need to do is, "Absolutely be concerned about whom you're doing business with and making sure people aren't on these lists" of known terrorists, Ms. Zimiles said. Also, they will need to look at the products they offer and see "if there are trends with these products," such as frequent cases of short-term loans being made against certain products, she said.

See **LAUNDERING**/page 12B



INSURER TOPICS

Laundering: Insurer compliance with PATRIOT Act sought

Continued from page 12A

Identifying such trends is critical, according to the head of one major financial services company's anti-money laundering program.

Speaking at the American Bankers Assn.'s Risk Management Annual Conference & Meetings for the Financial Services Industry this month in San Diego, Richard A. Small, global anti-money laundering director for New York-based Citigroup Inc., said that in many cases—including much of the behavior of the Sept. 11 hijackers—it may be difficult to identify money laundering activity.

"A \$100 withdrawal from an (automated teller machine) doesn't show up on anybody's radar screen," Mr. Small said.

The key is identifying patterns that might prove useful in the

future. "What we hope will happen from all this is that we can devise some patterns or trends that we can then distribute to the industry," he said.

"It's tough," Mr. Small said, but it's essential to look closely for behavior that raises "red flags."

Preparing insurers' staff to spot possible uses of their products for money laundering will likely require additional training at most insurance companies, Ms. Zimiles said, in addition to possibly adding staff specializing in focusing on the issue.

"I think they're going to have to have training on this," Ms. Zimiles said. "This hasn't been their focus."

Julie Gackenbach, director of government relations for the National Assn. of Independent Insurers, said she thinks many

insurance companies are just starting to consider the implications of the PATRIOT Act.

'What we hope will happen from all this is we can devise some patterns or trends that we can then distribute to the industry.'

*Richard A. Small
Citigroup Inc.*

"I think most people now are really only starting to come to terms with what they need to do to comply with the money laundering requirements," she said.

The act's requirements apply not just to the insurance companies

themselves, but also to their agents and brokers, Mr. Harrison said.

"They're the gatekeeper," he said. "Brokers and dealers and agents are also subject to regulation."

"It would really be a distortion of the statute not to have all the parties involved," Ms. Zimiles added.

"Otherwise, you could close your eyes" to illegal activity, she said.

Penalties for insurance companies failing to comply with the anti-money laundering regulations could range from a "slap on the wrist" to court ordered corrections to financial penalties to the "corporate death penalty"—the revocation of a company's charter, Ms. Zimiles said.

She noted that the new law makes violations a criminal offense

and suggested that insurers heed the example on the banking side, where "you can get the corporate death penalty."

And she pointed out that for any company violating the new law, there is a huge issue of reputational risk "for being seen as giving aid to terrorists."

Though various aspects of the PATRIOT Act's regulations will be rolled out at different times over the next several months, Ms. Zimiles said she thinks it's important that insurance companies begin to take steps immediately to make sure they comply.

"There is no point in waiting," Ms. Zimiles said. "You'll have to revisit it when regulations come out, but you can start right now," she said.

Industry backs trade promotion authority measure

Legislation seen as key to eliminating barriers overseas

By RODD ZOLKOS

The terrorist attacks on the United States and the country's subsequent global war on terrorism have not dimmed many insurance companies' interest in overseas business opportunities. With that in mind, many are

looking to Congress' consideration of legislation that would grant the president trade promotion authority as a key trade policy issue this year.

The measure, previously known as "fast-track" trade authority, would allow the president to negotiate and approve trade agreements with other countries without the possibility of

congressional amendment.

"The significance of trade promotion authority to insurance is that the U.S. will be in a stronger position to negotiate trade agreements that eliminate barriers that our companies face in trying to do business overseas," said John Savercool, vp of federal affairs at the American Insurance Assn. in Washington. The AIA has

supported trade promotion authority.

The House of Representatives, where a trade promotion authority bill passed by one vote in December, was seen as the major hurdle. "The Senate is likely to consider its own bill in March," Mr. Savercool said. "That could slip until April."

Sept. 11 'was a good opportunity to show that risk really needs to be spread.'

*John Savercool
American Insurance Assn.*

But the AIA official said he is confident a trade promotion authority bill will come to the Senate floor and be approved this spring.

"The hardest part is over," Mr. Savercool said. "But that doesn't mean there won't be problems in the Senate."

There will be moves to attach amendments to the Senate bill that could threaten the legislation, he said, such as a measure to provide aid to U.S. workers whose jobs are displaced by foreign trade.

"In our view, that's sort of dragging down the bill," Mr. Savercool said. "Those issues should be addressed separately."

The American Council of Life Insurance also has supported granting the president trade promotion authority. "With strong momentum building in international negotiations for new commitments on regulatory best practices in insurance, the United States needs TPA as soon as possible to bring solid benefits home for its companies and workers," the ACLI said in a letter to House members before their vote in December.

The ACLI cited data from its "Life Insurers Fact Book 2001," which suggests that the greatest potential for growth in the life market is in developing countries.

"In developed countries, the insurance market is nearly saturated," the association suggested.

In that context, trade agreements serve to lower barriers to U.S. insurers tapping those markets, such as local ownership or joint venture requirements, or restrictions on the sorts of coverage written by foreign insurers, Mr. Savercool said.

"We view the free trade agreements that our country has pending right now with Chile and Singapore and future trade agreements as a good way to eliminate these barriers," he said.

In a way, the Sept. 11, 2001, attacks and their aftermath have helped the U.S. insurance industry address some barriers it finds in foreign markets, Mr. Savercool said.

"One of the barriers we've found—and we find this in China and in India and in a lot of the developing countries—the only insurers they have were spun off from the government," he said. "And they really don't have a deep understanding of how reinsurance works."

Sept. 11 "was a good opportunity to show that risk really needs to be spread," he said. "Some of the lessons of Sept. 11 have helped us educate some countries that might establish barriers out of ignorance."

Other foreign trade issues of interest that U.S. insurers looking to do business abroad will be following this year will include China's compliance with its World Trade Organization commitment. "They're struggling to implement regulations consistent with their commitment to join the WTO," Mr. Savercool said.

Another key trade policy issue ahead is a vote later this year on granting normal trade relations to Vietnam.

"Now they have their first comprehensive regulatory system," Mr. Savercool said. "And a lot of our members are excited about that market."

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INSURER TOPICS

Industry suing to stop Vermont privacy regulation

By RODD ZOLKOS

A group of national insurance trade associations has filed suit over Vermont's insurance privacy regulation that took effect this month.

The suit, filed in Washington County Superior Court in Montpelier, Vt., seeks to invalidate the rule, which requires affirmative consumer consent before insurers, banks and securities firms operating in Vermont can share customer data with third parties.

The so-called "opt-in" provision goes beyond the privacy rules included in the 1999 Gramm-Leach-Bliley Financial Services Modernization Act and, according to insurance industry associations, makes Vermont the only state with such a rule for insurance.

"The notice provision is onerous, they're different from most of the country and it's going to require a lot of manpower and time for a small state," said Gerald Zimmerman, counsel at the National Assn. of Independent Insurers in Des Plaines, Ill., one of the associations filing the suit.

Four other insurer trade groups also are participating in the suit, which names the Vermont Department of Banking, Insurance, Securities and Health Care Administration and the department's commissioner, Elizabeth R. Costle. The other plaintiffs are the Alliance of American Insurers, the American Insurance Assn., the National Assn. of Mutual Insurance Cos. and the American Council of Life Insurers.

"Essentially, there are two complaints," Mr. Zimmerman said. "One is a lack of statutory authority and the other is a violation of the Vermont Constitution."

The suit argues that the Vermont department lacked the statutory authority to issue such a regulation, and that doing so violated the separation of powers between the state's legislative and executive branches created in the Vermont Constitution. The plaintiffs are asking the court to bar the state from enforcing the regulation.

"Our response is that we think we acted within our authority and we think that the suit will fail," Ms. Costle said.

And, she noted, the trade groups "did not file for a temporary

injunction, so we expect the companies to comply."

The trade groups seeking to block the new rule have claimed that it would turn Vermont into a "financial backwater" and would drive up premiums while reducing choices for Vermont consumers.

'Our response is that we think we acted within our authority and we think that the (insurer trade associations') suit will fail.'

*Elizabeth R. Costle
Vermont Department of Banking,
Insurance, Securities & Health Care*

For national companies doing business in Vermont, the rule forces them to have one approach to consumer privacy for Vermont and another for the rest of the country, the industry representatives say.

In announcing the regulations in November, Ms. Costle said they would give Vermont consumers "the best protection of their

personal information of any state in the union."

Responding to the suit's claims, Ms. Costle suggested that there already is a certain amount of diversity between states' privacy requirements. She said that diversity is likely to increase with several states currently considering privacy provisions beyond those mandated in GLB.

In crafting equal privacy regulations for all financial services firms, Vermont faced a challenge in an existing banking law that included an opt-in provision.

"It was very clear from the beginning that the commissioner felt that because the (Vermont) banking law had a provision that was an opt-in, because of the discrimination clause in the Gramm-Leach-Bliley law she also had to have an opt-in for insurance," Mr. Zimmerman said.

Ms. Costle said she thinks, however, that the clear intent of the Gramm-Leach-Bliley law and other federal financial services law was "to put all the financial services on a level playing field," something that Vermont achieves with its consistent application of opt-in requirements.

It's her view that the federal law should have made broader allowance for the types of consumer information that might be subject to opt-out vs. opt-in provisions. Ms. Costle said states should have the option of subjecting such information as names and addresses to an opt-out, while applying an opt-in requirement to more personal information.

"It's a tough issue, but I think the industry would have served itself better" if it had "distinguished between the types of information," the Vermont commissioner said. "Because they usually only share a certain amount, anyway."

"They made a mistake in Gramm-Leach-Bliley in not making a distinction between the type of information that might be subject to an opt-in provision and others to an opt-out," she said.

Still, the Vermont commissioner said she's satisfied with Vermont's rule, and thinks ultimately national companies will find ways to deal with the state's policy.

"It's a good rule," she said. "I suspect that a national company will just assume that everybody in a Vermont ZIP code has opted out."

IT briefs

Employers Re unit hires casualty executive

OVERLAND PARK, Kan.—Robert Remy has joined Employers Reinsurance Corp. as casualty facultative leader for the broker distribution team in the company's P&C Re Americas Facultative Segment business unit.

Mr. Remy formerly was with AIG Global Energy, where he was vp and profit center manager for the insurer's energy segment.

Overland Park, Kan.-based Employers Re markets facultative products and services under the GE Reinsurance Corp. name. P&C Re Americas combines Employers Re's reinsurance business in North, Central and South America.

NAII's general counsel announces retirement

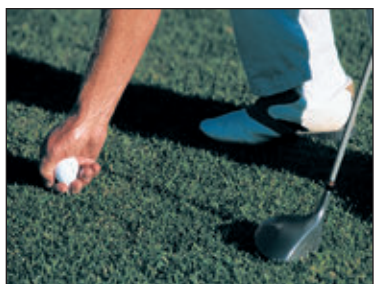
DES PLAINES, Ill.—Michael P. Duncan, senior vp, general counsel and secretary of the National Assn. of Independent Insurers, will retire April 1.

Mr. Duncan, 62, joined the Des Plaines, Ill.-based NAI in 1994 after spending 18 years with Allstate Insurance. Prior to that, he served as Illinois' director of insurance.

Zurich in alliance to market golf coverages

SCHAUMBURG, Ill.—Zurich North America's Middle Markets business unit and the National Golf Foundation have formed a strategic marketing alliance.

Through the alliance, which will



allow both partners to explore joint marketing initiatives for the golfing industry, Schaumburg, Ill.-based Zurich North America will provide coverages designed specifically for golf course facilities.

The National Golf Foundation provides information on the business of golf. It has more than 6,000 member companies, including equipment manufacturers, builders and developers, facilities and ranges, course architects, retailers, turf maintenance suppliers, associations and the media.

Vesta purchases boost nonstandard auto book

BIRMINGHAM, Ala.—Vesta Insurance Group Inc. subsidiary Instant Insurance Holdings Inc. has acquired two Dallas-based nonstandard automobile insurance wholesalers.

Vesta recently has sought to increase its nonstandard automobile business. The two acquisitions bring the total annualized nonstandard premium controlled by Vesta-affiliated agencies to more than \$250 million, the company said.

Instant Insurance Holdings purchased the stock of Old American Investments Inc., a holding company for three managing general agencies, and

acquired part of the nonstandard auto business of Harbor Insurance Group Inc. Together, these managing general agencies are expected to produce approximately \$70 million in nonstandard auto premium in 2002. Terms of the transactions were not disclosed.

In recent months, Vesta and Instant Insurance Holdings have acquired control of the Spacecoast agencies in Florida, the A-Affordable Insurance agency in Texas and InsureOne Independent Insurance Agency Inc. in Chicago. In addition, they have bought the renewal rights to the nonstandard auto business of Gallant Insurance Co. and Valor Insurance Co. in the Midwest.

AAIS annual conference scheduled for April

WHEATON, Ill.—The American Assn. of Insurance Services will hold its 2002 annual conference April 14-16 at the Registry Resort in Naples, Fla.

Under the theme of "Forever Changed," this year's conference will explore the new opportunities and challenges insurers face following the terrorist attacks of Sept. 11 and other events of recent months.

This year's conference includes a golf outing April 15 at the Naples Grande Golf Club. Information and registration for the golf outing, as well as for other conference events, is available at www.aaisonline.com. Additional information also can be obtained by calling AAIS Marketing Coordinator Debra Petges at 800-564-2247.

The AAIS is a national insurance advisory organization based in Wheaton, Ill. More than 600

property/casualty insurers nationwide use its policy forms, manual rules and loss-cost rating information.

LOMA, Canada's LIIC agree to merge

TORONTO—The Life Insurance Institute of Canada and the Atlanta-based Life Office Management Assn. have announced plans to merge.

The Toronto-based LIIC will continue to operate out of Canada and will become a council of LOMA, supported by Executive Director Debbie Cole-Gauer, who will become a LOMA employee.

The LIIC's board unanimously supports the merger, and member company representatives will vote on the proposal at a special meeting on March 5.

The Life Insurance Institute of Canada, a nonprofit association representing 43 Canadian life and health insurance companies, serves the educational, networking and professional development needs of its membership. LOMA works with more than 1,250 insurance and financial services member companies worldwide to improve their management and operations through employee development, research and information sharing.

Claims software spots health care fraud

SAN DIEGO—HNC Software Inc. has launched Payment Optimizer, a software system that identifies suspicious health care claims before they are paid.

Payment Optimizer uses technology that has already proven successful in detecting credit card

and other types of fraud, San Diego-based HNC said. The software flags insurance claims as risky and helps prioritize suspect cases by assigning a fraud score based on the likelihood that a claim is fraudulent.

Information on the software is available at www.hnc.com or by calling 877-464-4849.

Allstate unit using online lead system

CHICAGO—Allstate Corp. unit Encompass Insurance will implement MarketSoft Software Corp.'s lead-management system as a key part of its Web-based lead generation program for agents.

MarketSoft's DemandMore*Leads system will help Encompass and its 3,400 agency representatives drive new customer acquisition by delivering timely and relevant leads, Chicago-based Encompass said in a statement.

Encompass, formerly CNA Personal Insurance, will use the system to deliver qualified leads to agents via e-mail or the Web and will provide agents with the necessary software to track the progress of those leads.

Insurer Topics

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February 18, 2002

DFA: Models used to quantify risk costs

Continued from previous page

programs, said Mark Robson, Toronto-based principal with MMC Enterprise Risk, a unit of Marsh Inc. "Get some credibility," he said. Then, "take it to the next level," suggest using it in other areas, such as currencies and interest rate analysis, and strategic decision-making.

But do not be overly ambitious, warned Mr. Franklin. "The most successful (enterprise risk management) projects that I've been involved with tend to focus on quantifying no more than maybe half a dozen risks at a time," he said.

Furthermore, be aware "the DFA model doesn't provide a solution. That's what the risk manager is there for. The DFA is just there to help them in a concrete way see what could happen," said David Fishbaum, U.S. actuarial practice leader for MMC Enterprise Risk in Chicago.

An example of how DFA works is the manufacturer that is considering whether it should open "a new widget-making factory in Podunk," said Jerry Miccolis, principal with Tillinghast-Towers Perrin in Parsippany, N.J. Factors that must be considered include the cost of construction and labor, the demand for the additional widgets to be manufactured at the plant and the market price of those widgets when they

come off the assembly line. "So far, that's straightforward strategic planning," he said.

Where DFA modeling comes in is in developing possible scenarios based on the uncertainties involved, such as how long it will take to build the plant, its cost, the cost of making the widgets, how many competitive widgets will be in the market by the time the plant comes

'The models are only as good as the assumptions that go into them, and some of the assumptions you can nail down with data; and for some of them you have to rely on expert opinion.'

*Jerry Miccolis
Tillinghast-Towers Perrin*

on line, and what the demand for widgets will be at that point.

DFA can show the development of scenarios so senior management can determine whether the probability of making a profit on these widgets is high enough "to make this a viable investment. If the probability of doing that is only 30%, then it's not worth the risk," said Mr. Miccolis.

In one actual case, a company was concerned about the impact of inflation on a commodity that constituted an important cost in its manufacturing process, said Mr. Fishbaum. But with DFA, he said, "we saw an offset to that" in the company's defined benefit plan. If inflation increased, the higher returns that would be generated in its pension plan would offset the negative impact on the commodity. "That's an example of a natural hedge within an industry organization, and that kind of modeling is what DFA is all about," he said.

Observers caution, though, that for all the valuable insight it can provide, DFA is just a tool and cannot replace sound business judgment. Furthermore, its outcomes depend on the quality of data that is used to develop its scenarios.

"The models are only as good as the assumptions that go into them, and some of the assumptions you can nail down with data; and for some of them you have to rely on expert opinion," said Mr. Miccolis.

Mr. Franklin agreed. "By necessity, there's a lot of informed judgment that goes into modeling risks of that nature, and I don't think that would be an indictment of DFA. I don't think it means you shouldn't use DFA for those risks. I think it means that you ought to

recognize the limitations of data as they affect the analysis," rather than assume "the results are correct and they become gospel."

"It is not a panacea," said Mr. Franklin.

"It's not a one-size-fits-all solution, and I think there has been a temptation to try to force perhaps too many risks through this type of analysis. There's lots of potential, but I'd say there's a lot of development to be done as well," he added.

The ambitions for DFA will eventually be greatly reduced, said James King, senior manager with Ernst &

Young L.L.P. in New York. "People are going to realize these are useful tools for certain specific purposes, but they're not going to be the be-all and end-all for analysis."

"Generally, companies have not defined with any great clarity what kinds of things they want to get from their DFA analysis," which must be entered into "with some well-defined questions," he said.

But DFA's advantages far outweigh disadvantages, said Mr. Miccolis. With it, "you've brought some discipline and some science to your strategic decision-making," he said. It is a tool for companies "that see risk management as a value-enhancing tool, not a defensive risk mitigation tool."

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DFA: Models used to quantify risk costs

Continued from previous page

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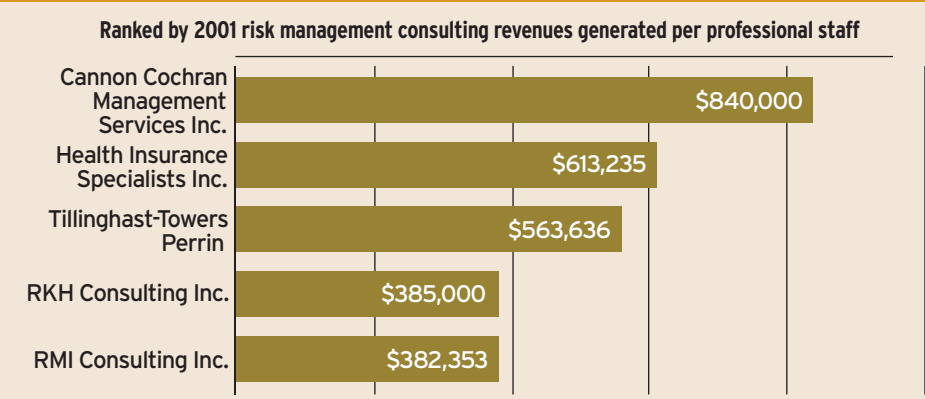
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SRMC respondents ranked by risk management consulting revenues	
Company	2001 revenues
J.H. Albert International Insurance Advisors Inc.	\$7,000,000
RMI Consulting Inc.	\$6,500,000
Kevin F. Donoghue Insurance Advisors Inc.	\$1,978,000
Sigma Risk International	\$1,750,000
Insurance Buyers' Council Inc.	\$1,740,078
T.E. Brennan Co.	\$1,318,868
Risk Resources Inc./Corporate Policyholders Council	\$1,000,000
RWL & Associates	\$600,000
Crain, Langner & Co.	\$500,000
D.L. Tibbals Risk Management Consulting Inc.	\$380,000

Note: PricewaterhouseCoopers, an SRMC member, not included because majority of revenues derived from other activities.
Source: BI Survey

MOST PRODUCTIVE U.S. RISK MANAGEMENT CONSULTANTS



Source: BI Survey

Top U.S. risk management consultants

Ranked by risk management consulting revenues

Rank	Company/Address	Telephone/Fax/Web site	2001 revenues	Clients	Professional Staff
1	ABS Consulting ABS Plaza, 16855 Northchase Drive Houston, Texas 77060	281-877-5800 Fax: 281-877-5803 www.absconsulting.com	\$108,550,000	1,500	720
2	Arthur Andersen L.L.P. 33 W. Monroe St. Chicago, Ill. 60603	312-580-0033 Fax: 312-507-6748 www.andersen.com	\$106,239,782	1,095	362
3	PricewaterhouseCoopers L.L.P. 1177 Ave. of the Americas New York, N.Y. 10036	646-471-7180 Fax: 646-471-2310 www.pwcglobal.com	\$89,320,000	3,600	NA
4	Deloitte & Touche L.L.P. 185 Asylum St., 33rd Floor Hartford, Conn. 06103	860-543-7337 Fax: 203-705-5104 www.us.deloitte.com	\$81,500,000	1,000	500
5	Ernst & Young L.L.P. 787 Seventh Ave., 12th Floor New York, N.Y. 10019	212-773-2970 Fax: 212-773-3467 www.ey.com	\$31,150,000	850	120
6	Tillinghast-Towers Perrin 8000 Norman Center Drive, Suite 1200 Minneapolis, Minn. 55437-1097	952-842-5728 Fax: 952-842-5805 www.tillinghast.com	\$31,000,000	850	55
7	Cannon Cochran Management Services Inc. 2 E. Main St. Danville, Ill. 61832	800-252-5059 Fax: 217-443-0927 www.ccmsi.com	\$21,000,000	3,000	25
8	Health Insurance Specialists Inc. 30 W. Gude Drive, Suite 220 Rockville, Md. 20850	301-217-9100 Fax: 301-217-9111 www.his-inc.com	\$10,425,000	126	17
9	J.H. Albert International Insurance Advisors Inc. 72 River Park Needham Heights, Mass. 02494-2631	781-449-2866 Fax: 781-449-5340 www.jhalbert.com	\$7,000,000	700	33
10	RMI Consulting Inc. 16 S. Maryland Ave. Port Washington, N.Y. 11050	516-767-7373 Fax: 516-767-7486	\$6,500,000	375	17

Source: BI Survey

The full directory of risk management consultants soon will be available online at www.businessinsurance.com. Updated directories, in conjunction with special issues of *Business Insurance*, will be posted online. Directories from 2001 will be online in the near future. For a limited time, all visitors to the Web site will have access to the online directories. Soon, however, free access to this and other advanced features of www.businessinsurance.com will be restricted to paid subscribers.

Tools: Interest growing in risk hedges

Continued from previous page derivatives.

"Corporations for a long time have had credit risk in their business, but they never quantified what that credit risk was," said Jim Vore, executive director in the credit derivatives group at Morgan Stanley Dean Witter & Co. in New York. "And now, corporations in a post-Enron world have to not only understand credit risk in their operations, they have to quantify it. And then they have to decide how much they want to hedge."

"Credit derivatives allow them to hedge that credit risk," Mr. Vore said.

Among the risks companies can address with credit derivatives are investment portfolio exposures, loan portfolio or line-of-credit exposures, counterparty credit risks or credit risks associated with supply contracts.

The most common credit derivatives are credit default swaps, in which the buyer of protection transfers credit risk to a second party for a price, often expressed in basis points on a notional amount.

In return, the seller agrees to make a certain payment to the buyer of the protection should there be a credit event such as bankruptcy or failure to pay on the part of the reference entity underlying the transaction.

The definitions of "credit event" and the mechanism for settling the payment are determined by the counterparties in negotiating the deal.

Mr. Vore said interest in the instruments has definitely increased in recent months.

"In the past month, I've had discussions with maybe 25 Fortune 500 companies, all talking about credit risk and how they can hedge it," he said. "In January, we had our busiest month ever in the credit derivatives market."

"I think you will see greater scrutiny in a post-Enron world," he said. "One of the results of that will be much more focus on credit."

Development of standard credit derivative documentation is making it easier to use the instruments, Mr. Vore said, noting that within the dealer community, the arrangements have become so standardized that they typically involve a one-page document, much less paperwork than in a typical surety bond contract.

"The clarity and transparency of the contract is what's bringing more people into the market," he said, adding that those coming into the market aren't speculators but rather "bona fide hedgers."

Companies frequently use other tools to manage various risks inherent to their operations as well, even without strict enterprise risk management programs.

"We don't have what I would call a formalized enterprise risk management program the likes of which you are seeing in some companies," said J. Gary Meggs, director of risk management at The Southern Co. in Atlanta.

At Southern Co., various risks are managed in the energy company's

different functional areas, he said, though its internal audit group has been doing some functional risk analysis by business units.

"It hasn't been totally systemized yet," he said. "I think we're moving in that direction."

"Our (chief financial officer) is effectively our chief risk officer," Mr. Meggs said.

Within the different areas of the company, "Our trading operation, where we trade energy in wholesale markets, they use different tools" to hedge exposures, Mr. Meggs said. "Our treasurer, where we have in-

terest rate or currency risks, they are using some of those tools." In the property/casualty area, which Mr. Meggs oversees, the company is using such tools as a captive and large self-insured retentions.

In using the various risk transfer instruments, Southern Co. is purely trying to hedge exposures, Mr. Meggs said. "We're doing it totally from a defensive standpoint," he said. "Not as speculators."

Companies looking to hedge such business exposures as foreign exchange, interest rates, commodity price and supply, and weather

can draw upon various capital markets tools to hedge those exposures.

Many of the most frequently used capital markets hedging tools are options, which are contracts that give the buyer the right—but not the obligation—to buy or sell a designated asset under specific terms at a predetermined price. A call option is the right to buy the asset; a put option the right to sell.

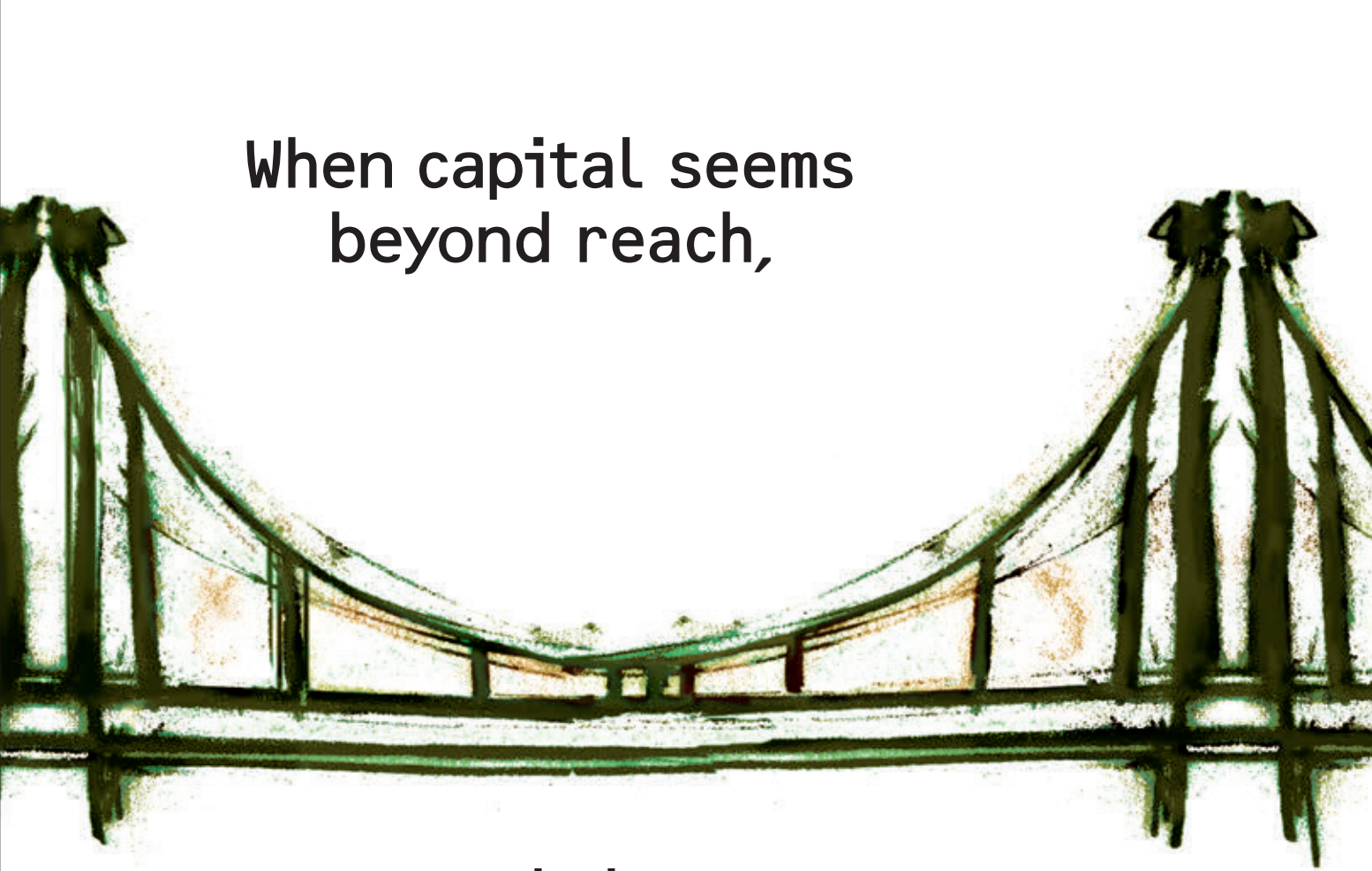
For example, a U.S. company with considerable international business might seek to hedge its exposure to fluctuations in the value of the dollar against foreign curren-

cies by using currency options.

Purchasing currency options allows the company to hedge its foreign exchange position by obtaining the right to buy or sell designated currencies at a predetermined price on a given date. As a result, the company can achieve some protection against balance sheet volatility caused by dramatic swings in the value of one currency against another.

Likewise, a company whose balance sheet is exposed to changes in the price of commodities the company sells or must purchase could hedge volatility by using commodity options, locking in a price at which it could buy or sell the com-

See **TOOLS**/page 16



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Tools: Addressing risk with new products

Continued from previous page
modities on a given date.

In addition, as more and more companies are identifying the extent to which their balance sheets can be affected by weather, the weather derivative market has grown.

Much of the market's early growth centered on energy companies, where demand is directly affected by weather and, consequently, the financial impact of unexpected weather conditions was more obvious. Increasingly, however, other sorts of businesses are recognizing the effect that changes in the weather from anticipated norms can have on earnings.

Weather derivatives, which provide a way to hedge that exposure, are typically tied to temperature or precipitation.

Precipitation-based derivatives typically are tied to amounts of

rainfall or snowfall over a designated period. The buyer is paid if the amount of precipitation is above or below the designated "strike" that triggers the derivative, depending on the structure of the deal. A ski resort, for example could hedge exposure to an unusually low amount of snow by entering into a weather derivative deal that would pay based on the amount snowfall was below a predetermined amount over a set period.

Temperature-based weather derivatives, meanwhile are based on "degree days," "heating degree days" and "cooling degree days." Heating and cooling degree days are the amount the temperature varies below or above 65 degrees Fahrenheit, respectively.

Participants in the deal agree on the value of degree days, the strike—the number of degree days that triggers the derivative—and

the deal's limit. The buyer of the protection is paid the difference between the strike and the actual number of degree days over the period of the derivative.

Companies seeking weather risk protection also can use insurance policies to hedge their exposures, and many of the companies that write weather derivative contracts also can provide the coverage in the form of insurance contracts.

The choice of one approach over the other can be driven by accounting issues or simply by the buyer's level of comfort with the different tools.

Increasingly, insurance and reinsurance companies also are open to addressing some of the other business risks that previously could be hedged only in the capital markets. One way they are doing so is by crafting integrated programs that combine aspects of the buyer's tra-

ditional insurance program with business risk exposures.

Three years ago, United Grain Growers developed a program that blended its primary traditional property/casualty insurance program with its grain volume exposure, one of the company's principal business risks.

That program, developed with Swiss Re New Markets Corp. and Willis Advanced Risk Management Services, includes a grain-handling trigger based on a grain-handling volume index set by a Canadian national commission (BI, Nov. 15, 1999).

"What we were able to do is develop a program where the amount of coverage is defined by an independent index and our market share of that index," Mr. McAndless said. "Really, what you're trying to do here is extract volatility from your earnings."

The UGG risk manager stressed the importance of the process behind understanding the company's exposures enterprisewide over the product used to transfer its business risk, though.

"The product isn't the secret," he said. "The product kind of fell out of the process."

"What you do in the general process is try to bring all these different exposure areas together so you're working off a consistent platform, so you're applying the same controls or the same limits," he said. "It was very important for us to form a risk management committee, and we made the (chief executive officer) the chairman of the committee."

"There are risks out there that you still can't put into a formula," Mr. McAndless said. But, he added, "It makes companies more resilient if you can go as far as you can go in defining what your risks are."

"Organizations that know what their risks are generally do better than others in their sector," he said.

CRO: New position, added responsibility

Continued from page 12

market and is now dealing with a decidedly different environment.

But corporate risk management "is not that much different than thinking about financial risk management," he said. "Insurance is just options, really. You pay a premium for protection."

Other companies have recently added a CRO to their operations.

Last month, Atlanta-based Delta

Air Lines Inc. promoted Chris Duncan, its director of risk management, to vp-finance and chief risk officer.

Because the position is so new, many of his responsibilities are not yet defined, Mr. Duncan said. "We will be developing the expanded role of the CRO over time," he said. But initially, the existing risk management and claims functions, as well as the internal audit function,

will report to him.

"A risk manager tends to have responsibility for one specific risk. It could be insurance risk, credit risk, market trading risk or interest rate risk. It's called 'risk management by silos.' But a chief risk officer is responsible for integrating all these risks," explained James Lam, founder and vice chairman of ERisk, a New York-based enterprise risk management consulting firm spun off by Oliver, Wyman & Co. "It's a much bigger job."

Mr. Lam is credited with coining the term "chief risk officer," which he chose as his title when he worked with the Government Services Division of Stamford, Conn.-based GE Capital Corp. in the early 1990s. He later served as CRO for Boston-based Fidelity Investments.

In most companies, CROs wear five hats, Mr. Lam said. They are:

- Evangelist, to motivate the organization to adopt an enterprise risk management approach.
- Leader, to effect change and integrate risk management into the business operations.
- Steward, to protect the company.
- Consultant, to help business units adopt best practices.
- Technician, to teach the CRO's own staff, as well as the rest of the organization.

To assume these roles collectively, a CRO must have a significant amount of formal education and job experience, experts say.

But merely having professional risk management designations such as the Associate in Risk Management may not be enough, they say.

"It's becoming increasingly common for CROs to have Ph.D.s," said Korn/Ferry's Mr. D'Elia.

CROs also tend to have more clout, often working on the same organizational level as the chief financial officer and reporting directly to the chief executive officer and/or board, he said.

Placing CROs "is becoming part

of what we call the 'C-practice,' " Mr. D'Elia said, which includes chief operating officers, CFOs and CEOs.

But in some organizations, CROs may "have the title but not the job," while at others, "CROs have the job but not the title," Mr. Lam said. Ford's Mr. Wood is an example of an individual whose job is

'When the role of the CRO overshadows the activities of risk management, creating a board-level seat probably doesn't make sense.'

Tom Wilson
Oliver, Wyman & Co.

that of a CRO but whose title does not reflect those responsibilities.

While Mr. Lam's database of CROs contains more than 200 names, as few as one-third of them are actually CROs in terms of their responsibilities, he said.

The organizations most likely to have dedicated CROs are risk-intensive companies such as financial services firms, investment banks, brokerage houses, insurance companies, hedge funds, energy firms, and other corporations that are affected by capital markets and foreign exchange rates, Mr. Lam said.

But "companies where risk is a major component of their cost of business and companies that operate in risk-intensive industries, and companies where risk management is a core competency to achieve a competitive advantage (also) should consider having a CRO," he advised.

For example, because the amount of risk an airline faces can be substantial, a chief risk officer could help address the exposures, said Tom Wilson, global head of finan-

cial risk at Oliver, Wyman & Co. in New York. Mr. Wilson was both the CRO and CFO at consulting firm McKinsey & Co. from 1998 through 2001.

When risk-taking is part of an organization's fundamental business, a CRO is essential, he said. "But the same case can't be made for a manufacturer of consumer durables," he added. Or, "when the role of the CFO overshadows the activities of risk management, creating a board-level seat probably doesn't make sense," Mr. Wilson noted.

Because the contribution a chief risk officer makes to an organization can have a significant impact on its financial performance, CROs are paid a lot more than are ordinary risk managers.

"Compensation is two to three times what a risk manager makes," Mr. Wilson said.

"Most CROs make in the high six figures or even seven figures," Mr. Lam said.

In some cases, CRO compensation can even be linked to corporate performance, "so the more the firm makes, the more they make," Mr. Wilson said.

However, such a compensation structure can sometimes prove hazardous to the long-term viability of an organization, experts say.

"Compensation can't be too attractive and induce the CRO to focus on short-term gain over long-term implications," said Mr. D'Elia.

To be effective, CROs should have an objective perspective, managing the organization's risks in such a way that they are looking out not only for the best interests of management but also those of shareholders, employees and customers, Mr. Wilson said.

"If Enron had someone like this, it wouldn't have ended up like it did," he suggested.

Enron Corp.'s former CRO Richard Buy invoked his Fifth Amendment right to protection against self-incrimination when he was asked to testify before Congress about the Houston-based energy trading firm's financial collapse.

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International

17

Terror coverage market grows

Limits rising for stand-alone coverage as new capacity emerges

By SARAH VEYSEY

LONDON—Demand for stand-alone terrorism cover is rising in the wake of the Sept. 11 terrorist attacks and the almost blanket exclusion of terrorism from standard property policies, underwriters and brokers say.

The attacks and subsequent policy exclusions "created overnight a new stand-alone market," said Stephen Ashwell, terrorism underwriter at Hiscox P.L.C. in London.

Julian Taylor, a vp at Marsh Ltd. in London and a terrorism specialist, said Marsh has seen a tenfold increase in demand for terrorism coverage since Sept. 11.

Ian Harrison, terrorism underwriter at Lloyd's of London managing agency Beazley Furlonge Ltd.,

said the London market's experience in offering stand-alone terrorism cover enables it to quickly react to the demand. And new capacity has helped brokers obtain higher limits. Limits of \$50 million to \$100 million have been fairly easy to obtain for good risks, he said. By using capacity in the Bermuda and U.S. markets, brokers can obtain up to about \$200 million.

"Lloyd's can now comfortably place \$200 million (of coverage) for any one building," said Mr. Ashwell.

Paul Bassett, executive director of Aon's Special Risks Counter-Terrorism team in London, said that most terrorism risks are being placed in London, but "we are using increasingly overseas capacity—particular-

ly out of Bermuda."

"From September to December, it really was just London (that was providing terrorism cover). It was just a limited amount of capacity at Lloyd's," said Mr. Taylor.

The attacks and policy exclusions 'created overnight a new stand-alone market' for terrorism coverage.

Stephen Ashwell
Hiscox P.L.C.

But since then, large U.S. and Bermuda insurers have entered the market, he said. Berkshire Hath-

away Inc. has been writing big lines of capacity, as has American International Group Inc., he said. The two companies have frequently been working together to provide capacity of about \$150 million. In Bermuda, AXIS Specialty Ltd., a new venture headed by former Lloyd's underwriter John Charman, is offering capacity starting at about \$50 million, said Mr. Taylor.

He said that "given the right circumstances and a client that is willing to pay top dollar, you could probably buy" \$300 million to \$400 million of coverage now, depending on the risk profile.

The property/terrorism team at New York-based AIG began writing terrorism coverage in December

See **TERRORISM**/page 19

World Updates

Groupama scraps sale of U.K. operation

Groupama-GAN S.A. last week called off the sale of Groupama Insurances, the company's U.K. operation. Paris-based Groupama-GAN put the London-based unit up for sale in July 2001 following an announcement that it planned to focus on central and southern Europe. Tony Lancaster, who had been chairman and chief executive officer of the U.K. operation, and Stephen Hartigan, managing director of commercial lines, have both left Groupama Insurances. Jean-Paul Bouquin, Groupama-GAN's group director of planning and control, has taken temporary control of the U.K. operation. Tim Ablett, managing director of personal lines, has also taken on Mr. Hartigan's former duties, and a new CEO is being sought, Groupama said.

S&P downgrades MRM units

Operating units of Hamilton, Bermuda-based insurer Mutual Risk Management Ltd. have been downgraded to BBB from A- by Standard & Poor's Corp. The rating agency said it downgraded MRM units Legion Insurance Co., Legion Indemnity Co. and Villanova Insurance Co. because of "reserve additions and reinsurance recoverable writedowns, that raise concerns about Mutual Risk's management and business franchise." Meanwhile, Mutual Risk last week postponed the release of its results "to complete a re-evaluation of the carrying value of the deferred tax assets on its consolidated balance sheet," an MRM statement said.

Briefly noted

Jeremy Pinchin has been appointed **Lloyd's of London's** Special Counsel for Sept. 11. Mr. Pinchin will work with Lloyd's syndicates to ensure that claims related to the Sept. 11 terrorist attacks are settled quickly and efficiently, Lloyd's said....Rob Bredhal has stepped down as CEO of Internet-based reinsurance trading platform **inreon Ltd.** Executive Chairman Kaj Ahlmann will take on the additional role of CEO, while Deputy CEO Kathrine Huelster will become president and chief operating officer....The U.K. government has unveiled proposals for funding **flood defenses**, including imposing a charge for developers that build on floodplains. The Assn. of British Insurers welcomed the consultative report but added that "we urgently need Government action and firm decisions which will improve flood defenses and flood management strategy."



PHOTO: AP/WIDE WORLD

Kiwis consider mandatory coverage for vessels in New Zealand waters

GISBORNE, New Zealand—As workers struggle to salvage a cargo vessel that is grounded off the coast of Gisborne, New Zealand, the country's government is considering proposals that would make insurance mandatory for all ships entering New Zealand waters.

The Jody F. Millennium, a Japanese-owned logging freighter that ran aground in bad weather earlier this month, is reported to be insured for hull and liability losses, though details were not available

late last week. The ship is reported to have begun leaking fuel oil.

Meanwhile, New Zealand Transport Minister Mark Gosche has said he is looking into regulations that would require all ships entering New Zealand waters to have liability insurance for oil spills.

In addition, New Zealand's Parliament is considering legislation that would make third-party insurance compulsory for all ships over 400 metric tons entering New Zealand waters.

20% to 30% increases expected P&I clubs plan hikes to bolster reserves

By EDWIN UNSWORTH

LONDON—Shipowners around the world face sharply higher rates for their liability insurance as protection and indemnity clubs renew their coverage this week.

P&I clubs, the mutual insurers that provide coverage for most shipowners and ship charterers, have seen rising losses and declining investment income in recent months. As a result, clubs generally are indicating that liability rates will increase between 20% and 25% when the programs renew on Feb. 20. Last year, rates at renewal were flat or increased up to 10%.

The increase in rates is separate from an expected jump in the price of shipowners' excess-of-loss reinsurance coverage, which is expected to cost nearly 30% more on average.

In its annual Marine Mutual Report for 2002, Standard & Poor's Corp. in London said that the com-

bined P&I market loss, after tax and unrealized gains, totaled \$226 million at the year ending February 2001, compared with a \$52 million loss in the prior year. Worsening losses and declining income from investments have led "to weakened free reserves for many of the clubs," S&P said in a statement.

Rowena Potter, managing director of financial services ratings at S&P, said that P&I clubs are expected to hike rates by 25% to 30% at renewal.

The United Kingdom Mutual Steam Ship Assn. (Bermuda) Ltd., one of the largest P&I mutuals, has notified its members of a 20% increase in insurance rates as of Feb. 20—plus higher reinsurance costs.

The U.K. Club's chairman, Aleco Kairis, said in a letter to members that the increase is necessary because of the downturn in financial markets, particularly equities, over the past 18 months. This means

See **P&I** /page 19

E.U. toughens rules for insurer solvency

Move part of unification efforts

BRUSSELS, Belgium—European insurers will see their minimum financial requirements increased under new directives passed last week by the European Union.

Under the new rules, which will take effect in 2004, insurance companies in E.U. member states must hold at least 3 million euros (\$2.6 million) in surplus, compared with the current requirement of 200,000 euros to 1.4 million euros (\$174,600 to \$1.2 million).

Insurers' solvency margin also will be increased. The directives call for requiring insurers to hold capital equal to 18% of their first 50 million euros (\$43.7 million) of premium; above 50 million euros, the solvency margin will be 16%. Insurers currently must hold capital equal to 18% of the first 10

million euros (\$8.7 million) of premium.

In addition, insurers will have to hold reserves equal to 26% of claims on the first 35 million euros (\$30.6 million) of claims, up from the current requirement of 26% of claims on the first 7 million euros (\$6.1 million). Above 35 million euros, insurers would have to keep 23% of claims in reserves.

The directives are part of the European Commission's efforts to achieve a single European market for financial services by 2005.

The directives also would give regulators greater powers to intervene when an insurance company's financial position is thought to be deteriorating.

—By Sarah Veysey



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THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT, CHANCERY DIVISION

IN THE MATTER OF THE LIQUIDATION)
OF DELTA CASUALTY COMPANY) 01 CH 20445

NOTICE OF CLAIM FILING DEADLINE AND PROCEDURES

PLEASE TAKE NOTICE, that on December 4, 2001, the Circuit Court of Cook County, Illinois, entered an Agreed Order of Liquidation With a Finding of Insolvency against Delta Casualty Company ("DELTA"). Nathaniel S. Shapo, Director of Insurance of the State of Illinois, is the statutory and court affirmed Liquidator of DELTA ("Liquidator").

TAKE FURTHER NOTICE, that on January 29, 2002, the Circuit Court of Cook County, Illinois, entered an Order Fixing Rights and Liabilities and Providing for the Filing of Claims and the Setting of Claim Filing Deadlines ("Fixing Order"). Pursuant to the Fixing Order, all rights and liabilities of DELTA and its policyholders, creditors and stockholders, and all other persons interested in its property or assets, are fixed as of December 4, 2001, unless otherwise provided in subsequent orders of the Court.

TAKE FURTHER NOTICE, that all persons, companies or entities who have, or may have claims against DELTA, its property or assets, or against a DELTA insured or policyholder, shall have the right to present and file with the Liquidator proper proofs of claim on or before December 4, 2002 at 4:30 p.m. C.D.T.

TAKE FURTHER NOTICE, that any insured under an insurance policy issued by DELTA shall have the right to present and file with the Liquidator a proper proof of claim setting forth a contingent claim on or before December 4, 2002 at 4:30 p.m. C.D.T. No contingent claim shall be allowed for purposes of participating in any distribution of estate assets that may be made at the fourth priority level [215 ILCS 5/205(1)(d)] unless such claim has been liquidated and the insured claimant has presented and filed evidence of payment of such claim to the Liquidator on or before December 4, 2003 at 4:30 p.m. C.D.T. Any contingent claim for which a proper proof of claim is filed on or before December 4, 2002 at 4:30 p.m. C.D.T., but which is not liquidated on or before December 4, 2003 at 4:30 p.m. C.D.T., may be estimated pursuant to 215 ILCS 5/209(4)(b) for purposes of participating in any distribution of estate assets that may be made at the fifth priority level [215 ILCS 5/205(1)(e)] unless otherwise directed by the Court.

TAKE FURTHER NOTICE, that the form and required contents of all proofs of claim are described in 215 ILCS 5/209. Proofs of claim, along with supporting documents, if any, are to be filed with, and may be obtained from, the Liquidator of DELTA, c/o the Office of the Special Deputy Receiver, located at 222 Merchandise Mart Plaza, Suite 1450, Chicago, Illinois 60654. A proof of claim shall be deemed "filed" with the Liquidator upon the Liquidator's receipt thereof. The Liquidator reserves the right to require such additional information with respect to any claim filed with him as he may deem necessary. The Liquidator further reserves any and all defenses available to DELTA upon all filed claims. All proofs of claim must be duly sworn to before an officer authorized to take oaths.

THE LAST DATE FOR THE FILING OF PROOFS OF CLAIM WITH THE LIQUIDATOR IS SET FORTH ABOVE. NO PERSONS, COMPANIES OR ENTITIES HAVING OR CLAIMING TO HAVE ANY CLAIM AGAINST DELTA, ITS PROPERTY OR ASSETS, OR AGAINST A DELTA INSURED OR POLICYHOLDER, SHALL PARTICIPATE IN ANY DISTRIBUTION OF THE ASSETS OF THE COMPANY UNLESS SUCH CLAIMS ARE PROPERLY FILED WITH THE LIQUIDATOR ON OR BEFORE DECEMBER 4, 2002 AT 4:30 P.M. C.D.T.

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NOTICE

(February 7, 2002)

Cincinnati, Ohio - Great American Insurance Company announced today that it has filed a lawsuit in the U.S. District Court in Santa Ana, California, and has obtained Preliminary Injunctions, against Mitchell Zogob (doing business as Program Administrators), Theodore Zogob, Insurance Brokers Management, Inc. and Professional Employers Assurance Group (PEAG).

The lawsuit alleges that Insurance Brokers Management, Professional Employers Assurance Group and Mitchell Zogob have violated state and federal law by falsely holding themselves out as having the authority to bind Great American to workers compensation insurance policies for Professional Employer Organizations (PEOs) and other companies.

Although Great American formerly had a contractual arrangement with Insurance Brokers Management, that agreement was terminated on October 5, 2001, and Great American currently has no agency or other relationship with the Zogobs, Insurance Brokers Management or Professional Employers Assurance Group.

According to Great American's attorney, Todd C. Theodora, the Preliminary Injunctions prohibit Mitchell Zogob, Theodore Zogob, Insurance Brokers Management and Professional Employers Assurance Group, and all persons acting in concert with them, from representing to any person that they are agents of Great American or are otherwise authorized to place insurance with Great American.

The Preliminary Injunctions also bar Mitchell Zogob, Theodore Zogob, Insurance Brokers Management and Professional Employers Assurance Group from representing that any person or entity is insured by Great American unless an application for insurance by such person or entity has specifically been approved in writing by Great American, and further bar those parties from adjusting or handling any claims arising under any policy actually or purportedly issued by Great American.

Great American invites any person who has a question about this lawsuit or about the injunction against Mitchell Zogob, Theodore Zogob, Insurance Brokers Management and Professional Employers Assurance Group to contact Great American at 1-888-219-9274.

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P&I: Clubs plan to raise prices

Continued from page 17
that “the pure underwriting deficit is no longer being covered by investment, and the free reserves are being eroded.”
The Swedish Club, based in Gothenburg, Sweden, and the London-based Standard Steamship Owners’ Protection & Indemnity Assn. (London) Ltd., have both notified members of 25% increases for the coming fiscal year. The Standard Club also cited declining investment returns as a factor.
P&I clubs’ reinsurance costs also are likely to increase.

The International Group of P&I Clubs arranges reinsurance coverage for the leading shipowner mutuals. For the year starting Feb. 20, the cost of the International Group’s excess-of-loss reinsurance program will increase 28%, which the clubs will pass on to members. The reinsurance program provides \$2 billion excess of \$30 million in coverage.
Stephen James, chairman of the International Group, noted that there was no increase in reinsurance rates last year because it had locked in a two-year contract in

2000.
He said that the increase in reinsurance costs will vary by type of ship, with crude oil tankers paying around 23% more for reinsurance and dry cargo vessels about 36% more.
Unlike many other policyholders, shipowners will continue to be covered for war and terrorism risks when their coverage renews.
Although the events of Sept. 11 led P&I clubs to modify an exclusion for war risks to also exclude acts of terrorism, they have since effectively written it back in to pro-

vide coverage above that which a shipowner could buy from the traditional marine market. This is mainly to ensure that shipowners buy terrorism cover from conventional marine insurers, removing some of the coverage burden from the P&I clubs.
Explaining that the clubs are willing to write terrorism only on an excess basis, the U.K. P&I Club said in a statement in December that: “To ensure the Club’s special war risk P&I remains available on an equal basis, the U.K. Club directors have imposed a mandatory level of market war risks P&I cover on all members, while the special Club cover would only be available to members in excess of that level.”

The Through Transport Mutual Insurance Assn., the international insurance mutual for ship operators and related shore-based transport services such as ports and terminals, had canceled terrorism cover for static risks at the end of 2001.
It has since, however, negotiated reinsurance for terrorism risks and has reinstated cover under most handling-equipment and property covers at little or no additional premium. The association achieved this by joining Pool Reinsurance Co. Ltd., the British government-backed reinsurance pool for terrorism risks.

Sarah Veysey contributed to this report.

Terrorism: Covering the risks

Continued from page 17
2001 and can offer limits up to \$150 million for any one policyholder, any one event, worldwide, said the team’s head, AIG Senior Vp Donald Nelson. The group has already written about \$10 million in premiums, he said.
Many building and development projects are unable to proceed without terrorism coverage, underwriters said. Such projects normally carry an adjustable premium, which grows as the project’s value increases, Mr. Harrison said.
Stand-alone terrorism coverage is being bought to cover “anything from energy, property and retail risks,” said Mr. Ashwell. While policy wordings and premiums vary, underwriters are closely monitoring their aggregate exposures.
Mr. Nelson said he is advising clients to set aside reserves to cover terrorism risks because only a finite amount of capacity is available.
Because of a lack of reinsurance, underwriters are having to retain a lot of the terrorism risk, said Mr. Taylor. Clients are seeing rates ranging from about 0.05% of limits to as much as 0.5% or 1%, he said. Some risks are being quoted on a rate-on-line basis, he said.
Companies buying stand-alone terrorism coverage tend to be large, risk-managed entities, said Mr. Taylor. Marsh has been seeing demand from U.S.-based companies that have become risk-averse since Sept. 11. With some exceptions, many Western European clients are tending to self-insure because of the high rates, he said.
Aon is encouraging clients to adopt an integrated risk management approach, Mr. Bassett said. This often results in better terms and helps clients retain more risk. “Our strategy with our clients may be to take a larger self-insured deductible, manage that deductible through a really effective risk management program, and then you get bigger bang for your buck with excess layers on the terrorism cover above that,” he said.

Corporate Systems
4 column x 10”
4/color

Construction: Coverage tightens

Continued from page 1

cover the term of the loan, maybe three to five years," Mr. Creamer said. "I'm not sure you can get that anywhere."

"So, at a minimum, unless you come in with that (terrorism coverage), I'm not in the construction lending business anymore," he said.

Terrorism coverage may be available for some projects, but it is limited and expensive, Mr. Creamer said. But for a project such as a high-rise in a major urban center, "Even if it is a nondescript sort of high-rise, certainly not a trophy-

type building but maybe if it's next to a trophy-type building...just because it's a high-rise building, you can forget it."

Michael Kennedy, general counsel for the Associated General Contractors of America in Alexandria, Va., said his organization's membership is concerned about terrorism exclusions' potential impact on projects. He said contractors worry about terrorism exclusions in builders risk insurance policies, "and whether the exclusions from terrorism would cause banks to lose interest in funding projects."

Others suggest that stand-alone terrorism coverage, though expensive, is generally available and that a lack of terrorism coverage hasn't stopped new construction.

"You have to pay a lot," said Susan Abbott, managing director project and infrastructure finance at Moody's Investors Service Inc. in New York. "I don't know that you are really seeing that it's stopping new projects, new construction. But there is a difficulty trying to refinance."

"Every day stuff's closing," said Mark Reagan, chairman and chief

executive officer of the construction practice at Willis North America in New York. "If everything else is go, this is not the stopper."

"We have a facility, a slip that we can use at Lloyd's for \$50 million that we can expand another \$50 million," Mr. Reagan said. "It is available, and it's not that expensive."

American International Group Inc. also has created a terrorism coverage facility, with capacity up to \$150 million per insured event.

"We're willing to step into the breach here and cover whatever projects we can," said Don Nelson, a senior vp at AIG in New York.

"We've probably quoted 100 properties," Mr. Nelson said. "Of

course, the pricing is not cheap. There's a fear factor here. Reinsurers are not going to put their capacity on the line without an adequate return."

David Buckman, risk manager for Combined Construction Group Ltd. in Morton, Ill., said terrorism coverage hasn't affected his company so far, though other insurance issues are having a major impact.

"The hard coverage that we've seen this year is in the residential excess market," Mr. Buckman said. "It's very expensive, if attainable."

Last year the company paid \$120,000 for a \$20 million umbrella liability policy that included the residential excess coverage, the risk manager said. This year the premium was \$1.2 million for the same coverage.

Mold liability concerns have driven up the price of the residential construction liability coverage, Mr. Buckman said, and consequently, "There probably are going to be some companies that aren't going to do any residential this year."

OPL: Halt to most activities

Continued from page 1

RenaissanceRe, which previously kept 50% of the business, will take over all of the business.

RenaissanceRe will take on the additional business without straining its capital, said John Lummis, executive vp and chief financial officer. "Our common equity on a consolidated basis was over \$1 billion at year end," he said.

OPL Chief Financial Officer Mark Bridges stressed that liquidity problems resulting from the company's capital structure, not losses, were responsible for the decision to exit the market.

"Simply put, we decided that the optimal liquidity and value equation for our shareowners was best solved through the runoff decision," he said.

Mr. Bridges said the shareholders will be entitled to "distribution of any capital that is not needed for the runoff as and when it becomes available and as approved by our various regulators."

OPL has not released results for 2001. For the first nine months of the year, it lost \$197 million, compared to a \$474 million loss for the same period in 2000. It recorded a \$557.9 million loss for all of 2000.

Through Sept. 30, 2001, OPL wrote net premiums of \$553.6 million. It posted a combined ratio of 143.2% for the nine-month period.

For all of 2000, OPL's net premium volume totaled \$500.7 million. Its 2000 combined ratio was 194.6%.

OPL was created by UPS in 1983 to provide excess-value coverage on packages shipped by Atlanta-based UPS and was soon after spun off to UPS employee shareholders. OPL dropped the package program and

See OPL/next page

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OPL: Halt to most activities

Continued from page 20

concentrated on writing third-party business after a 1999 U.S. Tax Court ruling labeled it a "sham" designed to allow UPS to avoid taxes. That decision was overturned on appeal, though several issues in the case are unresolved (*BI*, June 25, 2001).

UPS employees cannot sell their OPL shares. OPL said last August that it was ending a stock buyback program and recently said it intended to stop dividend payments.

Mr. Bridges said that the stock buyback program was a drain on the company's capital. "Unfortunately we are in a very capital-intensive industry...we are no longer able to support both the provision of regular liquidity to shareowners and satisfy the new capital levels required for long-term success."

OPL is not the first reinsurer to discontinue writing business in recent months, but its reasons for pulling out are unusual.

"I can't say that we've had a precedent of a \$1.3 billion company deciding to close shop," said Elizabeth Farrell, vp with A.M. Best Co. in Oldwick, N.J.

OPL's decision is 'unique in the sense that this is the time in the market when people feel they can make serious money. To pull out at the peak of the market is very surprising.'

—Steve Bolland
Gill & Roeser Inc.

"The standard feeling in the market is that if you want to be a multi-purpose reinsurer and have \$1 billion in capital, you are definitely considered a serious player," said Steve Bolland, senior vp with New York-based reinsurance broker Gill & Roeser Inc.

Mr. Bolland said OPL's decision is "unique in the sense that this is the time in the market when people feel they can make serious money. To pull out at the peak of the market is very surprising."

Solving the liquidity problem by taking the company public, which would have given shareholders more freedom to sell their shares, was not an option, said Mr. Bridges. "We believe that we would need a number of years to develop an appropriate track record" before considering an initial public offering, he noted. "Our shareholder liquidity needs were shorter term than the timing for a successful IPO."

Ms. Farrell of Best speculated that OPL might have taken some baggage into a public offering. "The company has some past issues that may not have made it attractive for an IPO," she said referring to the still-unresolved tax case.

COBRA: Plan could be costly

Continued from page 1

premiums often are so expensive—family coverage can cost more than \$7,000 a year—that individuals opting for coverage are those who are most likely to use health care services. Under COBRA, beneficiaries pay 102% of the group rate.

"Because there is such adverse selection, you have really bad claims experience," said Mark Holloway, a senior vp in the Winston-Salem, N.C., office of Aon Consulting.

While adverse selection would be somewhat less, benefit experts say, if beneficiaries had to pay only 25%

rather than the entire premium, coverage still would be disproportionately selected by those who anticipate using health care services.

"Employers still would be paying out more in benefits than collecting in premiums," said Karen Frost, a consultant with Hewitt Associates L.L.C. in Lincolnshire, Ill.

Aside from higher costs, employers affected by the legislation would face administrative complications. Employers, or their COBRA administrators, for example, would have to keep COBRA payment records for both beneficiaries and the feder-

al government. And while employers now can cut off COBRA coverage for nonpayment of premiums, generally after a 30-day grace period, the legislation doesn't make clear if termination of coverage would be allowed if the government were tardy with payments.

And employers could face delays in receiving COBRA payments from the government. While beneficiaries generally have to pay COBRA premiums within 30 days of a bill, the legislation sets no deadline for the government to pay employers for its share of the premium.

"Would the government really pay promptly? And just as important, is government really geared up to do this?" asked Sharon Cohen, an attorney with Watson Wyatt Worldwide in Washington.

The COBRA provision's fate likely won't be determined until the Senate passes the legislation and differences between that bill and the one the House passed last year are resolved.

To date, though, Congress has turned down legislative proposals for federal COBRA subsidies, including several advanced last year that would have had the federal government pay 50% of COBRA premiums for those who lost their jobs after the Sept. 11 terrorist attacks.

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Models: Data gets a new look

Continued from page 3

Answering the new underwriting questions will require advanced preparation for renewals, said Marilyn Hamilton, insurance risk manager for Advanta Corp. in Spring House, Pa. Gathering that information proved relatively easy, because Advanta's workers comp insurer also writes the company's general liability coverage and thus already had much of the information that was needed.

Larger companies with employees in many locations, however,

may find the new inquiries an administrative challenge, she said.

Many risk managers are unsure what the new data will mean for future coverage arrangements, said Jeffrey W. Pettegrew, vp-risk management and insurance services for Westaff Inc. in Walnut Creek, Calif.

It is still too early to tell how the models will affect workers comp pricing, many observers said. Most insurers are not yet applying the models to underwrite risks, Aon's Mr. Ehrhart said.

Because rates tend to reflect losses, current pricing may already ac-

count for losses caused by past catastrophes, AIR's Mr. Virkud said. Other factors, such as regulatory approval and insurer competition, may determine what insurers can charge, added RMS' Mr. Ulrich.

But some insurers already may be thinking that the models will predict a need for higher prices. One insurer client told Mr. Ulrich that it hoped more insurers use the models so that it won't be the only company charging higher rates.

Several insurers contacted by *Business Insurance* declined to comment or did not return calls.

Many observers expect the models to become important tools for analyzing the aggregation of workers comp risks.

The terrorist attacks forced workers comp insurers to consider the potential for massive losses in a concentrated geographical area hit by terrorism or a natural catastrophe, said Tim Brady, managing director-casualty practice for Marsh Inc. in New York.

As insurers seek more detailed information, some may curtail their workers comp underwriting, Mr. Brady said.

Aon's Mr. Ehrhart suggested that the models also may indicate new areas where insurers can write coverage profitably.

Forum: Finding coverage

Continued from page 3

wording, which is the most restrictive; insurance company forms issued by highly protected risk insurers and others, which offer broader coverage; and manuscript forms, which are often drawn up by brokers for specific policyholders and offer the broadest coverage.

"Do the restrictions in the ISO form mean that those forms without them have the coverage? Insurance companies that issue both types of forms have to answer that question," Mr. Dempsey said.

If insurers choose not use the ISO form, policyholders have a strong case when they seek coverage not granted under the ISO form, said Edward M. Joyce, shareholder at law at Heller Ehrman White & McAuliffe L.L.P. in New York.

"If you can take a form that's more restrictive than yours that the carrier could have used, you should get the benefit of the doubt," he said.

The three types of forms have significant differences, agreed Lee M. Epstein, a partner at law firm Fried & Epstein L.L.P. in Philadelphia.

For example, the ISO form requires the suspension of operations for a business interruption claim to be valid, but other forms may only require a partial interruption of business or a reduction of business to trigger coverage, he said.

Also, the ISO form requires direct physical loss or damage to a covered property, whereas other forms might not require physical damage, Mr. Epstein said.

So a policyholder, such as a hotel chain, that suffered losses due to a reduction in travel after the attacks may have a valid claim if they used a manuscript policy, he said.

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FTR

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Consultant hikes Sept. 11 loss estimate

Insured losses stemming from the destruction of the World Trade Center will likely total \$52 billion, according to management consultant A.T. Kearney Inc. The new figure is 36.7% higher than the \$38 billion in losses that the Chicago-based consultant had estimated in November. "The increases are due to increased estimates in liability claims and may mean that the economic impact from the attack is significantly greater than originally estimated," according to an update of a November 2001 report by the New York City Partnership & Chamber of Commerce. A.T. Kearney prepared the insurance section of

the report and the update. The update continues to estimate the gross economic loss to the New York economy at about \$83 billion.

Kansas commissioner blocks Anthem takeover

The Kansas insurance commissioner last week declined to approve Anthem Blue Cross & Blue Shield's proposed acquisition of Blue Cross & Blue Shield of Kansas. The acquisition, which Indianapolis-based Anthem proposed in May 2001, had been approved by the policyholders of both Blues plans. Under the proposal, the Kansas Blues would have converted from a mutual insurer to a wholly owned stock company subsidiary of Anthem. But

Kansas Insurance Commissioner Kathleen Sebelius rejected the plan, saying in a statement that the transaction would have reduced BC/BS of Kansas' surplus and would have increased rates for small-group and individual policyholders.

California Senate passes 401(k) catch-up bill

The California Senate has unanimously passed a measure, S.B. 657, that would ensure that older employees making catch-up contributions to their 401(k) plans are not taxed on those contributions. California is the largest of more than 12 states that have not changed their statutes to recognize federal tax changes, including those allowing catch-up contributions, included in tax legislation Congress passed last year. States' failure to conform to the 2001 Economic Growth and Tax Relief and Reconciliation Act poses a potential administrative burden for multistate employers.

Fiduciary appointed for Enron benefit plans

The Labor Department has reached a deal with bankrupt energy giant Enron Corp. under which the department will appoint an independent fiduciary to assume control of Enron's cash balance, 401(k) and employee stock ownership plans. The agreement requires Enron to pay the fiduciary's fees-up to \$1.5 million per year-for three years. The department has been investigating Enron since late last year to determine whether it violated federal pension law in the way it operated and administered its pension plans.

Travelers files for IPO of stock

Travelers Property Casualty Corp. has filed a registration statement with the Securities and Exchange Commission in preparation for its proposed initial public offering for 20% of its stock. The insurer's registration detailed an intercompany agreement over rising

asbestos liabilities. Under the agreement, Citigroup will provide up to \$800 million if Travelers records additional asbestos-related charges in excess of \$150 million, net of reinsurance, during a fiscal year. Travelers said it has established loss reserves for environmental and asbestos claims, but a "high degree of uncertainty" remains with respect to future exposure to such claims.

BI Stock Index [2-11/2-15]

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

0.53	1.63	0.73
BI Stock Index 2271.23	Dow Jones 9903.04	S&P 500 1104.18

Largest gains

American Financial Group
Fremont General Corp.
PXRE Corp.
SCOR
ACE Ltd.

13.23
12.67
11.94
11.72
11.48

Largest losers

Mutual Risk Mgmt. Ltd.
Gainsco Inc.
PacifiCare Health Systems
Vesta Insurance Co.
Aetna Inc.

-47.37
-42.31
-25.52
-14.29
-3.54

Weekly change by market segment

Brokers	0.55
Insurers/Reinsurers	1.62
Managed Care Organizations	-1.77

Source: CNET Investor (investor.cnet.com)

Online Poll [2/11 - 2/15]

As allegations surface about the misuse of client premium funds by some brokers, do you believe that:

Premium trusts should be more tightly regulated 23.0%

Premiums should be paid directly to insurers 34.3%

Premiums are rarely misused, no changes needed 20.2%

No opinion 22.5%

Take part in our weekly poll at www.businessinsurance.com

Brokers: Sept. 11 affects results

Continued from page 3

combination of rate increases, organic growth and acquisitions.

Brown & Brown also reported the largest increase in 2001 profits among the brokers—a 64.4% rise to \$53.9 million. HRH reported a 48% rise to \$32.3 million and Gallagher reported a 34.7% rise to \$125.3 million.

Although not considered a regional broker, Willis also had a "tremendous" year, Mr. Klauber noted. "They probably had the best performance of all the brokers."

Willis' 2001 revenues increased 9.7% to \$1.36 billion though profits were down 78% to \$2 million, due to a non-cash charge for perfor-

mance stock options, non-recurring items and goodwill amortization.

But Mr. Klauber said one has to look behind Willis' numbers. Revenue growth picked up from the beginning of the year, when it was averaging gains of 5% to 6%, to the end of the year, when it was averaging 12% to 14% revenue growth, he said. Willis "was really able to get growth going in U.S. business, which had been pretty slow earlier in the year and last year...well behind its competitors," he said.

2001 financial results at the world's two largest brokers were "mixed," said Cathy Seifert, an insurance analyst at Standard & Poor's Corp. in New York.

Although Marsh and Aon reported improved brokerage and consulting revenues, their mix of business and other internal issues offset the gains, she said. "Plus the absolutely horrendous losses both companies suffered in the World Trade Center were really disruptive issues."

M&M's 2001 brokerage and consulting revenues rose 5.7% to \$7.31 billion, but corporatewide revenues fell 2.1% to \$9.97 billion. It attributed the decline to Boston-based investment management subsidiary Putnam Investments Inc., which was hurt by the declines in the stock market.

Consulting revenues from M&M's William M. Mercer Inc. unit

grew an anemic 1.2% in 2001 to \$2.2 billion. Although most of Mercer's consulting practices reported strong revenue growth, general management consulting revenues were down 21% for the year. J. Michael Bischoff, Marsh's vp-corporate development, said the residual effects of the dotcom bust, the general economic slowdown and the aftermath of the World Trade Center attacks were to blame.

M&M's profits of \$974.0 million were 17.5% lower in 2001, which it attributed to charges for a write-down in the value of an investment held by Putnam, as well as charges for expenses related to the Sept. 11 tragedies. Marsh lost more than 300 employees in the WTC disaster as well as the corporate headquarters of Guy Carpenter Inc., its reinsurance intermediary operation.

Aon, which posted a 57% decline in profits to \$203.0 million, also lost nearly 200 employees in the WTC attacks, which destroyed its largest retail brokerage office.

"We will never forget the tragedy of Sept. 11," said Patrick G. Ryan, chairman and CEO of Aon Corp., in a statement. "We suffered the loss of many of our colleagues from the World Trade Center disaster, as well as clients and friends."

Aon's brokerage and consulting revenues increased 9% for the year to \$5.60 billion. Although international, reinsurance and wholesale brokerage business had strong results, Aon's U.S. retail brokerage

business experienced slower new business growth and below normal account retention during the year, Mr. Ryan noted.

He said the impact of Sept. 11 delayed the implementation of a business transformation plan in its U.S. retail brokerage business.

Corporatewide revenues, which include income from investments and underwriting, rose 4% to \$7.68 billion. Aon's revenue gains were offset by losses in its "corporate and other" segment, which is primarily comprised of equity-related revenues from limited partnerships and directly owned equities, the broker said. Aon reported a \$171 million loss for the year in this segment compared to a \$71 million gain in 2000.

Those losses, along with charges related to its retail restructuring and WTC losses, added to the broker's 57% decline in profits for the year.

Aon reported that it is in litigation with Lloyds of London over \$90 million of reinsurance recoverables in connection with the World Trade Center attack, but declined to comment further.

The broker said is still in the process of presenting additional WTC insurance claims to its insurers and expects additional recoveries in future periods.

Aon added that its planned spin-off of its underwriting operations into the newly named Combined Specialty Corp. is scheduled for this spring (*BI*, April 23, 2001).

2001 BROKER RESULTS

Year-end results for the world's largest publicly held brokers. Dollar amounts in millions

	Brokerage & Consulting Revenues	% change from 2000	Corporate Gross revenues	% change from 2000	Net income	% change from 2000
Marsh & McLennan	\$7,312.0	5.7%	\$9,966.0	(2.1)	\$974.0	(17.5)%
Aon	5,597.0	9.0	7,676.0	4.0	203.0	(57.0)
Willis	1,357.0	9.7	1,424.0	9.1	2.0	(77.8)
Arthur J. Gallagher*	859.3	14.3	910.0	14.4	125.3	34.7
Brown & Brown*	359.7	39.3	365.0	37.5	53.9	64.4
Hilb, Rogal & Hamilton	323.1	26.0	330.3	26.0	32.3	48.4

*2000 figures have been restated

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