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introduced in California / 4**

Business Insurance

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\$5

COMPENSATION CRISIS

Aon settles fraud suits

By SALLY ROBERTS and JOANNE WOJCIK

CHICAGO—Aon Corp. late last week agreed to settle charges by officials in three states that it fraudulently manipulated client insurance placements for its own benefit and linked insurance placements with reinsurance brokerage business.

In a joint settlement with five agencies including attorneys general in New York, Connecticut and Illinois, the world's second-largest brokerage agreed to revamp its business practices and to pay \$190 million as restitution to policyholders

(see story page 34).

The settlement is the latest chapter in the broad investigation that began nearly a year ago with New York Attorney General Eliot Spitzer's probe into potentially deceptive insurance industry compensation practices and resulted in his October fraud and bid-rigging lawsuit against Marsh & McLennan Cos. Inc.

In late January, New York-based MMC agreed to pay \$850 million to settle Mr. Spitzer's charges.

Aon's joint settlement resolves separate civil

suits filed in state courts in New York, Connecticut and Illinois. The suits allege a broad-based effort by Aon to steer clients to insurers and reinsurers paying it the highest contingent commissions; to conceal low bids from clients while placing business with higher-bidding insurers paying Aon more commission; and to link Aon's retail placements with an insurer to the insurer's use of Aon to broker its reinsurance coverage.

Unlike Mr. Spitzer's suit against MMC, which focused only on its Marsh Inc. brokerage unit, his

See AON/page 34

Late News

Insurance to cover part of Bank of America deal

Insurance would cover part of Bank of America Corp.'s \$460.5 million proposed settlement with WorldCom Inc. investors, according to a Bank of America spokeswoman. The bank said it already has reserved the uninsured portion of the settlement in previous quarters' financial results. Charlotte, N.C.-based Bank of America is one of 17 WorldCom bond underwriters that the investors are suing in class action litigation that also names former WorldCom directors and officers and auditor Arthur Andersen L.L.P. as defendants. WorldCom revealed in 2002 that it had tampered with its financial reports for years to make the company appear profitable.

Liberty Mutual sets up onshore rent-a-captive

Liberty Mutual has established its first onshore rent-a-captive in Vermont. Vermont was chosen as the domicile for the rent-a-captive because the state's laws protecting participants' assets are similar to Bermuda's, which maintain the legal segregation of assets within the sponsored captive, said Peter Willitts, president of Boston-based Liberty Mutual Management Services. The company's captive unit, Liberty Mutual Captive Services, also has two rent-a-captives in Bermuda.

Spitzer subpoenas Principal Financial

The Principal Financial Group received a subpoena Thursday from New York Attorney General Eliot Spitzer seeking information on compensation agreements associated with the sale of retirement products. The company, which offers retirement services and life and health insurance through a number of subsidiaries, said it would

See LATE NEWS/page 35

COMPENSATION CRISIS

Marsh to abandon accounts, standardize commissions

Clients may feel impact of bid to recoup lost funds

By SALLY ROBERTS

NEW YORK—Some Marsh Inc. clients soon will find themselves with new brokerages, while others may pay more to maintain their relationships with the world's largest insurance broker.

In an effort to recoup the loss of \$845 million in contingent commissions and to restore profitability, Marsh said last week that it is abandoning unprofitable accounts and will move to a standardized rate card with insurers that includes a higher upfront commission structure.

While it remains to be seen how underwriters react to the higher standardized rates, Marsh expects to "recover a meaningful portion of its lost revenues within the next year" through the new commission structure, the company said in a statement. About 50% of its U.S. accounts are commission-based.

At the same time, Marsh also is exiting thousands of unprofitable accounts that produced between \$100 million and \$150 million in revenues for the brokerage. Most of these accounts fall within the small commercial market, although it does include some larger accounts, Michael G.

Cherkasky, president and chief executive officer of Marsh & McLennan Cos. Inc., said in a conference call last week. He noted that Marsh expects to improve its profitability by "tens of millions of dollars" by focusing only on accounts that provide a sufficient return to the brokerage.

That may also result in higher fees for some clients, he said.

Marsh's new business model comes in the wake of MMC's \$850 million fraud and antitrust settlement with New York Attorney General Eliot Spitzer.

Mr. Spitzer sued MMC last October, charging that the brokerage rigged bids and steered clients to favored insurers to maximize its contingent commissions, which amounted to about \$845 million in 2003. Marsh ceased collecting contingent commissions, which it calls "market service agreements," shortly after the Spitzer suit was filed.

The loss of some of those revenues last year, plus various restructuring and settlement charges relating to Mr. Spitzer's lawsuit, took a bite out of MMC's 2004 revenues and profits and resulted in

See MARSH/page 33



Evan Greenberg

ACE chief surveys industry landscape Q&A on probes, changes

Until last October, the management issues that Evan G. Greenberg dealt with as president and chief executive officer of Bermuda-based ACE Ltd. were relatively ordinary. That changed when New York Attorney General Eliot Spitzer brought fraud and bid-rigging charges against Marsh & McLennan Cos. Inc. Those charges implicated employees of ACE and other insurers—including American International Group Inc., run by Mr. Greenberg's father, Maurice R. Greenberg—and cost his brother Jeffrey W. Greenberg his job as

See GREENBERG/page 32

Spotlight

SELF INSURANCE & CAPTIVE MANAGEMENT

Begins on page 11



Ranking of the largest Captive Managers

Page 12

Title insurance scandal won't shake captive industry

By GLORIA GONZALEZ

SACRAMENTO, Calif.—While recent allegations of improper reinsurance arrangements between title insurers and noninsurance entities will likely mean the end of these types of reinsurance captives, the scandal is unlikely to have an impact on the captive insurance industry in general.

California Insurance Commissioner John Garamendi issued subpoenas to two title insurers Feb. 22 as part of a multistate investigation of reinsurance arrangements in the

title insurance industry. Mr. Garamendi said he is investigating Jacksonville, Fla.-based Fidelity National Title and Richmond, Va.-based LandAmerica Financial Group Inc. for their alleged participation in title reinsurance schemes.

Mr. Garamendi's announcement came after news that First American Title Insurance Co., a subsidiary of Santa Ana, Calif.-based First American Corp., agreed to refund about \$24 million in premiums to consumers nationwide to settle an alleged kickback scheme without admitting wrongdoing.

Title insurance fallout

■ Fidelity National Title and LandAmerica Financial Group Inc. are under investigation for their reinsurance arrangements.

■ First American Insurance Co. agreed to refund \$24 million to consumers nationwide in settlement over alleged 'kickback' scheme involving captives.

■ The three largest title insurance companies agree to stop ceding business to captive reinsurers.

The three companies, the largest in the title insurance industry, have said they will stop ceding business to captive companies, which observers believe will mean the end of these reinsurance arrangements in the title insurance sector.

"I imagine they will," answered Len Crouse, deputy commissioner of captive insurance, Vermont Department of Banking, Insurance Securities and Health Care Administration, based in Montpelier, when asked if these reinsurance arrangements would end in the title insurance industry.

Other entities—homebuilders, realtors and lenders—are also exiting these arrangements. Larry Seay, chief financial officer of Phoenix- and Dallas-based Meritage Homes Corp., said his company has voluntarily discontinued these arrangements, which accounted for about \$500,000 in revenues for 2004. Meritage had captive reinsurance arrangements with Fidelity National and another major title insurer that Mr. Seay declined to identify.

Most reinsurance arrangements in the title insurance industry are

See **TITLE**/page 31

Proposed IRS rules clarify administration of Roth 401(k) plans

By JERRY GEISEL

WASHINGTON—Proposed Internal Revenue Service regulations released last week pave the way for employers next year to start offering a new type of tax-favored 401(k) plan.

earnings—can be withdrawn tax-free. Investment earnings, though, could not be withdrawn tax-free until five years after an employee first began to contribute to the plan and after he or she reaches age 59½.

The proposed rules, largely affirming requirements laid down by the Economic Growth & Tax Relief Reconciliation Act, the federal law that authorized Roth 401(k)s, make it clear that employers must keep traditional 401(k) and Roth 401(k) accounts separate, but that contributions to the plans would have to be combined when employers run the basic nondiscrimination test that compares contributions made by highly compensated and rank-and-file employees. To pass that test, the average deferrals of higher-paid employees, as a group, generally cannot exceed the deferrals of lower-paid employees by more than two

See **ROTH 401K**/page 6

How traditional 401(k) and Roth 401(k) plans compare

	Traditional 401(k)	Roth 401(k)
Contributions	pretax	aftertax
Distributions	taxable	tax-free
Contribution limit*	\$15,000	\$15,000
Subject to non-discrimination testing	yes	yes
*2006 limit		

Created by Congress as part of a 2001 tax law and slated to go into effect on Jan. 1, 2006, Roth 401(k) plans will allow participants to make aftertax contributions.

Unlike traditional 401(k) contributions, which are made with pretax dollars, contributions to a Roth 401(k) plan—and the investment

Federal investigators questioning Gen Re about dealings with failed insurer ROA

By JUDY GREENWALD

OMAHA, Neb.—Berkshire Hathaway Inc. said federal investigators have made several requests for information from Berkshire subsidiary General Reinsurance Corp. related to an investigation of Glen Allen, Va.-based Reciprocal of America, a malpractice insurer that was seized by Virginia regulators in 2003 and subsequently put into liquidation.

According to a filing made Tuesday by Berkshire with the Securities and Exchange Commission, in October 2003, Gen Re and four of its current and former employees, including its former president, received subpoenas for documents from the U.S. Attorney in Richmond, Va.

In December 2004 and on several occasions since then, the U.S. Attorney and the Department of Justice in Washington requested additional information concerning ROA and its related offshore reinsurer, First Virginia Reinsurance Ltd., as well as information related to transactions between Gen Re or its subsidiaries and other insurers, according to the SEC filing.

Gen Re has been cooperating fully with the ongoing investigation, according to the SEC filing, which

also says it cannot predict the investigation's outcome, nor whether it will have a material adverse effect on its financial statements.

ROA had three related Tennessee-domiciled risk retention groups, also now in liquidation, that reinsured virtually all of their business with ROA. In turn, ROA retroceded most of the business to Gen Re.

Gen Re acted only as a fronting reinsurer, though, ceding the business to First Virginia, a Bermuda-based captive controlled by Reciprocal Group officers, according to court records. Gen Re withdrew as ROA's reinsurer and commuted its contracts with First Virginia Re in early 2002.

Racketeering suits

In 2003, Virginia Insurance Commissioner Alfred W. Gross, ROA's deputy receiver, filed a 121-page complaint that leveled racketeering charges against former ROA executives, Gen Re, auditor PricewaterhouseCoopers L.L.P., actuarial consultant Milliman USA Inc. and several others in U.S. district court in Richmond.

The suit charged that the defendants participated in schemes designed to evade regulator scrutiny and cover up ROA's deteriorating fi-

nancial condition by entering into undisclosed reinsurance arrangements, recording false assets in the insurer's books and doctoring ROA's reserve levels.

Similar litigation was filed by Tennessee Insurance Commissioner Paula Flowers in U.S. district court in Memphis in 2004 on behalf of the three RRGs' policyholders. Both suits are now in federal court in Memphis, where class action lawsuits filed on behalf of the risk retention groups' policyholders also have been filed.

Jay Aughtman, an attorney with Montgomery, Ala.-based Beasley, Allen, Crow, Methvin, Portis & Miles P.C., which is representing the Tennessee Insurance Department in the litigation, said U.S. District Court Judge Daniel Breene is expected to rule in May on motions filed by the defendants to dismiss the litigation.

Last month in federal court in Richmond, meanwhile, former ROA President and Chief Executive Officer Kenneth R. Patterson and former ROA Executive vp Carolyn B. Hudgins pleaded guilty to conspiracy to commit insurance fraud.

Mr. Patterson also pleaded guilty to two counts of mail fraud. Sentencing is scheduled for June 28.

Inside Business Insurance

Converium posts loss, plans to shed jobs

In an effort to reduce costs, the troubled reinsurer said it expects to cut more than 140 jobs. **Page 4**

Hurricanes, tsunami bring record losses

Catastrophes, including the series of hurricanes in the United States, resulted in a record \$49 billion in insured losses last year. **Page 4**

Pension funding reform faces challenges

Congressional pension leaders said Bush-backed pension funding reforms could face rough sledding on Capitol Hill. **Page 6**

Insurers must ensure the price is right

As brokers alter their compensation practices, insurers, too, must offer a fair price for coverage. **Page 8**



P&I rate hikes slow at February renewals

Many P&I clubs saw rate increases fall into single digits at recent renewals. **Page 29**

Online

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

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

• New **Opinion Poll** for readers: Do you plan to change brokers in light of alleged improper practices by insurance intermediaries?

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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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Bill in California would make hospitals publish prices

Measure seeks to improve on earlier disclosure law, help consumers shop for health care

By JOANNE WOJCIK

SACRAMENTO, Calif.—The fight for greater transparency in hospital pricing in California rages on despite the enactment of landmark legislation requiring hospitals to reveal charges for their 25 most common procedures.

The lawmaker who sponsored the Payers' Bill of Rights said he's been disappointed with the way hospitals have been complying with the 2003 law and has introduced new legislation he hopes will force hospitals to be more consumer-friendly.

But hospitals say they're doing what they're supposed to do and that few, if any, consumers or other health care payers are asking to see their "chargemasters," or price lists.

Moreover, hospital representatives assert that it is impossible to provide specific price information because health care cannot be treated like a retail purchase.

Assembly Majority Leader Dario

Frommer, D-Glendale, introduced a new package of bills late last week after learning that hospitals were listing items on their chargemasters of questionable value to consumers, such as the prices for 15 minutes of "gait training." Gait training is a rehabilitation program for spinal cord injury victims learning to walk again.

In contrast to the Payers' Bill of Rights, the new legislation would require that hospitals compile lists of the charges for both the 25 most common inpatient and outpatient services or procedures, as grouped by Medicare diagnostic related groups, and that the information be posted on the Internet so that consumers could easily access it. The Payers' Bill of Rights requires that each hospital compile a list of charges only for the 25 most common services or procedures by DRG and make that list available upon request.

Any hospital that does not comply would be subject to civil penalties,



though the legislation does not specify the size of the penalties. A

second bill in the package calls for the creation of a California Hospital Report Card rating hospitals' quality of care.

Employers have been seeking greater transparency in hospital pricing because it is the biggest driver of health care costs, even surpassing prescription drug costs, according to Greger Vigen, a consultant at Mercer Human Resource Consulting in Los Angeles.

"This was an attempt by legislation to start to force disclosure of the retail prices for the hospitals in California as part of a campaign to deal with the hospital cost escalation," Mr. Vigen said.

Greater disclosure also is integral to the health care consumerism movement, according to Peter Lee, president of the Pacific Business Group on Health in San Francisco.

"It's part of reinforcing the movement that consumers have to have information tools they can act on to make better choices," Mr. Lee said.

"The goal is to have more visibility about the variation from the patient's perspective. The patient has been kind of isolated, especially in California, where you have a lot of HMOs," said Mr. Vigen. "Every new piece of information that's out there is better positioning than where we are right now."

Mr. Vigen said that the Payers' Bill of Rights, unfortunately, "has had less of an impact than people wanted."

The objective of the legislation was to get package prices for procedures, such as hip replacements and gallbladder removal, explained a spokeswoman for Assemblyman Frommer. Instead, the hospitals are breaking down such procedures into components, she said.

The spokeswoman also suggested that many of the hospitals may be deliberately skirting the new law to prove a point they had tried to make during debate over the legislation: that health care is too complicated.

See **CALIFORNIA**/page 32

Converium plans to cut staff following \$761 million loss

By SARAH VEYSEY

ZUG, Switzerland—Converium Holding Ltd. recorded a net loss of \$760.8 million for 2004 and said that layoffs in all of its main locations are "unavoidable" as part of efforts to reduce costs.

The 2004 loss—which compared with a \$185.1 million profit for 2003—stemmed largely from \$578.1 million in reserve strengthening for prior-year loss reserves, largely for U.S. casualty business written between 1997 and 2001, the Zug, Switzerland-based reinsurer said.

The reserve strengthening, an-

nounced last year, resulted in Converium being downgraded out of the A range by A.M. Best Co. and Standard & Poor's Corp. After the downgrades, Converium placed its U.S. units in runoff (*BI*, Sept. 27, 2004).

In the fourth quarter of 2004, Converium reported a \$50.2 million loss, compared with a \$56.2 million profit in the prior-year period. The quarter results were hit by developments from third-quarter catastrophe losses, a \$15.0 million loss from the Indian Ocean tsunami, and the loss of business due to termination clauses related to the rating downgrades, the reinsur-

er said.

Such terminations, which allow clients to cancel coverage if a company's rating drops below a certain level, reduced gross premiums by about \$114.5 million in the second half of 2004, said Chief Executive Officer Terry Clarke.

Mr. Clarke succeeded Dirk Lohmann as CEO last month.

A spokesman for the reinsurer said the company expects to shed up to 143 employees to help cut costs. About 82 of the job cuts will be layoffs, about 10 will be normal or early retirements, and the rest represent expected fluctuations in staff, he said.

Kemper posts surplus increase

Fourth-quarter rise reflects policy buybacks, novations

By MEG FLETCHER

LONG GROVE, Ill.—Kemper Insurance Cos.' surplus position more than doubled in the last quarter of 2004, with the insurer reporting last week that its combined statutory surplus stood at \$181.8 million at year-end 2004, up from \$90.3 million at Sept. 30, 2004.

However, the Long Grove, Ill.-based runoff insurer still faces billions in liabilities.

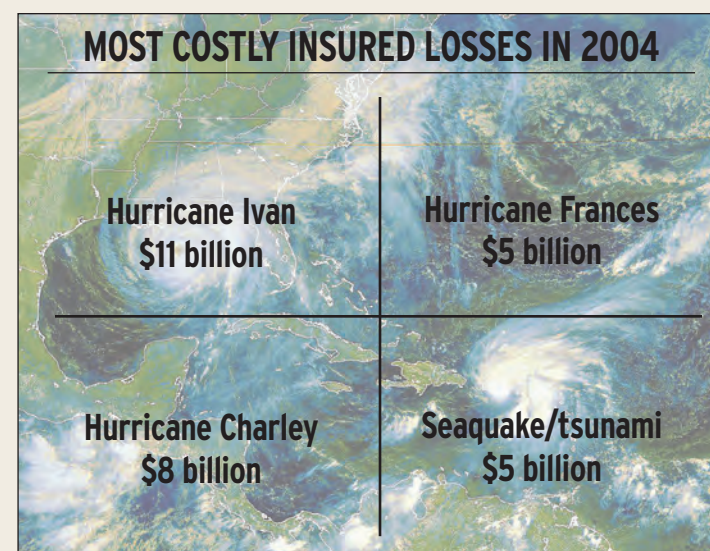
The improvement in surplus "is due primarily to the successful implementation of policy buybacks, novations and other surplus-enhancing initiatives contained in our runoff plan," a Kemper spokeswoman said.

Its current surplus consists of \$171.4 million from Kemper unit Lumbermens Mutual Casualty Co., with the \$10.4 million balance posted by American Manufacturers Mutual Insurance Co., according to Kemper's recent financial reports.

Kemper's year-end 2003 surplus was \$212.4 million.

Kemper's year-end 2004 gross liabilities also declined, to \$6.8 billion from \$9.2 billion in 2003, which was a 26.1% drop. "This reduction is almost entirely the result of the resolution of claims obligations, which is the goal of a solvent runoff," the spokeswoman said.

Kemper also reported \$3.8 billion in assets at year-end 2004, down 28.3% from year-end 2003.



Cat losses in 2004 hit record \$49 billion

Natural catastrophes and man-made disasters caused \$49 billion in insured property losses last year, according to a report by Swiss Reinsurance Co.

The series of hurricanes that struck the United States and the Caribbean caused about \$32 billion in insured damage, said Swiss Re. Typhoons in Japan and neighboring countries resulted in an additional \$6 billion in insured property damage, said the reinsurer in "Natural Catastrophes and Man-made Disasters in 2004: More than 300,000 Fatalities, Record Insured Losses."

Swiss Re cited both the unusually large number of storms—13 hurricanes in the United States and 10 typhoons in Japan—as well as the increasing concentration of insured property in vulnerable coastal areas as reasons for the record losses.

Total economic losses from the more than 300 events in 2004 identified by Swiss Re totaled \$123 billion.

Most of the 300,000 fatalities arose from the Dec. 26 Indian Ocean tsunami.

—By Mark A. Hofmann

Errors and omissions

• A story in the Feb. 28 issue, "Companies Fight Tobacco Use to Lower Health Care Costs," incorrectly stated that Workplace Fairness is based in Kansas City, Mo. The company is based in San Francisco.

Pension rules face tough fight

Legislator says PBGC funding proposal is a 'nonstarter'

WASHINGTON—Congressional pension leaders warned last week that legislation proposed by the Bush administration to stiffen pension-funding rules could face rough

sledding on Capitol Hill.

Rep. George Miller, D-Calif., ranking minority member on the House Education and the Workforce Committee, described the administration proposal as a "nonstarter" and more "likely to do more harm than good." Reforms are needed to encourage employers to retain their defined benefit plans, "not push them out," Rep. Miller said last week at a committee hearing on the proposal.

The administration package would, among other changes, significantly raise premiums that employers pay the Pension Benefit Guaranty Corp., as well as eliminate loopholes that have allowed employers to significantly underfund their plans, exposing the PBGC to big losses.

Committee Chairman John Boehner, R-Ohio,

while supportive of the administration's proposal, warned of the difficulty of passing a reform package.

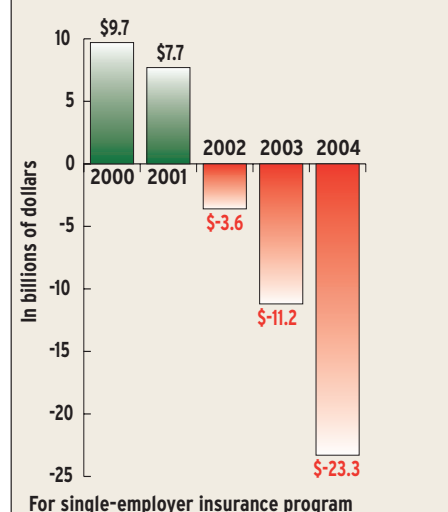
"I have no illusions about the kind of effort this project will require," Rep. Boehner said, noting that a noncontroversial stop-gap measure Congress passed last year to temporarily change the interest rate used to value pension plan liabilities required six months of tough negotiations.

At a Senate Finance Committee hearing earlier in the week, committee Chairman Charles Grassley, R-Iowa, in responding to employer complaints about the package, blamed, at least in part, employers and unions for the PBGC's financial problems.

Many employers, especially those in older industries, have overpromised or underfunded and, with the collaboration of unions, "act as if their obligations to their workers are the taxpayers' responsibility," he said.

—By Jerry Geisel

PBGC goes from surplus... to deficit



New York measure targets broker pay

By RUPAL PAREKH

ALBANY, N.Y.—A New York state lawmaker, prompted by Attorney General Eliot Spitzer's probes into insurance business practices, has introduced a legislative package of reforms targeting agent and broker compensation disclosure.

Submitted in Albany, N.Y., last week by Assemblyman Ryan Scott Karben, D-Rockland County, the reform proposal is the first of its kind in the state following Mr. Spitzer's charges of insurance industry steering and bid rigging, according to the lawmaker.

"This reform package became necessary when some members of the insurance industry got too greedy and embarked on a money-making scheme at the expense of the public by pulling the wool over the eyes of state regulators and fleecing unsuspecting customers," Assemblyman Karben said in a statement.

If adopted, the package of four bills would, among other things, legally obligate New York agents and brokers to avoid any conflicts of interest, self-dealing and excessive compensation.

While performance-based incentive or profit-sharing compensation arrangements would continue to be permitted between insurers and agents and/or brokers in New York

state, the proposed law mandates that any such arrangements be reported annually to the New York State Insurance Department.

In addition, New York agents and brokers would be required to disclose to all clients and potential clients the nature of all compensation—and the method whereby the compensation is calculated—using a form designed and distributed by the state insurance department. Agents and brokers earning only an annual salary from an employer, however, would be exempt from the disclosure requirement.

Under the reform package, New York agents and brokers also would be expected to exercise "reasonable care" in obtaining the best terms possible for their clients, though they would not be held responsible if a client failed to accept those terms.

According to a spokesman for Assemblyman Karben, the model regulation on producer disclosure developed in December by the Kansas City, Mo.-based National Association of Insurance Commissioners was one of several different sources used to create Assemblyman Karben's proposed bills.

Other states, including Arkansas and California, also are considering similar insurance industry reform measures.

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401K: Roth accounts to debut next year

Continued from page 3
percentage points.

The proposed rules also make clear that, before a contribution is made, the employee has to designate whether it is for the Roth portion of the plan or for the traditional 401(k) plan.

An employee can decide how much of his or her contribution will go into the Roth 401(k) and how much into the traditional 401(k) plan. Any combination is allowed, so long as the total contribution doesn't exceed the overall 401(k) contribution limit, which next year will be \$15,000.

Before that can happen, though, employers will have to amend their existing 401(k) plans to allow Roth 401(k) contributions, which experts say eventually will become near-universal.

"There is definitely employer interest in this," said Valerie Kupferschmidt, a consultant with Hewitt Associates Inc. in Lincolnshire, Ill.

Indeed, as Michael Weddell, a consultant in the Southfield, Mich., office of Watson Wyatt Worldwide, put it: adding a Roth 401(k) plan is a "no-brainer. Here is something that will enhance the plan, and it isn't going to cost an employer any money."

Because of that, "it seems to me that every employer will want to offer it," said Fred Rumack, director of tax and legal services for Mellon's Human Resources & Investor Solutions in New York.

Employers say they certainly will feel pressure from employees to offer the plans, especially when employees learn more about the plans as the effective date for Roth 401(k) plans nears.

"From an employee-relations point of view," companies will have to offer the plans, said Nina Falci, senior benefit analyst in Gainesville, Va., with Aerojet, a unit of GenCorp Inc.

For younger employees, Roth 401(k) plans could be even more financially attractive than traditional 401(k) plans. That is because contributions could generate investment income for decades and then be withdrawn tax-free, unlike the case in a traditional 401(k) plan.

With the proposed rules out, 401(k) plan recordkeepers soon will be gearing up their systems to handle Roth contributions, said Marge Martin, a vp with Aon Consulting in Somerset, N.J. This is something vendors should be able to handle quite easily, she added.

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Editorial

Changes shouldn't increase costs

AFTER MONTHS OF speculation about how Marsh Inc. will adjust its compensation arrangements to eliminate any of the actual or perceived conflicts and abuses highlighted in New York Attorney General Eliot Spitzer's lawsuit against the brokerage, risk managers got a good glimpse of the broker's plans last week.

As we report on page 1, Marsh reiterated that it will no longer accept contingent commissions, but also said that it intends to make up for that lost revenue by increasing other commissions and jettisoning business that it deems unprofitable absent an insurer's contingent com-

mission payment.

The brokerage said it now will have a fixed rate card for commissions and also made clear that it will charge what it considers a "fair" commission for its services.

While it is too soon to see just how the new business plan will play out for risk managers—who knows, for example, how Marsh's service capabilities will be affected by the thousands of layoffs it has announced—it does seem that Marsh is ready to compete for business with all of its cards on the table. Other brokers that have forsaken contingent commissions may not follow Marsh's example exactly, but we

hope that whatever they do, it will involve laying out to their clients exactly how they are being paid.

If that happens, risk managers should be able to choose their service providers based on a true assessment of what they get for their money, rather than on the smoke-and-mirrors approach to disclosure that apparently dogged at least certain sections of the commercial insurance business.

That, however, is not the only problem that needs to be solved. Now that brokers are reforming their systems, insurers must make clear to their clients that they are charging a fair rate for coverage.

As insurers no longer will be paying contingent commissions, they presumably will not have to charge as high a premium for the coverage they provide. Indeed, according to Mr. Spitzer's suit, some insurers previously charged higher premiums for business placed by Marsh to recoup the money they paid in contingent commissions.

If risk managers are to face higher costs from their brokers for the kind of good-faith service they should have been receiving all along, insurers, some of which played along with the bid-rigging and client-steering game, should ensure that the net increase in costs is zero.

States lead on asbestos

AS EFFORTS TO craft a national response to the asbestos litigation mess continue to hit roadblocks, liability reform advocates can take heart from some recent developments at the state level.

As we recently reported, lawmakers in Texas and Florida have introduced legislation that would require claimants alleging asbestos-related injury to meet certain medical criteria before their cases could proceed. Last year, Ohio became the first state to adopt such a system for handling asbestos claims, although numerous local judicial jurisdictions have also implemented inactive dockets for asbestos. Inactive dockets deny no one a day in court, but they require that the court defer hearing a case until the plaintiff manifests an asbestos-related impairment. Even the circuit courts in Illinois' Madison and St. Clair counties—two jurisdictions branded "judicial hellholes" by the American Tort Reform Assn.—have instituted inactive dockets to manage asbestos litigation.

These developments are most welcome. One of the biggest problems with the current way most asbestos litigation is handled is that the sick and the unimpaired enjoy the same standing. Every dollar that goes to someone who is not ill, but fears becoming ill, is a dollar denied to a more deserving claimant. The system is both expensive

and unfair, and any effort to restore some sanity to it is most welcome.

What's happening at the state and local level stands in contrast to the situation on Capitol Hill. Senate Judiciary Chairman Arlen Specter, R-Pa., is pressing forward with legislation that would create a national no-fault trust fund to compensate victims of asbestos-related disease.

But Sen. Specter is finding himself caught in a game of political Whack-a-Mole. Changes to the draft bill designed to address the concerns of one interest group end up causing other interest groups to raise complaints. Attempts to make some Democrats more comfortable with the approach have made some Republicans less comfortable. In fact, the senator canceled a hearing on the bill scheduled for last Thursday so he could meet with fellow GOP committee members to hear their concerns.

The trust fund approach is complicated, and despite Sen. Specter's best efforts, swift agreement on how such a fund would function appears unlikely. While we would prefer a national solution to the asbestos crisis, the emerging state approaches represent an acceptable alternative. They may not be perfect, but the severity of the asbestos litigation mess is such that this is no time to allow the perfect to be the enemy of the good.

Schillerstrom



Letters to the Editor

Commissioner should reject Brandywine sale

To the editor: Just say no. That's what the Commonwealth of Pennsylvania should say to ACE/Brandywine with regard to ACE Ltd.'s recent request to sell three of its subsidiaries to Randall & Quilter Investment Holdings Ltd., as reported by *Business Insurance* on Jan.10.

Recently, ACE announced its desire to sell ACE American Reinsurance Co., Brandywine Reinsurance Co. S.A.-N.V. and Brandywine Reinsurance Co. (UK) Ltd. to Randall & Quilter, a small London-based runoff specialist. This proposal should cause all long-tail policyholders and cedents to take notice. Once they are sold, ACE will no longer have any legal or moral obligation to continue to add to the reserves of those companies if asbestos and environmental claims develop as adversely as they have in the past.

On Feb. 16, Allstate Insurance Co., together with American International Group Inc., Chubb Corp. and St. Paul Travelers Cos. Inc., sent an 18-page letter to the Pennsylvania Insurance Department setting out why the department should not approve the sale (*BI*, Feb. 21). The letter outlines our concerns, including, among others, the department's lack of influence over Randall & Quilter, the purchaser's ability and willingness to support its subsidiaries and the bad precedent that may be set should the transaction receive the department's blessing.

In this proposed sale, the affected policyholders are the cedents of these three ACE-owned reinsurance subsidiaries. Even though the proposed sale is just one transaction, any approval by the department of this sale could set an unfortunate road map for further sale transactions. And such future transactions may affect not only ceding companies but also policyholders.

The Pennsylvania Insurance Department has declared a 45-day public comment period, so that any

See **LETTERS**/page 31

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Match treatment to your health care cost ills

By Linda Riddell

Imagine calling your doctor to say, "I'm not feeling well, but I don't have time to come be diagnosed. Can you tell me what everyone else is using to get better? I'm sure that will work."

As ridiculous as that sounds, employers do this every time a new cure for high health care costs hits the streets. Throwing solutions at the problem without studying your own group's health costs is like prescribing an ice pack for a stomach ache. If the treatment does not match the disease, it will not work.

Each employer's group is unique. Within a single company's work force, the majority of people will have the same level of education, earn a narrow range of salaries, live in similar neighborhoods, have



children clustered in the same school grades and probably prefer the same leisure activities. They will also have similar health habits, illnesses and treatment preferences.

Each group has a health "personality" that can be traced through its demographics, its illnesses and its health benefit plan. This personality shows itself in how employees use the health benefit plan, what illnesses they present at the physician's office or hospital and how and why they choose certain medical services.

Because every group is slightly

different, the one-size-fits-all cost containment strategies either fail miserably or are irrelevant. Wellness programs from insurers are for their entire covered populations and their costs. These efforts may or may not be relevant to any one employer.

For example, look at a work force with an average age of 35 and average length of employment of three years. Disease management and smoking cessation programs would have little, if any, effect on this group's health care costs. Why? Employees leave the benefit plan before they age enough to develop

chronic illnesses. And even if a number of employees smoke, lung cancer and emphysema will not appear in their medical costs.

An employer whose work force is young and transient will have medical costs driven by shorter-term events, such as leisure time accidents and pregnancies. Neither of these cost drivers is related to obesity, smoking or diet—all popular focal points for most wellness programs.

So while it is true that obesity and smoking are expensive health hazards, not all groups have those problems. Programs that assume all employers are "average" do a great disservice. Employees are showered with irrelevant health education and employers' costs continue unabated.

In order to trace your health care costs to their source, find out as much as you can about what illnesses your plan is paying for. This information is neither sensitive nor confidential, as patient-level data is. Insurers typically generate reports on Major Diagnostic Categories for even midsize clients. If you do not understand the MDC's lingo, have the insurer or third-party administrator explain it to you.

Simply knowing your top three diagnosis types may turn some lights on. You may learn that your group's cost drivers do not match your insurer's wellness program. One of our clients was surprised to learn that off-the-job accidents were taking 12 cents out of every health benefit dollar spent. Looking at the types of injuries—frostbite, traumatic amputations of fingers and toes, bone fractures—we could almost guess what sports were popular. With this knowledge in hand, the client can schedule health promotion activities and giveaways (hand warmers, anyone?) that will help employees avoid injury.

You might also find that something about the workplace is making your health costs higher. For example, if employees punch a time clock, they may prefer the emergency room for their care so that they do not miss work time. A policy to allow employees time to attend medical appointments during their workday would decrease your plan's emergency room visits.

Even a minor workplace quirk can cost big money. We discovered that one of our clients had six-figure expenses for chronic sore throats. Their employees were customer service reps on the telephone for eight-hour shifts. The solution was to structure breaks for their employees and put in more water coolers. This simple measure will have more impact for this client than the world's best stop-smoking program ever would.

After you know your health cost drivers, you can look intelligently for practical solutions. Your treatment will then match your health care cost ills. And you won't wake up tomorrow wondering what the ice pack was for.

Linda Riddell is principal of Health Economy L.L.C. in Cape Elizabeth, Maine.



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Spotlight editor: Gavin Souter



Commercial market softening no damper to captive growth

By JERRY GEISEL

The captive insurance market continues to boom. As was the case in 2003, several major domiciles, including the Cayman Islands, Hawaii and South Carolina licensed either a record or near-record number of captives last year. Smaller domiciles, especially those in the United States, also enjoyed heady growth with, for example, the number of captives doubling in Arizona, the District of Columbia and Nevada. While conditions generally are improving in the traditional market, several problem lines—notably property and professional liability for health care providers—are playing a significant role in fueling captive growth. For example, Hawaii captive managers say the steep rise in medical malpractice insurance premiums are leading providers to form captives there, while in Vermont, the largest

domestic domicile with 524 captives at year-end 2004, state captive regulators say they saw more property coverages placed in new captives than at any time in the past decade. With nearly 4,000 captives worldwide, some experts have speculated whether the captive market is approaching the saturation point. Clearly, though, there is room for a lot more growth. In Vermont alone, such well-known companies as Wal-Mart Stores Inc., Best Buy Co. Inc., Textron Inc. and Whirlpool Corp. all formed captives, though not all for the first time, last year. With the captive market continuing to grow, domiciles are taking a variety of steps to try to get a piece of the action. For example, Utah, which has just two captives, recently passed legislation to eliminate captive premium taxes, which it hopes will make it more competitive—from a cost point of view—with other domiciles that do not tax captive premiums, most notably neighboring Arizona. Meanwhile, Bermuda, which is the world's

largest domicile but has seen captive formation slow in recent years, is trying to get the word out to hospital risk managers that the island is an attractive place to establish health care captives, which is a market that the Cayman Islands long has dominated. But some much-promoted uses of captives have yet to take off in a big way. For years, captive managers have been predicting that captive owners would be expanding their facilities to cover employee benefit risks. While such an expansion is occurring, it is modest. The Labor Department, which, in the case of employee benefit programs covering U.S. workers, must approve such arrangements, received only four applications last year, though all four were from very large employers. The slow growth in the captive benefit funding arena is because companies are taking the time to evaluate whether it makes sense, said Nancy Gray, executive director at Aon Insurance Managers (USA) Inc. in Burlington, Vt.

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The full directory of Captive Managers is available online, in the Directories area of www.businessinsurance.com. The searchable directory allows registered subscribers to find information on consultants by using various search criteria. PDF copies of this and other BI directories can be purchased by e-mailing the Crain Information Center at biorder@crain.com

Counting Captives

Domicile	2004	2003
Bermuda	1,150*	1,150*
Cayman Islands	694	644
Vermont	524	507
Guernsey	410	383
British Virgin Islands	350	307
Barbados	257	248*
Luxembourg	219*	216*
Dublin	214	205
Isle of Man	175	173
Turks & Caicos	164**	159**
Hawaii	147	122

Domicile	2004	2003
South Carolina	114	67
Singapore	57	49
Switzerland	50	34
District of Columbia	40	20
Arizona	39	18
Nevada	38	19
New York	28	18
Labuan	21*	21
Bahamas	19	18
Netherlands Antilles	18	19
Georgia	14	16

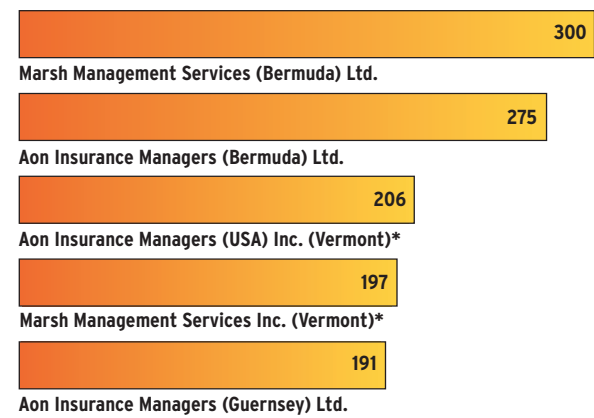
Domicile	2004	2003
Mauritius	13	13
Jersey	13	15
British Columbia	13	12
Gibraltar	12	12
Montana	10	9
Colorado	10	11
U.S. Virgin Islands	7	7
Tennessee	4	4
Panama	3	8
Illinois	3	3
Delaware	3	3

Domicile	2004	2003
Utah	2	2
Hong Kong	2	2
Guam	2	1
South Dakota	1	1
Malta	1	1*
Kansas	1	NA
Arkansas	1	1
Maine	0	0
Rhode Island	0	1
Oklahoma	0	NA

*BI estimate ** Excludes credit life insurers
Source: BI survey

LARGEST MANAGERS BY DOMICILE

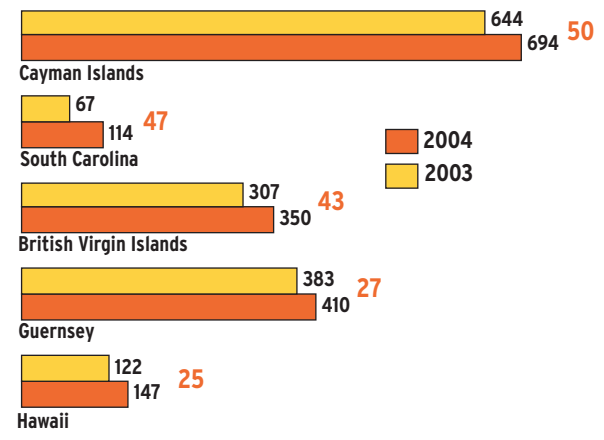
Operations ranked by number of captives managed at year-end 2004



* Includes captives from multiple domiciles
Source: BI survey

LARGEST GAINS BY DOMICILE

Ranked by net increase in captives from year-end 2003



Source: BI survey

LARGEST PROTECTED CELL MANAGERS

Ranked by number of companies managed



Source: BI survey

Largest captive managers worldwide

Ranked by captives managed worldwide in 2004

Rank	Company/Address	Phone/Fax/Web site	Parent	Captives 2004	Captives 2003	Domiciles	Captives formed in 2004	Total Staff	Principal Officer
1	Aon Captive Services Group 38/39 Fitzwilliam Square, Dublin, 2, Ireland	353-1-676-2911 Fax: 353-1-696-2744 www.aoncaptives.com	Aon Corp	1,267	1,230	26	94	444	Stephen Cross, CEO
2	Marsh-Captive Management Services P.O. Box HM 1826, Hamilton, HM HX, Bermuda	441-292-4402 Fax: 441-297-9780 www.marsh.com	Marsh & McLennan Cos. Inc.	1,097	1,041	29	112	436	Andrew D. Carr, chairman-captive management practice
3	Willis Management 1 Lawson Lane, Suite 410, Burlington, Vt. 05401	802-658-9466 Fax: 802-658-5520 www.williscaptives.com	Willis Group Holdings Ltd.	241	227	14	24	120	Guy F. Ragosta, CEO-Willis Actuarial Pooling Solutions
4	International Advisory Services Ltd. 44 Church St., Hamilton, HM 12, Bermuda	441-295-3688 Fax: 441-295-2584 www.ias.bm	-	179	254	2	6	96	David Ezekiel, president/managing director
5	HSBC Insurance Management 8 Canada Square, Level 22, London, E14 SHQ, England	44-207-991-0270 Fax: 44-207-992-4613 www.hsbc.com	HSBC Holdings P.L.C.	113	112	3	21	39	Peter Walker, chief executive
6	JLT Risk Solutions P.O. Box 1838, Hamilton, HM HX, Bermuda	441-292-4364 Fax: 441-295-3982 www.jltgroup.com	Jardine Lloyd Thompson Group P.L.C.	109	91	4	19	42	Paul Bailie, deputy chairman
7	USA Risk Group P.O. Box 306, Montpelier, Vt. 05601	800-872-7475 Fax: 802-229-6280 www.usarisk.com	-	99	68	6	15	32	Andrew Sargeant, president
8	AIG Insurance Management Services 175 Water St., New York, N.Y. 10038	212-458-3451 Fax: 212-458-3434 www.aiggrm.com	American International Group Inc.	87	94	10	10	49	Paul Obolensky, president
8	Beecher Carlson Holdings Inc. Glenridge Highlands Two, 5565 Glenridge Connector, Suite 450, Atlanta, Ga. 30342	404-460-1400 Fax: 404-460-1435 www.beechercarlson.com	-	87	52	9	10	37	Tom Golub, CEO
10	Global Captive Management Ltd. ¹ Genesis Building, 13 Genesis Close, Fifth Floor, P.O. Box 1363 GT, Grand Cayman, Cayman Islands, B.W.I.	345-949-7966 Fax: 345-949-8068	-	73	70	1	5	16	Peter MacKay, chairman/CEO

¹ Formerly IAS (Cayman) Ltd.
Source: BI survey

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Onshore attractions help keep some owners at home

By MICHAEL BRADFORD

The rise of domiciles in the United States has given captive owners a lot of reasons to stay home.

As the number of states allowing captives has increased, owners no longer reflexively look to Bermuda, Cayman or other offshore locales. Some U.S. domiciles, Vermont and South Carolina among the most notable, have experienced steady growth in the number of captives by offering the same quality of regulatory and infrastructure services as the old hands offshore, but with the added convenience of easier accessibility for many owners.

Offshore managers, particularly those in Bermuda, are taking notice.

Captive activity in Bermuda has slowed in recent years, and managers there say that is largely because of competition from the profusion of U.S. domiciles. New insurer incorporations, most of them captives, fell in Bermuda last year to 77 from 89 the previous year.

"We have a lot more competition nowadays," said Rory Gorman, managing director with Marsh Management Services (Bermuda) Ltd., referring to Bermuda as a captive domicile. "The marketplace is a lot more fragmented," he added, with approximately 20 U.S. domiciles vying for captive business.

"We're fighting for every client we can," Mr. Gorman said.

Captive clients considering onshore domiciles usually find that the "incidental costs" such as fees for management, administration, audits and other such services are "pretty much a wash" when compared to the costs in Bermuda, said Mr. Gorman. But many have "a desire to be in a U.S. state, to begin with," he noted. "And with more and more states having captive legislation, often the solution is right on their doorstep."

Bermuda has fought some image problems in recent years, which may have scared some captive sponsors away.

Comments by Democratic presidential candidate Sen. John Kerry, D-Mass., in last year's campaign gave the word "offshore" a negative connotation and linked it with Bermuda, creating "some unwanted, adverse publicity," noted Mr.

Gorman. "But I think we're over that now," he said.

Some U.S.-based managers contend, though, that such bad publicity does influence some captive owners.

"The offshore stigma is a real issue," said Gary Osborne, the Montpelier, Vt.-based president of USA Risk Group, the holding company for several captive management companies, including some in offshore domiciles. Sen. Kerry's comments and other negative publicity have made some people reluctant to be seen doing business offshore, Mr. Osborne said.

Robert L. Johnson, senior vp with Marsh Management Services Inc. in Charleston, S.C., agreed that the stigma associated with offshore business centers makes some people "uncomfortable" because locating there is not seen as "politically correct."

Mr. Johnson said, though, that offshore markets "are not struggling," and some U.S. companies still favor them.

Convenience, in many cases, wins out when it's time to select a domicile.

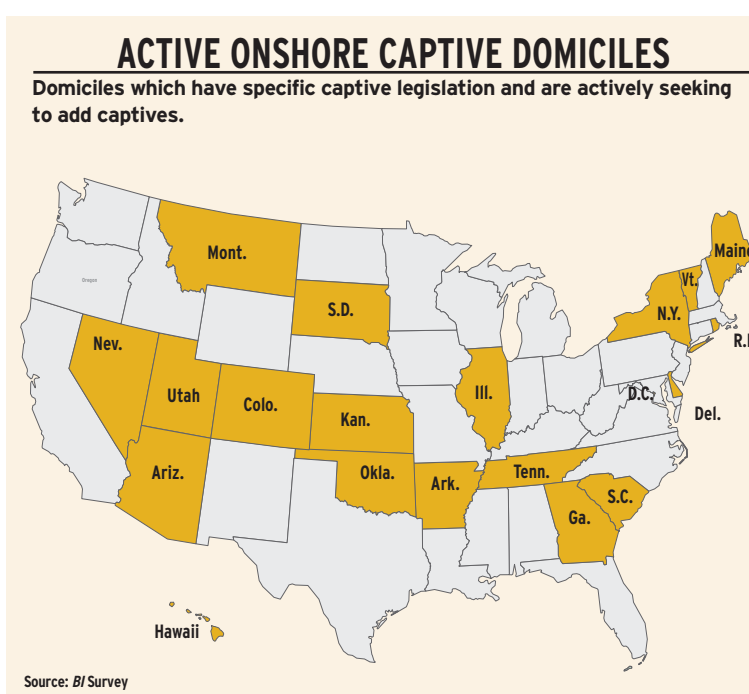
"It used to be advantageous to go offshore for tax purposes, but not now," said Elizabeth Steinman, New York-based first vp of HSBC Insurance Management.

Clients now choose domiciles based more on the type of captive they are forming, the regulatory environment of the domicile and how comfortable they feel operating there, she said. All things being equal, geography wins out, Ms. Steinman remarked. "These are pretty senior executives, and their time is very valuable," she said.

Bill West, chief financial officer for builder Dunmore Homes L.L.C. in Roseville, Calif., said he chose to go to Hawaii rather than Bermuda to set up a general liability captive because it is much easier to reach the U.S. domicile. "Nothing we saw told us that we wanted to go completely across the country to set this up, as opposed to going to Hawaii."

Taxes, fees and regulatory issues do not determine where clients will go, said Jason Palmer, managing director for Willis Management (Hawaii) Ltd. in Honolulu.

"The cost of doing business is almost the same, so it really isn't an



issue. It's what fits best for the client or prospect in the location that we would recommend," Mr. Palmer said.

The travel issue is not as simple as which domicile is closest, though. Going to Bermuda can accomplish more than just dealing with captive operations, Mr. Gorman pointed out.

"When all things are equal or close to equal," Bermuda has an advantage in many cases over its onshore competitors, Mr. Gorman said. "We are sitting in the middle of one of the biggest insurance and reinsurance markets in the world," he said.

Many clients are in Bermuda "renewing their policies, anyway, with the markets here," he said, so "it makes travel sense" to situate the captive in Bermuda rather than in a U.S. domicile in which the parent does not operate and has no other reason to visit. "So I think we benefit from that," he said.

Mr. Palmer agreed that a captive sponsor often chooses an offshore domicile because it has an established relationship there, whether it is, for example, to buy reinsurance in Bermuda or even to vacation in Cayman.

David Hennes, director of risk management at The Toro Co. in Minneapolis, said that the ability to conduct other insurance business in Bermuda, as well as the domicile's

experience with captives, helped sway the manufacturer of outdoor products toward the island rather than to Vermont.

"But it was close," Mr. Hennes acknowledged.

Toro established Red Iron Insurance Ltd. in 2001 to write warranty coverages and deductible buybacks for some of the company's self-insurance programs, Mr. Hennes said. Toro chose Bermuda because "we had been comfortable with the environment in Bermuda," having dealt with XL Capital Ltd. and having held meetings annually with the insurer, he noted.

"We've been happy with the business environment in Bermuda," said Mr. Hennes. "They've been doing captives for a long time, and their longevity won us over vs. Vermont."

Fairview Health Systems in Minneapolis has owned a Bermuda captive since 1975 to cover its medical malpractice, general liability and corporate automobile risks for seven hospitals, 300 physicians and 30 clinics, according to Michael Seitz, vp for risk management services.

Moving the captive onshore, or to Cayman, a domicile with a reputation for hosting health care captives, would not be worth the expense or the loss of relationships, Mr. Seitz said. "We have an established team in Bermuda. We feel

that we have a good local relationship, and if we were going to move it, we would just have to re-establish everything," he said.

"I don't think there's any financial incentive" to move the captive, Mr. Seitz said, because uprooting it would be too expensive.

Mr. Osborne of USA Risk Group said offshore companies moving to the United States could incur more expenses. It may be easier to form a new company onshore than to re-domesticate an offshore operation, he said.

Some captives, though, are considering making the move from offshore domiciles.

John O'Brien, Charleston, S.C.-based chief executive officer of Charleston Captive Management Co., said he has seen "a great deal of interest" among offshore companies that want to relocate in the states. The captives, one of which writes hospital-related risks for large universities, want to move partly because of the perceived negativity of being offshore.

Setting up in the United States is not the solution for every captive, experts acknowledge.

Mr. Osborne said that locating offshore could be best for companies "when there's still a problematic structure to do onshore." That problem could be a captive structure not suited to an onshore domicile or one that would find the capital and collateral requirements of an offshore location more suitable, he explained.

But, he added, "our company tends to tell people, 'We'll start you onshore unless you tell us what you're doing is going to be problematic here.'"

Guy F. Ragosta, regional executive officer with Willis Management (Vermont) Ltd. in Burlington, Vt., said that, with "the whole corporate governance issue, I don't think we see as much business going offshore as we used to, unless there's international risk."

Non-U.S.-owned companies that have U.S. interests will continue to view Bermuda as an attractive domicile, Mr. Ragosta predicted. "But if you're the CFO of a U.S. company and you have to sit in front of your board, it's hard to go down there if you have options like Vermont, South Carolina, Arizona," Mr. Ragosta said.

Captive formations slow in world's largest domicile

Competition from other domiciles, affordable traditional coverage cited

By MICHAEL BRADFORD

HAMILTON, Bermuda—The largest captive domicile in the world is not—when it comes to new formations—the busiest.

Captive insurance company formations in Bermuda are little changed from a year ago, and there is not much to indicate that a boom is coming any time soon. Competition from other domiciles is a big reason activity in the world's largest

captive center has slowed, along with a traditional market that continues to offer affordable coverage in many lines.

The number of captives that call Bermuda home has leveled off in recent years. *Business Insurance* estimates the count at around 1,150, unchanged from 2003, based on figures provided by the Bermuda Monetary Authority. Of the 77 insurer incorporations in Bermuda



last year, approximately 52 were captives.

The monetary authority could not say how many captives were removed from the rolls in 2004, but the total number of Bermuda captives has fluctuated little in recent years, holding between 1,100 and 1,200, said Jeremy Cox, supervisor of insurance with the BMA.

The 77 insurers that formed in Bermuda in 2004, which includes companies other than captives, were fewer than the 89 that set up

shop there in 2003.

Managers' assessments of their individual operations in 2004 in many ways mirrored the experience for the domicile as a whole.

"It was relatively quiet," said Tony Bibbings, senior vp at Beecher Carlson Management. "Surprisingly, there were fewer new captives than expected and certainly fewer opportunities than expected."

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Bermuda: Captive formations slow in top domicile

Continued from page 14

"I don't think there were that many in the marketplace last year," Mr. Bibbings said of potential captive formations. "And I think that bears out with the total formations in Bermuda, which was slightly less than in previous years."

Captive formations, though, don't tell the whole story for captive managers, who continue to grow their operations despite fewer new clients. Many have seen the captives they manage take on much more risk, with captive sponsors funneling more premiums into the facilities as a result.

Captive sponsors moving the facilities from one manager to another also meant client gains for some managers despite a cool market overall.

Beecher Carlson was among the managers that saw premium volume under management rise significantly, reaching \$1.7 billion in 2004, generated by 25 captives. That compares with \$545 million from the same number of captive insurers in 2003. The huge increase is primarily from one large single-parent captive that joined the rolls of those managed by Beecher Carlson.

Other managers saw similar changes last year.

The island's largest captive manager, Marsh Management Services (Bermuda) Ltd., saw premium volume under management last year jump to \$7.4 billion, generated by 300 captives. That is a big increase from 2003, when the 319 captives it managed produced \$5.9 billion in premium volume.

Aon Insurance Managers (Bermuda) Ltd. managed 275 captives, generating \$5.6 billion in premiums in 2004, a rise from \$3.6 billion generated by 274 clients in 2003.

While big moves in captive premium volume can signal an increase in the number of companies under management or growth by existing captives, smaller changes in that volume do not necessarily mean a manager had a bad year.

JLT Risk Solutions Management (Bermuda) Ltd. ended the year with \$1.03 billion in premiums under management, up \$21 million from 2003. Its captive count rose by two, to 45. "We had a pretty good year," said Paul Bailie, a partner with JLT. "Our growth was not as large as the year before, but we still grew significantly."

International Advisory Services Ltd. saw a dip in its captive count, but David Ezekiel, president of the management company, said last year was nonetheless a good one for IAS.

"In terms of numbers, it was not a gangbuster year," said Mr. Ezekiel. IAS' 169 captives under management in Bermuda produced \$2.67

The Bermuda captive community has been affected by the 'continued success of the onshore domiciles'

*Philip A. Barnes,
Aon Insurance Managers
(Bermuda) Ltd.*

billion in premiums, down from \$2.75 billion produced by 167 companies in 2003. Last year, the company was "kept very busy looking after what we had" and adding six new clients to the IAS roster, he said.

Captive managers say a more stable traditional market is affecting captive interest in Bermuda.

"It's not so much a softening as a lack of hardening" that is affecting the captive market, said David Pickering, executive vp at IAS. Insurance rates are up in many lines in the traditional market, he explained, but not nearly to the extent they have been in previous market cycles that drove many businesses to form captives.

Although some professional liability captives that were dormant have begun to write coverage, Mr. Ezekiel said he expected such activity would have been greater by now. "It didn't get as hard as we thought it would," he said of the professional liability market.

Property insurance prices have softened in the traditional market, Mr. Bibbings pointed out, but "property coverage does not lend itself to captives as well as casualty. I don't think the softening had a big impact in 2004," he said.

And market changes take a while to trickle down to the captive scene, said Rory Gorman, managing direc-

tor with Marsh Management Services (Bermuda) Ltd. "There's always a lag," he said, and any impact from a current softening will take a while to "play out."

A more significant factor than market conditions, though, is competition from other domiciles, particularly those in the United States, according to captive managers.

The Bermuda captive community has been affected by the "continued success of the onshore domiciles," said Philip A. Barnes, managing director at Aon Insurance Managers (Bermuda) Ltd. "Bermuda, as an offshore domicile, has obviously suffered, and that's the reason," he said of the growing U.S. market for captives. "The choice of domiciles now is a lot more than it was 12 months ago and two years ago."

It's not the expense that is keeping U.S.-based companies at home with their captives, Mr. Barnes said. "There's very little difference in cost" whether operating a captive in the United States or Bermuda, he noted. "There may be some frictional costs like travel and things like that, but I don't think the key thing is expense," he said.

Mr. Barnes said Bermuda is suffering somewhat from what he called the "patriotism aspect," the painting of some U.S. companies as unpatriotic for leaving the country or considering leaving for a friendlier tax domicile. That, along with comments by Democratic presidential candidate John Kerry that companies should be punished for escaping high taxes by moving to Bermuda or other locations outside the United States, played a part in "diluting the attractiveness of offshore domiciles," he said.

While expense may not be a big factor, convenience does have something to do with U.S. companies keeping their captives onshore, said Brian Durrant, executive vp at Aon's Bermuda operation. "Obviously, if you're a company based in New Jersey," he explained, "it may be that South Carolina or New York is going to be more attractive to you from an access point of view. But I think there are a lot of other factors as well."

While other domiciles may be more convenient, Bermuda has many strong suits, including its high-quality infrastructure and stable regulatory environment, captive sponsors say. Those enduring strengths are credited with keeping many captives on the island and attracting many new ones.

"Bermuda has a pretty full-service business there," said Michael Seitz, vp for risk management services at Fairview Health Systems in Minneapolis. Fairview owns Associate Medical Assurance, which is managed by Aon and covers the medical malpractice, general liability and automobile liability risks of the health care company's hospitals, doctors and clinics.

"I think the challenge for Bermuda," Mr. Seitz said, "is finding good, qualified people to stay." Work visa issues and high living costs have led to problems in bringing in talent

from abroad and convincing those workers to remain, he explained.

Bermuda managers continue to report strong interest in the formation of rent-a-captives and segregated account captives. And many are looking to increase the number of health care insurers on their rolls as the domicile becomes more recognized as a home for those companies.

Liberty Mutual Management (Bermuda) Ltd. is particularly interested in the rent-a-captive and cell company market, said Peter J. Willitts, the management company's president. "We are actively pursuing that part of the market," he said.

"That was quite successful last year," Mr. Willitts said, with the formation of 32 new cells in segregated account vehicles. "Rent-a-captive business has been a major part of what Liberty Mutual's offensive has been."

"We really only fully geared up last year," he said of Liberty Mutual's Bermuda captive activities. "2004 really saw us getting off the ground in terms of Liberty getting into captives."

Liberty Mutual is off to a fast start after focusing more closely on its captive management business. With 21 captives generating more than \$1 billion in premiums, Liberty Mutual is among the largest Bermuda managers.

"We did a number of segregated cell deals last year," said Mr. Bailie of JLT. "We still see quite a lot of activity there." Most of the cells are put together by U.S.-based agencies, he noted.

Mr. Bailie and other managers pointed to a growing awareness of Bermuda as a market for health care captives.

"Bermuda is quite a strong health care market," Mr. Bailie said. "We're seeing more people placing business in the Bermuda market on that side of things or talking to us about captives in Bermuda" who previously may have considered establishing a company to write health care liability insurance in the Cayman Islands, which has long held a reputation as the domicile of choice for such captives. "That's pretty encouraging," he said.

"Bermuda has spent years trying to fight the impression that we're not a good health care market," said Mr. Bibbings of Beecher Carlson. "But I think we are."

The domicile has made an effort to tout itself as a home for health care captives, with representatives of the Bermuda market attending conferences held by the American Society for Healthcare Risk Management, Mr. Bibbings said.

And there is "support from the underwriting side as well in Bermuda," he said. "A number of the bigger markets are interested in insuring health care risks."

"Here in Bermuda, we've had some success in that area," Mr. Gorman said of the domicile's ability to attract health care captives. "In the whole of the Bermuda market, I think there's probably 100 to 120 health care captives."

LARGEST MANAGERS OF BERMUDA CAPTIVES

Ranked by gross premium volume in millions of dollars

Manager	Premium volume		Captives	
	2004	2003	2004	2003
Marsh Management Services (Bermuda) Ltd.	\$7,400.0	\$5,912.0	300	303
Aon Insurance Managers (Bermuda) Ltd.	5,560.0	3,576.8	275	274
International Advisory Services Ltd.	2,672.0	2,750.0	169	167
Beecher Carlson Management Ltd.	1,673.0	545.0	25	25
JLT Risk Solutions Management (Bermuda) Ltd.	1,030.3	1,019.4	45	43
Liberty Mutual Management (Bermuda) Ltd.	1,000.0	1,000.0	21	16
HSBC Insurance Solutions (Bermuda) Ltd.	800.0	425.0	21	22
Cedar Management Ltd.¹	660.6	652.0	11	12
Quest Management Services Ltd.	420.0	400.0	71	65
Independent Management Ltd.	356.8	133.2	35	35

¹ Formerly CNA Risk Services Ltd.
Source: BI survey

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March 7, 2005

Spotlight

Business Insurance / 17

Caymans hold it together amid Ivan's high winds

By DOUGLAS McLEOD

GEORGETOWN, Grand Cayman—The damage from last September's Hurricane Ivan is still visible in many parts of the Cayman Islands' Georgetown financial center. It is not visible, though, in the performance of the domicile's captive insurance industry.

Despite a battering from Ivan's 160-mile-per-hour winds, Cayman captive managers and regulators continued working with barely a pause after the storm, either in Georgetown or from offices in other locations from Montreal to Bermuda.

Cayman regulators granted 19 new captive insurance licenses in December alone and 76 for the full year, bringing the total of active captive insurers to 694 at year-end 2004, a net gain of 7.7% over 2003, according to Mary Lou Gallegos, head of the insurance supervision division of the Cayman Islands Monetary Authority.

"We surpassed our own expecta-



tions," Ms. Gallegos said of the growth, which has slowed in the last two years but which—in a tight commercial insurance market—continued to be well above the domicile's norm of about 45 new licenses a year.

"We think our companies did a magnificent job" of coping with Ivan, moving operations temporarily off-island where necessary to continue service, she added. "It was really seamless."

That's not to say it was easy.

A Category Five hurricane when it hit Grand Cayman, Ivan caused property damage and other economic losses of \$3.4 billion on the island, a much higher dollar impact than other Caribbean nations sustained, according to a study by the United Nations' Economic Commission for Latin America and the Caribbean.

On much of the island, the storm destroyed housing, knocked down telephone, power and lighting poles and flattened or uprooted trees and other vegetation, stripping them of their leaves.

In the Georgetown area, gusts blew in office windows and tore off sections of roof, while a storm surge sent seawater flooding through some buildings' ground floors.

Many companies last month were still rebuilding their spaces, replacing walls, carpeting and furniture soaked by torrential rains and flooding.

Global Captive Management Ltd., located on the top floor of a five-story building, saw one side of its office "trashed" as Ivan blew in part of the building's roof, said Peter MacKay, the manager's chairman. Of 16 cars owned by GCM employees, three survived, he said, adding that the storm also blew off

the roof of his own house.

None of the four employees of independent Fair Winds Captive Management (Cayman) Ltd. had been able to return to their homes as of last month, said John Pitcairn, the manager's president. The hurricane's damage to his own and his co-workers' houses meant "occasional 24-hour service" at Fair Winds' offices, he joked. For 10 weeks after the storm, those offices moved to undamaged space in a nearby bank building.

"Business is back to normal, but employees are not back to normal and will not be for some time to

come," said Seamus Tivnan, managing director of Marsh Captive Management Services (Cayman) Ltd.

Most large managers readied themselves for the storm, though, moving workers and electronic files to other locations. Marsh and Willis Management (Cayman) Ltd. moved employees to Bermuda affiliates; Aon Insurance Managers (Cayman) Ltd. to Montreal; GCM to Toronto; and independent Kensington Management Group Ltd. to Chicago.

After Ivan passed, Cayman authorities focused on restoring power and water first to the hospital and airport and then to the Georgetown

financial center. Most managers report having utility service back and their offices up and running within a week to 10 days after the hurricane.

"There was very minimal interruption of business," said Paul Macey, partner and insurance manager with JLT Risk Solutions (Cayman) Ltd.

Some, meanwhile, escaped relatively unscathed.

The building housing HSBC Financial Services (Cayman) Ltd. sustained little damage and had an above-ground emergency generator that maintained the building's power, reported Tom Clark, HSBC director.

The Cayman Islands Monetary

Authority's building also escaped damage and was open two days after the hurricane, Ms. Gallegos said. "There was no regulatory pause of any note at all," she said.

"It was a testament to the solid foundation and professionalism of the industry," observed Michael W.B. Gibbs, president of Kensington Management. "Clients didn't suffer, and the industry didn't suffer."

The domicile's captive growth showed no signs of suffering, either, though the above-average, hard market-driven growth rate of the past few years continued to slow

See CAYMANS/next page

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Caymans: Holding on amid Ivan

Continued from previous page slightly. The 76 captives licensed last year—compared with 83 in 2003 and 97 in 2002—included 40 health care-related insurers and 36 writing other coverages such as workers compensation, property, general and auto liability and product liability, according to CIMA figures.

“It’s been an unusually high-activity period, and as long as it carries on, we’re pleased,” said Steven But-

394 segregated portfolios, up from 350 in 2003.

Factoring in 26 captives that closed in 2004, Cayman finished the year with 694 captives that wrote about \$6 billion in premiums and reported \$22 billion in assets, according to CIMA.

Fronting services remain a major problem for many captives, as U.S.-licensed insurers continue to impose stringent collateral require-

While several managers say that forming U.S.-based risk retention groups would be one way group captive owners could solve the fronting problem—having the RRG front for captive programs—very few captives are actively exploring the possibility.

A handful of health care captives have gone ahead with the RRG idea, but their number is small, Ms. Gallegos said. Many more captives are writing large-deductible reimbursement policies for workers comp, physicians’ professional liability and other exposures, Mr. Macey said. Because these are considered indemnity contracts rather than direct insurance of workers comp and other risks, fronting requirements don’t apply, he noted.

Cayman also continues to attract companies formed for catastrophe bond deals. The domicile licensed three cat bond deals last year and two more so far this year, according to Ms. Gallegos. She added that she wouldn’t be surprised to see more deals as the year goes on, “given all that’s happened with all the catastrophes around the world.”

“There are fewer and fewer good credit risks” among traditional reinsurers, making cat bonds all the more attractive to ceding insurers, Mr. Clark observed.

Despite the ongoing clean-up from Hurricane Ivan, meanwhile, most managers expect this year to produce results very much like 2004’s.

“We had the best end to a year we’ve ever had,” and 2005 should present similar opportunities, said Stephen Gray, vp with Willis Management.

“There’s obviously a big difference between interest and closing,” Mr. MacKay said, but “there’s as much interest now as there was the last two years.”

ments to secure captive reinsurance recoverables.

It’s rare, managers say, to find an insurer willing to front for a captive program without collateral equivalent to the program’s aggregate limit.

“It can’t get much tougher than that,” HSBC’s Mr. Clark noted.

LARGEST MANAGERS OF CAYMAN CAPTIVES				
Ranked by gross premium volume in millions of dollars				
Manager	Premium volume		Captives	
	2004	2003	2004	2003
Marsh Management Services (Cayman) Ltd.	\$1,750.0	\$1,827.0	184	174
Aon Insurance Managers (Cayman) Ltd.	1,410.0	1,004.6	105	93 ¹
Willis Management (Cayman) Ltd.	875.0	1,275.0	34	32
Kensington Management Group Ltd.	668.8	581.2	29	27
HSBC Financial Services (Cayman) Ltd.	520.0	583 ²	86	78 ²
Global Captive Management Ltd. ³	399.5	319.9	73	70
JLT Risk Solutions (Cayman) Ltd.	291.5	222.4	40	32
Fair Winds Captive Management (Cayman) Ltd.	80.0	55.0	12	9
Chandler Insurance Management Ltd.	50.0	59.1	12	13
Monkton Insurance Services Ltd.	38.7	17.3	8	7

1 Number of licensed captives provided by Cayman Islands Monetary Authority 2 Restated
3 Formerly IAS (Cayman) Ltd.
Source: BI survey

ler, financial director for Chandler Insurance Management Ltd. “But we aren’t relying on it. We expect it to settle down at some point.”

Thirteen of the new licensees were segregated portfolio companies, bringing the island’s total to 93 at year-end. The SPCs managed

Managers opening new offices

By DOUGLAS McLEOD

GEORGETOWN, Grand Cayman—The number of Cayman Islands captive managers is growing along with the domicile’s captive count, despite the devastating blow of last year’s Hurricane Ivan.

Vermont-based USA Risk Group Inc. is pursuing plans to open a Cayman office, adding to existing offices in the United States, the U.S. Virgin Islands and Bermuda, confirmed Jeffrey Kenneson, the manager’s vp of business development in Burlington.

USA Risk expects to start the licensing process this month and hopes to have its new office open by April 1, Mr. Kenneson said. The manager has five prospective captive clients lined up for its opening, including health care, petroleum distributor and professional employer organization captives, he said.

Last October—six weeks after Ivan hit—Waltham, Mass.-based Strategic Risk Solutions Inc. opened a Cayman office, adding to its existing offices in the United States and Bermuda. SRS, an independent manager, was formerly the captive

arm of Winterthur International until it was bought out by its management in 2002.

Another manager, meanwhile, changed hands: Bermuda-based Mutual Risk Management Ltd. last August sold the business of its IAS (Cayman) Ltd. unit to Peter MacKay, the unit’s Cayman-based manager, and a partner. The Cayman firm’s name has been changed to Global Captive Management Ltd. Mr. MacKay, GCM’s chairman, noted that he and his partner had originally sold the Cayman business to Mutual Risk several years ago.

Cayman’s population of active captives rose to 694 at year-end 2004, a net gain of 7.7% from 2003. The domicile added 76 new licensees while 26 existing captives shut down, leaving a net gain of 50 companies, according to the Cayman Islands Monetary Authority.

The vast majority of Cayman’s captives—88.6%—have North American owners, and these accounted for \$4.86 billion, or 86.8%, of the domicile’s total captive premium volume of \$5.60 billion last year, CIMA reports.

Of 694 active captives, 419, or

60%, are “pure” single-parent entities that produced \$3.74 billion in premiums last year. Segregated portfolio companies—Cayman’s term for segregated cell insurers—accounted for another 93, or 13% of the captive total, generating \$282.8 million in premiums; association captives numbered 69, or 10% of the total, producing \$451.9 million; and group captives numbered 55, or 8% of the total, producing \$731 million.

The domicile’s remaining captives are a mix of alternative risk financing vehicles and rent-a-captives. The total also includes 32 open-market insurers that generated \$222.5 million in premiums last year, according to CIMA figures.

Health care coverages continue to represent Cayman captives’ largest class of business, accounting for \$1.86 billion of last year’s \$5.6 billion in total premiums, CIMA reports. Workers compensation ranked second, with \$1.28 billion in premiums, followed by product liability, with \$637.6 million; professional liability, with \$592.2 million; property, with \$374.2 million; and general liability, with \$245.7 million.

Guernsey captives expand coverage

By SARAH VEYSEY

ST. PETER PORT, Guernsey—Captive growth slowed in Guernsey in 2004, but some existing captives at Europe’s largest domicile are seeing significant increases in the retentions they fund and are expanding the types of coverages they offer, captive managers say.



Captive owners are using their Guernsey captives to cover warranty risks and captive reinsurance, and several are looking to include employee benefits risks in their captives, they say.

In 2004, 27 new captives were licensed in Guernsey, of which 19 were traditional captives and

employee benefits rather than just using (their captives) to fund deductibles on their property programs,” said Mr. Wheatley. “A lot of the increased interest comes from a more holistic way of looking at risk,” he said.

Mr. Copeland said that Marsh in Guernsey is currently working with its sister company, Mercer Human Resource Consulting, about a possible project to promote the use of captives for employee benefits business to United Kingdom-based companies.

And Guernsey has received applications for third-party captives that write employee benefits business, such as group life coverage, on behalf of other groups, according to the GFSC’s insurance division.

In addition to increased interest in employee benefits risks, some large captive owners are looking to expand the coverage in their captives to include other liability risks, said Mr. Copeland.

One client, whom he declined to name, offers warranty coverage

LARGEST MANAGERS OF GUERNSEY CAPTIVES				
Ranked by gross premium volume in millions of dollars				
Manager	Premium volume		Captives	
	2004	2003	2004	2003
Aon Insurance Managers (Guernsey) Ltd.	\$5,060.0	\$4,500.0	191	220
Marsh Management Services (Guernsey) Ltd.	963.0	727.0	68	73
Willis Management (Guernsey) Ltd.	300.0	400.0	51	55
Heath Lambert Insurance Management (Guernsey) Ltd.	294.0	245.0	22	26
JLT Risk Solutions (Guernsey) Ltd.	144.0	144.0	17	11

1 BI estimate
Source: BI survey

eight protected cell captive companies—with 52 cells, according to the Insurance Division of the Guernsey Financial Services Centre. That compares with 20 traditional captives and 12 protected cell companies formed in 2003.

At year-end 2004, Guernsey was home to 410 captives, compared with 383 at the end of 2003.

While the growth in captives was modest, existing captive owners are expanding the use of their captives, said Dominic Wheatley, managing director of Willis Management (Guernsey) Ltd.

Parent companies are now using their captives in a more “sophisticated” way, he said, and using captives strategically rather than just as vehicles for funding deductibles, he said.

Use of existing captives is expanding, agreed John Copeland, managing director of Marsh Management Services (Guernsey) Ltd.

For example, captive owners are looking to cover some employee benefits through their captives, he said, though no Marsh clients have yet included employee benefits coverage in their Guernsey captives.

“People are looking at areas of

to customers that buy its products and is now considering writing those warranty insurance products through its Guernsey-based captive, he said.

Many parents of Guernsey-based captives are now retaining large volumes of risk within their captives, said Marsh’s Mr. Copeland. “I think part of the reason is that they look at their size relative to the insurance market and think they can take some fairly big losses (within their retentions) without it affecting their share price,” he said.

Once captive owners reach a level of retention that they are comfortable with, it is rare for them to reduce that retention significantly when insurance markets soften, Mr. Copeland said.

Protected cell captives continue to be an area of growth for Guernsey. Early in 2004, the domicile licensed the 60th protected cell company since it introduced protected cell legislation in 1997, according to the GFSC’s Insurance Division.

Interest in protected cell companies continues to grow because they have a lower cost base than traditional captives, noted Paul

See GUERNSEY/next page

Guernsey: Captives expanding types of coverage

Continued from previous page

Sykes, a director of Aon Insurance Managers (Guernsey) Ltd. and an executive of Aon subsidiary White Rock, which manages Aon's PCCs.

According to the insurance division of the GFSC, Guernsey is increasingly being used as a domicile to reinsure captives that have been established by companies for direct writing in other locations—generally within the European Union.

Under such an arrangement,

companies with European exposures that have set up a captive in a European Union domicile, may decide to reinsure a portion of that risk into a Guernsey-based captive or cell in a Guernsey-based protected cell captive in order to avoid retaining all its risk in the E.U.-domiciled captive, explained Alan Fleming, director of insurance at the GFSC.

Guernsey is not a member of the European Union.

While most of the captives regis-

tered in Guernsey still have U.K. parents, there is interest from captive parents in other countries, said Marsh's Mr. Copeland. He said that of the four new captives formed by Marsh in 2004, two have non-U.K.-based parents.

"Guernsey has always had about 20% of its captives from outside of the U.K.," he said.

In October 2004, the Guernsey Insurance Company Management Assn. moved its annual conference from Guernsey to London for the

first time and attracted more than 250 attendees.

Richard Falla, an account director at Willis in Guernsey and current chairman of GICMA, said that the intention of holding the conference off the island of Guernsey was to be "less insular."

The conference likely will be held outside of Guernsey in 2005, noted Mr. Falla, with London being the most likely location.

During 2005, one challenge that will be faced by captive owners is

the introduction of the International Accounting Standards Board's accounting standards for insurance, which will change accounting standards for all European insurers, noted Mr. Falla.

There have already been new captives setting up in Guernsey in 2005, noted Mr. Wheatley and it likely will be another year of steady growth. At the end of February, four new traditional captives and two new protected cell companies had been set up in Guernsey.

Vermont captive formations slow from record pace

By RODD ZOLKOS

MONTPELIER, Vt.—While licensing 43 new captive insurance companies in 2004 falls short of the pace Vermont established with its record-setting numbers of 77 in 2003 and 70 in 2002, last year's total represents a solid year for the state and demonstrates continued interest in forming captive companies.

As that interest continues, Vermont's history in the captive market, its established industry infrastructure, its regulatory reputation and state officials' responsiveness to captive insurers' needs have combined to give the state front-of-mind status to U.S. companies looking to form captives.

"Forty-three doesn't sound great, but it was our fourth busiest year ever," said Derick White, director of captive insurance in the Vermont Department of Banking, Insurance, Securities & Health Care Administration in Montpelier.

"It probably gives us a chance to catch our breath after two years of unprecedented growth," said Julie Boucher, managing director at Marsh Management Services Inc. in Burlington. While saying, "A good amount of growth is always welcome," Ms. Boucher said, "It would be tough to sustain several years in a row of 70-plus formations."

"For the state, (2004) was still a good year," said Gary Griswold, director-captive operations at SB&T Captive Management Co. in Burlington. "The good thing is, they all seem to be good quality programs."

Among the captives formed in Vermont last year, 29 were pure captives and eight were risk retention groups, with industrial insured, sponsored, association and branch captives making up the remainder.

Companies forming captives in Vermont in 2004 included Wal-Mart Stores Inc., Textron Inc., Cinerger Corp., Whirlpool Corp., Best Buy Co. Inc., USA Hockey Inc. and the New Jersey Sports and Exposition Authority.

"You look at the list of companies we've licensed, it's amazing some of these companies have never had captives before," said Nancy L. Gray, executive director at Aon Insurance Managers (USA) Inc. in Burlington. "They're forming these captives for long-term risk management reasons and they're going to be around for many years."

Of the eight risk retention groups formed in Vermont in 2004, "Those

programs were quality programs," said Leonard D. Crouse, Vermont's deputy commissioner of captive insurance in the Department of Banking, Insurance, Securities and Health Care Administration. "A number of them were large hospital groups, large universities with medical facilities."

While licensing 43 captives in



2004, Vermont also saw 26 captives dissolve. The net gain of 17 captives brought the state's total to 524 at year-end 2004. State officials estimate gross written premiums written by Vermont captive companies in 2004 at more than \$10 billion, up from \$9.4 billion in 2003.

Of the captives that dissolved last year, several were small RRGs, Mr. Crouse said. In addition, "We had a couple of mergers," he said. "I can't say it was all bad to get some of those small companies off the list. They were inactive," Mr. Crouse said. And some of the companies dissolved last year had never been activated after receiving their licenses, the deputy commissioner said.

Most of the newly formed captives in 2004 and thus far in 2005 were created to provide traditional insurance coverages. "The majority of the ones that I've seen so far are your standard property/casualty business," said SB&T's Mr. Griswold.

"Definitely in 2004 the reasons for establishing captives were the more traditional coverages, standard property/casualty lines," said Aon's Ms. Gray. "And that's continuing for us in 2005."

"Probably more property than you'd see looking over the past 10 years," said the state's Mr. White. "Also TRIA as well."

The use of captives to provide terrorism coverage and provide access to the federal Terrorism Risk Insurance Act backstop makes debate over a TRIA extension a closely watched subject for Vermont captives. "To many of our members that has become a very, very important item," said Molly Lambert, president of the Burlington-based Vermont Captive Insurance Assn.

"I think TRIA, whether it's ex-

tended, is going to have some impact on captives," Ms. Gray said. "I think a lot of captives were actually reactivated, some dormant ones were reactivated, because of terrorism issues."

"TRIA we're seeing a lot of. Employee benefits, we're seeing a lot of queries without a lot of action," said Guy F. Ragosta, regional executive officer at Willis Management (Vermont) Ltd. in Burlington.

Ms. Gray said that while Aon also has seen some interest in employee benefits captives, the area is developing more slowly than some had anticipated. "Companies are taking the time to evaluate whether it makes sense," she said.

Another development last year that many see as key in Vermont's growth as a domicile is the opening of a Vermont office by the ACE USA division of Bermuda-based ACE Ltd. ACE Captive Solutions Vermont offers captives traditional and structured reinsurance products and risk management programs.

"The first reinsurer coming to the state, ACE, is historic," said Vermont Gov. Jim Douglas. "Some of the captive companies were really seeking one-stop shopping here in Vermont, so to have that happening is really great."

"That speaks volumes to the momentum that we've been able to keep up," said Daniel D. Towle, director financial services in the Vermont Department of Economic Development in Montpelier.

While facing increased competition from other U.S. domiciles like South Carolina, Hawaii and Arizona, Vermont maintains its status as the leader among U.S. domiciles, both in terms of the number of captives domiciled there and, increasingly, in the role it takes in shaping and representing the industry.

"I think last year was the first year Vermont actually saw some serious competition from other captive domiciles," said Ms. Gray. "But if you look at the laws that were passed in some of those domiciles, they were basically mirroring what Vermont had done."

"You have regulators from other captive domiciles calling Len and Derick asking questions about how they should regulate some of their captives," she said.

"I'd still say Vermont's the first name on most people's lips, but it's not quite the automatic it was," said Gary Osborne, group president of USA Risk Group in Montpelier. Still,

LARGEST MANAGERS OF VERMONT CAPTIVES

Ranked by gross premium volume in millions of dollars

Manager	Premium volume		Captives	
	2004	2003	2004	2003
Marsh Management Services Inc.	\$4,500.0	\$3,350.0	189	164
Aon Insurance Managers (USA) Inc.	2,900.0	2,500.0	168	158
USA Risk Group of Vermont Inc.	892.5	610.5	31	29
AIG Insurance Management Services Inc.	865.5	625.4	31	32
Champlain Captive Management Inc.	520.6	520.6	14	11
Willis Management (Vermont) Ltd.¹	515.0	462.4	35	37
SB&T Captive Management Co.¹	315.8	315.9	22	21
CPA Mutual Management Co.	125.0	125.0	1	1
Strategic Risk Solutions (Vermont) Ltd.	101.0	73.0	21	17
Beecher Carlson/ RiskCap (Vermont)	55.0	27.0	8	6

¹ Number of captives supplied by Vermont Department of Banking, Insurance, Securities and Health Care Administration
Source: BI survey

he said, "Vermont is clearly the gold standard."

"It makes it tough for the others because Vermont really doesn't do anything wrong," said Andrew Sargeant, president of USA Risk Group of Vermont Inc. in Montpelier. And the accessibility of state officials and ability to work with Vermont regulators are key elements of the state's appeal, Mr. Sargeant said.

"Over the years, if you have a captive whose had the parent company having problems, it's not 'Press the panic button,'" he said. "It's 'Go down and have a chat with Len and Derick.'"

"They work with you on problems, which is key," said Willis' Mr. Ragosta. "If we were going to form an RRG we wouldn't go anywhere else but Vermont," he said. "Their surveillance, it's intelligently done."

Vermont's captive division has a staff of 25 with two new positions authorized after July 1. "Staffing has been great as far as getting the staff we need to run a strong department," said Mr. Crouse.

"We're strongly committed to responsive service to registered insurers and want to maintain service," Mr. Douglas, the Vermont governor, said. That responsiveness includes tweaking the state's captive law as needed, including three technical amendments under consideration this year. Those measures relate to easing the conversion from for-profit to nonprofit corporation, allowing the commissioner discretion over investment standards for asso-

ciation captives and RRGs, and allowing branch captives to use a trust fund or a letter of credit to secure obligations.

"If the industry's ideas make good sense we take them to the governor and with his leadership they go to the Legislature," said Mr. Towle. "It's a tremendous model because we have an incredible relationship between the state and the industry."

"Vermont shouts out about the quality of the regulation that it applies to this industry," said the VCIA's Ms. Lambert. "When you've got 25 people in a department dedicated to regulating and scrutinizing something, the Legislature knows they're being asked to only improve on the nature of that regulation."

Vermont's leadership status also includes taking a prominent role in representing the captive industry in any of a number of forums, ranging from a risk retention group study by the federal Government Accountability Office to reviews of regulatory structures by the National Assn. of Insurance Commissioners.

"Vermont's right on top of everything that's going on," Mr. Crouse said. "And I think the industry appreciates that."

"I think Vermont has the leadership position because of the trust that has developed and really the justified position Vermont has for good captives, good regulation," said Roger D. Teese, president and chief executive officer of SB&T Captive Management.

BVI tallies up record year with 67 new formations

By JOANNE WOJCIC

TORTOLA, British Virgin Islands—The British Virgin Islands saw a sharp increase in captive growth in 2004, as policyholders with hard-to-place coverage sought alternatives to the commercial insurance market. The domicile added 67 captives to its roster, and although many of the formations continued to come from the United States, BVI also saw a growing number of captives from non-U.S. sources.

In 2005 licenses were issued to companies with parents domiciled in Canada, Mexico, the Caribbean, Europe and the Pacific in addition to the United States, from where more than 90% of BVI's captives historically have come, according to the Insurance Division of the BVI Financial Services Commission. In addition, most of the new cap-

tives were formed by parent companies operating in three industry sectors: real estate and construction, health care, and finance and insurance. Six of the new licenses included segregated portfolio companies, which were permitted under 2002 amendments to the 1994 BVI Business Companies Act. "2004 proved to be a record year for the licensing of new captive insurers," said Michael Oliver, director of insurance. The increase was due, in part, to "focusing on the provision of alternative risk management solutions to small and medium-sized business owners." Despite the record 2004 formations, the total number of BVI captives increased by just 43, to 350 from 307 in 2003 because 24 captives either liquidated or redomesticated.

Several of the ongoing captives that left the island were credit life insurers, which regulators have recently begun scrutinizing, according to Greg Taylor, chairman of the BVI Insurance Assn. and managing director of AMS Insurance Management Services Ltd., one of the domicile's largest captive managers with just over 100 captives. "We're not really in the market for credit life. Over the last four or five years, their numbers have really reduced," he said, adding that



many redomesticated to the Turks & Caicos Islands. BVI has for several years attracted small and midsize U.S.-based businesses, in part, because of its "pragmatic regulation" and the relatively low cost of establishing a captive in the domicile, Mr. Taylor said. As such, "the captives that we set up typically will be under \$5 million in premium," he said. About half of the active captives have net written premium volumes under \$1 million, according to BVI regulators. "They tend to be difficult-to-place risks, such as medical malpractice, errors and omissions, things where the domestic U.S. market has increased price and reduced coverage in recent years," Mr. Taylor said. The softening commercial market has had little impact so far on

the growth of captives in the domicile, primarily because of the long lead time for establishing a captive, Mr. Taylor said. "It takes a long time to get a captive together, so it can take a while for the softening market to come through to captives," Mr. Taylor said. BVI's government enacted a new BVI Business Companies Act, which took effect Jan. 1, 2005. The new law consolidates the IBC Act and the current Companies Act. After a transition period, by Jan. 1, 2007, all companies will be governed by the new act, and there will no longer be any distinction between "offshore" companies and local companies doing business in the BVI. The act was passed to comply with the European Union Code of Conduct on Business Taxation, which requires that local and offshore companies be treated equally for tax purposes.

Barbados poised for growth

By GLORIA GONZALEZ

BRIDGETOWN, Barbados—Barbados is expected to see solid growth in its captive insurance industry in 2005 due to legislative and regulatory changes and a promotional campaign by the government designed to stimulate interest in the domicile. In 2004, Barbados added to its rolls 15 new entities that it calls "exempt companies," which includes both captives and noncaptives. That's the same number it added in 2003, said Carlos Belgrave, the domicile's supervisor of insurance.



Eleven companies had U.S. parents, three had Canadian parents, and one is from the United Kingdom. The total number of exempt companies is now 426, up from 413 in 2003, because a few such companies restructured last year, becoming "qualifying insurance companies." *Business Insurance* estimates that about 40% of the exempt companies are commercial insurers or reinsurers formed to write third-party business. This would leave an estimated 257 captive insurers that are exempt companies at year-end 2004, up

from an estimated 248 at the end of 2003. Mr. Belgrave estimated that 18 new exempt companies would be formed in Barbados in 2005. Captive managers say growth in 2004 was basically consistent with that of 2003 because companies are either restructuring or considering restructuring their captives due to recent legislative and regulatory changes. They say they expect an increase in business from both the United States and Canada this year. Canada remains a niche market for Barbados, despite uncertainty over how Canadian tax authorities will treat captives following the renegotiation of the Canada-Barbados tax treaty of 1980, which has been under discussion since 1997. Canada requires captives to be Barbados "residents" to qualify for certain tax benefits, so Barbados has allowed companies to opt to be licensed as domestic qualifying insurance companies rather than exempt companies. While domestic insurers are subject to a 40% income tax rate, Canadian-owned qualifying insurers could use foreign currency tax credits to reduce this rate to the low single digits. Canadian companies have not stopped using Barbados as a domicile even though the Canadian government has not officially accepted this solution because they believe it will eventually be adopted, managers say. In fact, of the 12 qualifying insurance companies formed in

2004, 10 were from Canada. The impact of the uncertainty has also been limited recently because tax considerations have taken a back seat to the other benefits of captives such as effective risk management and loss control, managers say. "There hasn't been any negative fallout" from the uncertainty, said Nicholas Crichlow, senior vp for Bridgetown-based Marsh Management Services (Barbados) Ltd. Going forward, insurance professionals expect an increase in the number of segregated cell and separate account companies formed in the domicile. In 2001, Barbados enacted legislation allowing the formation of segregated cell and separate account insurers, although the legislation was not finalized until 2003. Last year, three segregated cell companies were formed, bringing the total to six companies, and one separate account company was formed. There are issues, though, related to the lack of companies willing to front these arrangements in the United States and the costs involved that have slowed the growth of these new products, said Ricardo Knight, president of St. James-based The Towner Management Group. There has been increased interest in the use of rent-a-captives from small and middle-market companies as captive owners seek to use them as profit-making ventures. That trend should continue in 2005, said Gregory Rose, manager of Bridgetown-based Lynch International. Meanwhile, the government has committed to promoting Barbados as a strong offshore domicile, emphasizing its advantages over other domiciles, including its network of tax treaties and its lower startup and maintenance costs.

"This initiative by the government to be more active in promoting Barbados is going to pay dividends," said Chris Towner, executive chairman of The Towner Management Group. "Raising the profile of Barbados in the marketplace is critical because there's nothing wrong with the product."

Fronting woes fuel trend to establish more direct captives

By CAROLYN ALDRED

LUXEMBOURG—Although Luxembourg traditionally has been home to reinsurance captives, its captive managers are increasingly looking to establish direct-writing captives as well. Luxembourg added two captives in 2004, bringing its total to 219.



Claude Weber, senior vp at Marsh Management Services (Luxembourg) S.A., said that there is nothing in Luxembourg's law to prevent the formation of direct-writing captives. "The regulators are being more receptive to direct captives, and each proposal will be analyzed on a case-by-case basis," said Mr. Weber. Captive regulators in Luxembourg could not be reached for comment. While Mr. Weber said he does not expect many current captives to convert from reinsurance to direct captives, he anticipates a growth in newly formed direct-writing vehicles. "Companies are investigating the possibility of forming direct underwriting captives in Luxembourg, and we are analyzing several projects," he said. Mr. Weber said that most interest in forming captives in Luxembourg still comes from neighboring European countries such as France, Belgium and Germany.

Clients are seeking to establish direct captives in Luxembourg because of increasing difficulties in finding fronting insurers, Mr. Weber said. "It is getting more and more difficult to get fronting for captives at a reasonable cost and with acceptable conditions and wording," he said. Other captive managers also expect growth in the use of direct-writing captives. Lambert Schroeder, managing director of Aon Insurance Managers (Luxembourg) Ltd., said: "The perception in the market is that Luxembourg is a domicile only for reinsurance captives. There are several applications in the pipeline for direct captives, and there is nothing to stop us establishing a direct underwriting captive in Luxembourg." Aon, which last year managed more than 70 captives in Luxembourg, now has more than 110 captives in the domicile following its acquisition of independently owned Gecalux S.A. Luxembourg, Gecalux Switzerland A.G. and Geca-suisse A.G. The Gecalux business, which represents more than 40 captive clients and several consulting clients, will be managed by Aon Captive Services Group. Gecalux's 28 employees have also joined Aon. The integration of Gecalux has given Aon "a stronger and broader presence in Luxembourg," said Mr. Schroeder, who noted that Gecalux has a particular strength among clients in Luxembourg, Germany and France, as well as among some Japanese clients in Switzerland. He anticipates that a growing trend to form direct captives in Luxembourg will attract new European companies to establish captives, particularly German companies. See **LUXEMBOURG**/next page

LARGEST MANAGERS OF BARBADOS CAPTIVES

Ranked by gross premium volume in millions of dollars				
Manager	Premium volume		Captives	
	2004	2003	2004	2003
Marsh Management Services (Barbados) Ltd.	\$1,000.0	\$1,010.0	33	30
MIMS International (Barbados) Ltd.	841.7	690.8	24	24
IAS (Barbados) Ltd.	271.0	648.0	10	11
Aon Insurance Managers (Barbados) Ltd.	258.0	105.0	46	47
Towner Risk Management Ltd.	192.0	706.0	16	17

Source: BI survey

Luxembourg: More direct writing

Continued from previous page

Mr. Schroeder noted that there is still significant growth potential among French and German companies that have not yet set up captives. Meanwhile, some of the newer European Union members from Eastern Europe remain a virtually untapped captive market.

While there have been no major legislative changes in the domicile, Luxembourg's captive managers and clients are closely watching the progress of the E.U. reinsurance directive, which aims to harmonize

reinsurance regulations (*BI*, Sept. 6, 2004).

But the reinsurance directive should not affect Luxembourg's captives significantly, because the legislation in Luxembourg already is similar to the E.U. proposals, Mr. Weber said.

"The directive may impact the solvency margins of some reinsurance captives, and some larger corporations may find it more attractive to set up a direct captive if solvency margins required by reinsurance companies increase," noted

Mr. Schroeder.

The E.U. reinsurance legislation should "have a positive effect for Luxembourg, as it will define better what a captive is and, from a taxation point of view, make the whole issue of captives more transparent," he said.

"We have been talking to clients about what impact the directive will have and also are looking at whether it is worth changing any captives from reinsurance captives to direct captives," said Mr. Schroeder.

Isle of Man opens market to PCCs

By CAROLYN ALDRED

DOUGLAS, Isle of Man—Legislative changes allowing protected cell companies and the formation of captives owned by limited liability partnerships, should make the Isle of Man a more attractive domicile, captive managers say.

But for 2004, the domicile only saw a slight net increase in captives with 10 new formations and eight liquidations, bringing the total number of captives managed on the island to 175.

The closures were largely the result of mergers and acquisitions among the captives' parent companies, said David Vick, Insurance Supervisor for the domicile.

The additions include two PCCs and several more PCCs are currently being considered, he said.

Willis Management (Isle of Man) Ltd. manages one of the island's first PCCs licensed last summer. Owned by Merrill Lynch Investment Managers (Isle of Man) Ltd., the PCC hopes to sign its first customer in the next few weeks, said Willis underwriting manager, Roger Hara.

And the use of Isle of Man-based PCCs is likely to grow as companies located close to the domicile make use of the structure, he said.

"We expect to see the biggest growth in PCCs for small U.K. companies, principally based in the North of England, Ireland and Scotland," he said.

Marsh Management Services (Isle of Man) Ltd. also is seeing interest in PCCs, but the Isle of Man office has yet to establish one, said office manager Derek Patience.

"The PCC legislation helps to make the Isle of Man more attractive" as a captive domicile, he said.

The island's captive managers lobbied the regulator for several years to pass legislation allowing the formation of PCCs. Regulations finally were passed last year, some seven years after rival domicile Guernsey began allowing PCCs.

Also last year, the Isle of Man changed its regulations to allow limited liability partnerships to establish

captives. Previously, only fully incorporated companies were allowed to operate captives on the Isle of Man.

Mr. Patience believes that the Isle of Man, like many captive domiciles, is going through a period of consoli-



dation.

"Mature captive domiciles have captives at all stages of their lives. Some are coming to the end of their lives, where the need for a captive no longer is the same, and some are being closed or merged as a result of consolidation within industry," he said, pointing out that the energy and utility sectors, in particular, have seen a lot of consolidation among companies. "Some of these combined companies have several captives and only need one."

But the Isle of Man remains an "attractive domicile, particularly for U.K.-based companies, because of the pragmatic and helpful approach of the regulator, its low capital and solvency requirements and its good infrastructure," said Mr. Patience.

Although the Isle of Man does not offer captives the direct underwriting capability that can be obtained in Dublin, and now in Luxembourg, European captive owners that are prepared to use a fronting insurer can still be attracted to the Isle of Man, he said.

Mr. Hara noted that companies were changing and often increasing their use of existing captives.

"Companies are becoming more comfortable with the level of risks they are prepared to accept and are increasing their retention levels. I also have had discussions with risk managers who note that the insurance companies they are transferring risk to often have a worse credit rating and worse balance sheet than their clients," said Mr. Hara.

Captive owners diversifying in growing Dublin domicile

By SARAH VEYSEY

DUBLIN, Ireland—As the number of captives continues to increase in Dublin, their owners are now looking to expand their use, experts say.

At the end of 2004, 214 captives were registered in Dublin, up from 205 at the end of 2003, according to the Irish Financial Services Regulatory Authority.

While captive growth has been steady, though, the stabilization of rates—and, in some cases, their reduction—in the traditional insurance market during 2004 stemmed from the surge of captive formations seen during the previous year, noted Sean Langdon, business development manager in the corporate financial services division of the In-



vestment & Development Agency of Ireland in Dublin.

In 2003, the number of captives licensed in Dublin broke the 200 barrier for the first time, increasing to 205 from 181.

But despite improving conditions in the traditional insurance and reinsurance markets, there was still a steady interest in setting up captives in Dublin in 2004, according to Barry White, associate director, business development, at Aon In-

surance Managers (Dublin) Ltd.

That growth is coming largely among companies wishing to set up direct writing companies rather than captives fronted by reinsurance companies, Mr. White noted.

Ian Clancy, managing director of Marsh Management Services (Dublin) Ltd., said that while the number of captives in Dublin has not grown substantially, there has been an expansion in the use that owners are making of their captives.

Mr. Clancy said there are now several "supercaptives" managed by Marsh in Dublin in which sponsors are putting lots of business.

These large captives were perhaps set up to write property lines but are now being expanded to write liability business, he noted. Or they are captives that were set up to write just one line of business but are now being diversified, he said.

Some clients are also beginning to explore the possibility of funding employee benefits business through their captives, Mr. Clancy noted.

Aon's Mr. White agreed that the captives that are now well established in Dublin are looking at expanding their books of business. He noted, for example, that one client is, for legal and tax reasons, exploring the possibility of setting up a branch of its Dublin captive in the U.S. Virgin Islands in order to write employee benefits business through that vehicle.

If traditional insurance markets soften further, some captive owners may decide to reduce their retentions and buy more insurance or reinsurance coverage, acknowl-

edged Marsh's Mr. Clancy. But other captive owners might decide that they are comfortable with the levels of retentions they are taking and would not necessarily start buying more-conventional reinsurance, he noted. "It depends on the captive owner's philosophy," he said.

Mr. White agreed that the resolve of some captive owners might be tested. But he said that if they have reached a level of retention of risk within their captives that they are comfortable with, there is unlikely to be a rush back to the conventional market for those layers of cover.

Mr. White said that some reinsurance captives managed by Aon in Dublin currently are looking at converting to becoming direct-writing captives. This move is being prompted, in part, he said, because captive owners are finding that fewer reinsurance companies are prepared to front business for them and that those that are prepared to do so are becoming quite expensive.

One Aon client in Dublin already has converted its captive from a reinsurance captive to a direct-writing vehicle, he said.

Mr. White said that Ireland's membership in the European Union is one reason why Dublin is an attractive domicile for many companies. Dublin sees itself as an "onshore E.U." domicile, he said, noting that it has more than 40 double tax treaties with other E.U. and non-E.U. countries.

Mr. Clancy said that the accession of 10 new states to the European Union last year meant that multinational companies with operations in Eastern Europe, for example, are now able to use their Dublin-based captives to direct-write insurance coverage for those operations.

Mr. White called it an encouraging sign for Aon that companies wishing to set up captives in Dublin in 2004 came from many different countries—including France, Germany, the Netherlands, Spain and the United Kingdom.

And he noted that prospective captive owners also came from a variety of industry sectors, including retail, telecommunications and energy.

LARGEST MANAGERS OF DUBLIN CAPTIVES

Ranked by gross premium volume in millions of dollars

Manager	Premium volume		Captives	
	2004	2003	2004	2003
Aon Insurance Managers (Dublin) Ltd.	\$2,845.0	\$2,845.0	93	93
Marsh-Captive Management Services (Dublin)	999.0	520.3	67	72
Eurco Ltd.	311.5	307.6	2	3
Willis Management (Dublin) Ltd.	220.0	90.0	17	16
AIG Insurance Management Services	130.6	NA	17	17

Source: BI survey

Slow growth seen Turks & Caicos adds five captives

By DOUGLAS McLEOD

GRAND TURK, Turks & Caicos Islands—The Turks & Caicos Islands



saw modest growth in its captive insurance industry last year, and continued slow expansion is expected this year.

The domicile recorded a net increase of five new captives in 2004, bringing its total to 164 at year-end, according to Albert P. Smith, the domicile's superintendent of insurance. The total does not include more than 1,800 credit life insurers registered in the Turks & Caicos.

The rate of growth slowed from 2003, when the islands saw a net increase of 16 new captives, and Mr. Smith said he expected captive formations this year to remain consistent with the slower 2004 pace.

There have been no changes in capital and surplus, solvency or other regulations affecting captives,

See **TURKS**/next page

Turks: Slow growth

Continued from previous page

and no change in license application or renewal fees. The Turks & Caicos government, though, is continuing a review of its regulations and fee levels, Mr. Smith reported.

The islands weathered last au-

umn's unprecedented series of hurricanes with minimal damage and little or no interruption of business, unlike the Cayman Islands, which were badly battered.

The domicile saw a "minor decline" in the total number of regis-

tered credit life reinsurers last year but is seeing no drop in interest in forming new credit life companies, according to Mr. Smith, who noted that scrutiny of these reinsurers by the U.S. Internal Revenue Service eased last year.

In 2002, the IRS announced that it was examining the possibly abusive use of credit life and other "producer-owned reinsurance com-

panies" formed by auto dealers and other retailers under Section 501(c)(15) and two other sections of the U.S. tax code. The sections granted tax breaks to small property/casualty insurers, and the IRS said it would challenge tax exemptions claimed by owners of offshore PORCs in cases where the reinsurers were being used to divert otherwise taxable income from their parents.

Last October, though, the IRS decided not to identify PORC reinsurance transactions as "listed transactions" requiring registration and disclosure by parent companies to tax authorities.

"The service has examined various types of these arrangements. These examinations have revealed fewer abusive transactions than anticipated," the IRS announced.

Hawaii sees record formations

By ROBERTO CENICEROS

HONOLULU—Hawaii's captive industry saw a record number of formations during 2004, with 25 new captives licensed, bringing the domicile's year-end total to 147.

West Coast-based homebuilders struggling with steep premium increases and a very limited general liability insurance market, as well as health care business with steep medical malpractice insurance rate hikes, are fueling Hawaii's growth, captive managers say.

"Both markets have experienced high increases in premiums and retentions that are causing them to look at a captive alternative," said Wanda Jong, senior vp for Beecher Carlson/RiskCap in Honolulu. In August 2004, RiskCap Inc. and Beecher Carlson merged to form Beecher Carlson/RiskCap, a unit of Beecher Carlson Holdings.

General liability premium increases of 50% over the past three years, coupled with diminishing coverage, led Dunmore Homes L.L.C. to form



a Hawaii captive in 2004, said Bill West, chief financial officer for the Roseville, Calif.-based homebuilder.

"Our premiums had gone through the roof, and the coverage seemed to be declining every single year, to the point where we felt we were paying significant amounts of money to be self-insured," Mr. West said. "So we figured we may as well be self-insured."

Hawaii captive regulators' understanding of the homebuilding industry, coupled with the domicile's proximity to California, led Dunmore to form its captive in Hawaii, Mr. West said.

Other captive domiciles in the Western United States now are try-

ing to attract homebuilders, Mr. West noted. But Hawaii has developed experience in working with the industry, he said.

"Not only is Hawaii a great place to go, but they were one of the most proactive, progressive domiciles for captives," Mr. West said. "We found that absolutely to be the case."

RiskCap had helped Mr. West form Dunmore's facility, named Premiere Indemnity. Several captives that RiskCap has helped form in Hawaii are owned by homebuilders, said Michael Murphy, president of Denver-based RiskCap Inc.

"That has been a real hot area for us," Mr. Murphy said.

Some of the homebuilders are using their captives to fund wrap-up programs, through which they provide coverage for their subcontractors, Mr. Murphy said. That has become necessary because some building trades, such as excavators, "are virtually uninsurable," he explained.

Hawaii's proximity to West Coast companies continues to be one of

LARGEST MANAGERS OF HAWAII CAPTIVES

Ranked by gross premium volume in millions of dollars

Manager	Premium Volume		Captives	
	2004	2003	2004	2003
Marsh Management Services Inc.	\$1,100	\$471	63	50
Beecher Carlson/RiskCap (Hawaii)	277	220	21	20
Aon Insurance Managers (USA) Inc.	176	135	15	17
Willis Management Ltd.	184	100	13	9
AIG Insurance Management	55.9	57*	8	7
Gallagher Captive Services Hawaii	46.5	44.4	6	5

*From insurance department reports.

Source: BI surveys

its major draws for attracting captives, agreed Jason Palmer, managing director for Willis Management Ltd. in Honolulu.

But the domicile also attracts captive owners from other parts of the United States, as well as those from Japan.

In July, Marsh Management Services Inc. helped two Japanese companies form Hawaii facilities.

Tokyo-based Otsuka Pharmaceutical Co. Ltd. launched Otsuka Global Insurance Inc. to provide casualty

coverage for its owner and affiliates, according to Craig Watanabe, Hawaii's captive insurance administrator. Osaka, Japan-based SANYO Electric Co. Ltd. formed Sanyo Global Insurance Inc., also to provide casualty coverage.

Whether Hawaii's robust captive growth will continue in 2005 remains to be seen. Softening insurance rates could be behind a drop in the number of prospective clients calling to inquire about formations, Willis' Mr. Palmer said.

'Can-do attitude' fuels SC growth

By MEG FLETCHER

COLUMBIA, S.C.—Captive formations in South Carolina continued apace in 2004 as legislative changes and an attractive regulatory environment helped lure more captives to the state.

Last year, the South Carolina Department of Insurance licensed 47 captives, bringing the state's captive total at year-end to 114.



Premium volume generated by captives in the state increased to an estimated \$400 million in 2004, up from \$290 million in 2003.

As a relatively new captive domicile, South Carolina has targeted risk retention groups as an opportunity for expansion and about 40% of the state's captives are RRGs. But 46% of the captives are categorized as pure captives.

And the state is beginning to diversify its captive roster further after making legislative changes last year that are aimed at attracting specialized captives that life insurers use to securitize reserves.

Since it first started accepting

captives in 2000, South Carolina has proved to be an attractive domicile, the state's proponents say.

South Carolina has a "can-do attitude, while still applying rigorous" solvency standards, said Dr. Michael Gerardi, president of Superior Insurance Co., a Risk Retention Group. That RRG began providing primarily medical malpractice liability insurance to emergency physicians in New York and New Jersey in May 2003.

Regulators there are "very innovative," while evaluating each deal on its own, said Elizabeth Steinman, the New York-based 1st vp of HSBC Insurance Management.

South Carolina's \$100,000 cap on captive taxes is also an attractive feature of the domicile, said Gary Osborne, the Montpelier, Vt.-based president of USA Risk Group, which has an office in Charleston.

Close cooperation among regulators, the governor and the Legislature has characterized South Carolina since it began operating as a captive domicile, said John O'Brien, chief executive officer of Charleston Captive Management Co.

Insurance Department Director Eleanor Kitzman, who recently replaced Ernst Csiszar, is expected to continue to give a high priority to captives, a department spokeswoman said. In 2004, the department allocated 10 full-time employees and one part-time attorney to captive

matters.

Recent legislative changes will likely help the state grow its captive count, observers say.

Last year, South Carolina became the first major onshore domicile to pass specific captive legislation to allow the formation of a Special Purpose Financial Captive, said Clayton Ingram, manager of business development for the Insurance Department.

Captives up after several flat years

By MICHAEL BRADFORD

SINGAPORE—A slight surge in incorporations has pushed Singapore's captive numbers higher after several years of little change.

With nine new insurers formed in 2004, the domicile ended the year with 57 captives, up from 49 the year before. Last year's increase broke the pattern of recent years, in which Singapore has nearly matched its new formations with deregistrations and kept its captive roster steady at around 50.

Only one captive was removed from Singapore's rolls last year.

All the new captives registered last year are single-parent insurers and most are from Australia, according to a spokesman for the Monetary Authority of Singapore.

He said owners from Europe and Japan also set up Singapore captives in 2004.

The domicile in 2004 saw a halt



to the slide in the number of Japanese captives, the spokesman confirmed.

Singapore's tax structure had caused some of those companies to leave for other domiciles, because regulations in Japan require offshore companies paying 25% or less

from captive managers and owners alike who do not want to share their proprietary plans, including the structure of securitization deals, said Tobias P. Burke, the Burlington, Vt.-based general manager of Beecher Carlson, an insurance brokerage and captive manager that opened a South Carolina office last year.

Additionally, that same law increased public access to some RRGs' financial records, said Leslie Jones, deputy director of the department's Alternative Risk Transfer Services Division.

Part of Singapore's attraction is its location, which gives potential captive owners in Asian countries easy access to a domicile with a stable regulatory environment and a high-quality infrastructure of service providers, the spokesman noted.

In a regulatory change, Low Kwok Mun has replaced Hauw Soo Hoon as executive director of the Insurance Supervision Department, which oversees captives as part of the MAS.

Directory of world captive domiciles

The following charts were developed by *Business Insurance* to help risk managers track developments and regulatory requirements in captive domiciles worldwide. The information is provided for domiciles with specific captive legislation or regulations and that are seeking to add captives; domiciles that merely allow captive formation under existing insurance legislation or are not currently

seeking to attract captives are not included. The charts provide information on captive domiciles—listed in alphabetical order—beginning with the number of licensed captives at year-end 2004 and 2003. Those figures include the number of inactive captives registered in the domicile. Listed next are the minimum capital and surplus for captives and premium-to-surplus requirements

for each domicile, followed by application fees and annual license fees pertaining to captive insurers. Also listed are the applicable local taxes as well as the name of the law that governs captives in the domicile and the year it was passed. Each listing concludes with information on the domicile’s regulator, including contact details for those seeking additional information.

DOMICILE	2004	2003	CAPITAL & SURPLUS	PREMIUM TO SURPLUS	FEES	TAXES	LAWS	REGULATOR
Arizona	39	18	Single-parent: \$250,000; association: \$500,000; protected cell: \$1 million	None	\$1,000 for first year, \$5,500 annual renewal fee	None	Title 20, Chapter 4 of Arizona Revised Statutes, Article 14	Rod Morris, Captive Administrator, Arizona Department of Insurance, 2910 N. 44th St., Suite 210, Phoenix, Ariz. 85018-7269; 602-912-8420; fax: 602-912-8421
Arkansas	1	1	Pure captive: \$250,000; industrial insured: \$500,000; producer reinsurance or special-purpose: \$600,000; association: \$750,000; sponsored: \$1 million	None	\$200 application fee; \$300 annual license	\$5,000 minimum annual premium tax. Direct written premiums: 0.4% on first \$20 million, 0.3% on next \$20 million, 0.2% on next \$20 million and 0.075% thereafter. Reinsurance premiums: 0.225% on the first \$20 million, 0.15% on next \$20 million, 0.05% on next \$20 million and 0.025% thereafter	Licensing and Regulation of Captive Insurers, 2001, amended in 2003	Julie Benafield Bowman, State Insurance Commissioner, Arkansas Insurance Department, 1200 W. Third St., Little Rock, Ark. 72201-1904; 501-371-2600; fax: 501-371-2629
Bahamas	19	18	\$200,000 capital or at discretion of regulator	5-to-1	\$25 application fee; \$2,500 annual registration fee; \$1,000 company registration fee	None	The External Insurance Act, 1983. Chapter 318 as amended Dec. 24, 1996. The Subsidiary Legislation/Chapter 318 External Insurance, 1987	Roger G. Brown, Registrar of Insurance Companies/Insurance Section, Ministry of Economic Development, P.O. Box N-4849, Nassau N.P., Bahamas; 242-328-1068; fax: 242-328-1070
Barbados	257 (B/est.)	248 (B/est.)	\$125,000 cash	5-to-1 net premium to surplus. Less than \$5 million in premiums: net assets of \$125,000 or 20% of premium written. More than \$5 million: net assets of \$1 million plus 10% of premiums written	\$250 application fee; \$2,500 annual license	None	Exempt Insurance Act of 1983	Carlos Belgrave, Supervisor of Insurance, Ministry of Finance and Economic Affairs, Bridgetown, Barbados; 246-426-3815; fax: 246-436-2699; sofi@caribsurf.com
Bermuda	1,150 (B/est.)	1,150 (B/est.)	\$120,000 for Class 1 (single-parent insuring only risks of parent and affiliates); \$250,000 for Class 2 (group/association deriving no more than 20% of net premiums from unrelated companies); \$1 million for Class 3 (more than 20% from unrelated companies)	20% below \$6 million; 10% above for Class 1 and 2; 15% for Class 3	Registration fees—general business: Class 1, \$925; Class 2, \$1,575; Class 3, \$7,500. General and long-term business: \$7,500 for all classes. Annual fees: same	Company tax: minimum for Class 1 is \$3,635; minimum for Classes 2 and 3 is \$5,610	Amendments to Insurance Act 1978	Jeremy E. Cox, Supervisor of Insurance, Bermuda Monetary Authority, 26 Burnaby St., Hamilton HM 11, Bermuda; 441-295-5278; fax: 441-278-0289
British Columbia	13	12	\$200,000 Canadian (\$161,380)	None	\$500 Canadian (\$403) application fee; \$2,500 Canadian (\$2,017) registration fee; \$2,500 Canadian annual renewal fee	30% federal income tax; 16% provincial income tax	The British Columbia Insurance (Captive Company) Act of 1987	Doug McLean, Manager of Provincial Operations, Financial Institutions Commission, 1050 W. Pender St., Suite 1000, Vancouver, B.C. V6E 3S7, Canada; 604-660-2947
British Virgin Islands	350	307	\$100,000 for P/C captives writing up to \$500,000 in net premiums; \$250,000 for life/health captives	5-to-1 for P/C insurers writing up to \$5 million in net premiums	\$500 application fee; \$2,000 annual renewal fee; \$5,000 license fee for segregated cell companies	None	The Insurance Act, 1994. Insurance regulations, 1995	Michael Oliver, Director of Insurance, Financial Services Commission, P.O. Box 418, Road Town, Tortola, British Virgin Islands; 284-494-4190; oliverm@bvifsc.vg
Cayman Islands	694	644	\$120,000 for Class B license (most single-parent, P/C captives); \$240,000 if writing long-term coverages; \$360,000 if writing both long-term and general business	At discretion of regulator	\$8,333 annual licensing fee; special-purpose vehicles pay \$300 per cell up to \$1,500 per year	None	The Insurance Law (2003 revision)	Mary Lou Gallegos, Head of Insurance Supervision, Cayman Islands Monetary Authority, Elizabethan Square, George Town, Grand Cayman, B.W.I.; 345-949-7089; fax: 345-949-2532; insurance@cimoney.com.ky
Colorado	10	11	\$500,000 capital and surplus for single-parent and group captives	Pure captives: none; group captives: 3-to-1	\$500 application fee; \$620 annual fee	Direct: greater of \$5,000 or 0.5% of first \$25 million of direct premiums written, 0.25% of next \$50 million and 0.1% thereafter. Reinsurance: 0.25% of first \$20 million in premiums and 0.1% thereafter.	The Colorado Captive Insurance Act of 1972	Doug Dean, Insurance Commissioner, Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colo. 80202; 303-894-7499
Delaware	5	4	Pure captive, \$200,000 capital/\$150,000 surplus; association, \$400,000/\$350,000; industrial \$200,000/\$300,000 (stock). Association, \$750,000 surplus; industrial: \$500,000 surplus (mutual)	None	\$200 application fee, \$300 annual fee, \$100 annual statement filing fee	Premium tax: 0.7% for first \$20 million, 0.5% for next \$20 million, 0.3% for next \$20 million and 0.1% for each dollar thereafter	Title 18, Delaware Insurance Code, Chapter 69 (Captive Insurance Companies), 1984	Darryl Reese, Director of Company Regulations, Delaware Department of Insurance, Rehabilitation/Guaranty Division, 841 Silver Lake Blvd., Dover, Del. 19904; 302-739-4251, ext. 160; fax: 302-739-2709; darryl.reese@state.de.us

DOMICILE	2004	2003	CAPITAL & SURPLUS	PREMIUM TO SURPLUS	FEES	TAXES	LAWS	REGULATOR
District of Columbia	40	20	\$100,000	Surplus: \$150,000 for pure captive; \$300,000 for association (stock), agency, rental; \$500,000 association (mutual) captive	\$500 application fee; \$300 certification fee; \$300 annual renewal fee	Direct: 0.0025% on first \$25 million, 0.0015 on next \$25 million, 0.005% thereafter. Reinsurance: 0.225% on the first \$20 million of premiums, 0.15% on the next \$20 million and 0.025% thereafter. \$100,000 cap on all premium taxes.	The Captive Insurance Company Act of 2004	Lawrence H. Mirel, Commissioner of Insurance, 810 First St. N.E., Suite 701, Washington, D.C. 20002; 202-727-8000; fax: 202-535-1196;
Dublin	214	205	Minimum share capital of 635,000 euros (\$840,944); additional contribution determined by review of business plan	Determined by review of business plan	Supervisory fee is based on premium volume	2% levy on nonlife premiums; corporate tax of 12.5%	Insurance Act 2000 Irish Financial Services Regulatory Authority Act 2003; Insurance Act 1989	Frank Brosnan, Deputy Head-Nonlife Insurance Supervision, Irish Financial Services Regulatory Authority, P.O. Box 9138, College Green, Dublin 2, Ireland; 353-1-410-4000; <i>frank.brosnan@ifsra.ie</i>
Georgia	14	16	\$500,000	3-to-1	\$600 application fee, \$700 annual fee	Gross premiums written in Georgia: 2.25% state tax, 2.5% county and municipal tax. Workers comp captives must contribute to Subsequent Injury Trust Fund	O.C.G.A. Title 33, Chapter 41, 1989	Christopher Taylor, Property and Casualty Supervisor; 2 Martin Luther King Jr. Drive, Suite 604, West Tower, Atlanta, Ga. 30334; 404-657-9206; fax: 404-657-7743; <i>chris.taylor@mail.oci.state.ga.us</i>
Gibraltar	12	12	New licenses: 2 million euros or 3 million euros (\$2.6 million to \$3.9 million) in respect of liability business. Transitional arrangements for existing licenses	18% of gross annual premiums up to 50 million euros (\$66.2 million) plus 16% of premiums over 50 million euros, or 26% of average claims over prior three years	£1,000 (\$1,918) application fee; £2,500 (\$4,797) annual license fee	Tax exempt by paying £225 (\$432) per year for 25 years; qualifying companies are taxed at up to 35%	Insurance Companies Ordinance of 1987 and associated regulations	Commissioner of Insurance Financial Services Commission, P.O. Box 940, Suite 943, Europort, Gibraltar; 350-40-283; fax: 350-40-282; <i>info@fsc.gi</i>
Guam	2	1	Capital: \$50,000 for pure captive; \$100,000 for group captive; \$150,000 for industrial insured captive (stock); \$150,000 for protected cell companies. Surplus: \$100,000 for pure captive; \$150,000 group captive (stock); \$200,000 for industrial insured or group captive (mutual insurer) and protected cells	None (repealed 2003)	\$200 filing fee. \$3,500 insurance advisers review fee. \$2,500 annual license fee. \$750 fee for qualifying certificate. Registration \$51. \$1,000 qualifying certificate annual surveillance fee; \$3,500 insurance review fee for complex captive applications	Rebate of all income tax on underwriting income and dividends to shareholders. No gross receipts or premium tax	Public Law 23-109, 1997. Public Law 24-266 allowing rebate of income tax on dividends. Public Law 27-54 allowing formation of protected cells within protected cell companies	Andreas Jordanou, Commissioner of Banking and Insurance, Department of Revenue and Taxation, Building 13-1, Mariner Avenue, P.O. Box 23607 GMF, Tiyan, Guam 96921; 671-475-1843; fax: 671-472-2643; <i>ajordanou@mail.gov.gu</i>
Guernsey	410	383	Minimum is £100,000 (\$191,870)	Greater of 18% of net premiums for first £5 million (\$9.6 million), 16% thereafter; or 5% of loss reserves	£3,380 (\$6,485) application and annual renewal fee	Four options: no tax but annual fee of £600 (\$1,151); sliding-scale tax on investment income of shareholders' funds; 20% of net profits; fixed rate of up to 30% for five years	Insurance Business (Bailiwick of Guernsey) Law 2002	Alan Fleming, Director of Insurance, Guernsey Financial Services Commission, La Plaiderie Chambers, La Plaiderie, St. Peter Port GY1 1WG, Guernsey; 44-148-171-2706; fax: 44-148-171-2010; <i>insdiv@gfsc.gg</i>
Hawaii	147	122	Minimum requirements vary by type of captive; additional requirements determined on a case-by-case basis	Varies by case	\$1,000 application review	0.25% on first \$25 million in premiums, 0.15% on next \$25 million, 0.05% thereafter	Chapter 431, Article 19 of Hawaii's Revised Statutes	Craig Watanabe, Captive Insurance Administrator, State of Hawaii, Department of Commerce & Consumer Affairs Insurance Division, 335 Merchant St., P.O. Box 3614, Honolulu, Hawaii 96811-3614; 808-586-0981; <i>captiveins@dcca.hawaii.gov</i>
Hong Kong	2	2	Greater of 5% of net premiums written and net claims outstanding, or \$2 million Hong Kong (\$258,400)	None	\$22,600 Hong Kong (\$2,897) authorization fee	Corporate tax is 17.5%	The Insurance Companies Ordinance, Chapter 41 of the laws of Hong Kong	Insurance Authority, 21st Floor, Queensway Government Offices, 66 Queensway, Hong Kong; 852-2867-2565; fax: 852-2869-0252; <i>iamail@oci.gov.hk</i>
Illinois	3	3	\$2 million	None	\$3,500 application fee	Subject to same taxes as all insurers	Article VIIC of the State Insurance Code, 1987	Contact: Etta Mae Credi, Assistant Deputy Director, Illinois Insurance Department, 320 W. Washington, Springfield, Ill. 62767; 217-782-4515; fax: 217-782-5020; <i>etta_mae_credi@ins.state.il.us</i>

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DOMICILE	2004	2003	CAPITAL & SURPLUS	PREMIUM TO SURPLUS	FEES	TAXES	LAWS	REGULATOR
Isle of Man	175	173	£500,000 (\$959,350) for long-term; £150,000 (\$287,805) for general; £100,000 (\$191,870) for reinsurance; £50,000 (\$95,935) for restricted	None	£1,500 (\$2,878) application fee; £3,250 (\$6,236) annual license renewal fee	Standard tax is 18%. Isle of Man companies operating internationally may elect 1% to 35% taxation. Insurers, including captives, can elect to pay a 0% tax rate	Insurance Act 1986; Insurance (Amendment) Acts 1993, 1995 and 2004; Protected Cell Companies Act 2004	David A. Vick, Chief Executive/Insurance Supervisor, Isle of Man Government Insurance and Pensions Authority, HSBC House, Ridgeway St., Douglas, Isle of Man IM1 1ER; 44-162-464-6000; fax: 44-162-464-6001; ipa@gov.im
Jersey	13	15	£100,000 (\$191,870) or at regulator's discretion	Property/casualty: 17.5% of net premiums; life: 2.5% of long-term business fund	Category A: £2,000 (\$3,837) for property/casualty, £4,000 (\$7,674) for life. Category B: £3,500 (\$6,715) for property/casualty; £7,000 (\$13,430) for life	Maximum stamp duty is £2,500 (\$4,797). 20% standard rate; exempt captives pay £600 (\$1,145) per year	Insurance Business (Jersey) Law, 1996, General Provisions and Solvency Margin Orders, 1996	Nigel Woodroffe, Director of Insurance, Jersey Financial Services Commission, P.O. Box 267, Nelson House, David Place, St. Helier, Jersey JE4 8TP; 44-1534-822-000; fax: 44-1534-822-001; info@jerseyfsc.org
Kansas	1	NA	Capital: \$100,000 for pure captive; \$200,000 for industrial captive (stock); Surplus: \$150,000 for pure captive; \$300,000 for industrial captive (stock); \$500,000 for industrial captive (mutual)	Determined by review of business plan.	\$500 application fee; \$110 registration fee; \$110 annual renewal fee	2% premium tax	K.S.A. 40-4301 et seq.	Sandy Praeger, Insurance Commissioner 420 S.W. 9th St. Topeka, Kan. 66612 785-296-3071; fax: 785-296-7805
Labuan	21 (Bl est.)	21	Single/multiowner captive: 300,000 ringgit (\$78,960); rent-a-captive/cell captive: 500,000 ringgit (\$131,600)	Single/multiowner captive: 300,000 ringgit; rent-a-captive/cell captive: 500,000 ringgit	6,000 ringgit (\$1,579) for incorporation; 10,000 ringgit (\$2,632) annual license fee; 13,000 (\$3,421) ringgit for master rent-a-captive and 3,000 ringgit for subsidiary rent-a captive	3% of net income or 20,000 ringgit (\$5,264)	The Offshore Insurance Act 1990, amended in 1997, 2001	Danial Mah Abdullah, Director-Regulation, Labuan Offshore Financial Services Authority, Level 17, Main Office Tower, Financial Park, Jalan Merdeka, 87000 F.T. Labuan; 60-87-591-200; fax: 60-87-413-328; communication@lofsa.gov.my
Luxembourg	219	216 (Bl est.)	1.2 million euros (\$1.6 million)	10% for nonlife, 2% for life	1,500 euros (\$1,987) for incorporation. Annual license fee of 3,000 euros (\$3,973)	Varies. Basic rates: 26% corporate tax	1991 Insurance Law and Grand Ducal Regulations, amended 1994, 2001, 2004	Victor Rod, Insurance Commissioner, Commissariat aux Assurances, 7 Blvd. Royal, Luxembourg L-2449; 352-226-911; fax: 352-226-910; commassu@commassu.lu
Maine	0	0	Pure: \$100,000 in capital, \$150,000 in surplus; industrial insured (stock): \$200,000 in capital, \$300,000 in surplus; industrial insured (mutual): \$500,000 in surplus; association stock: \$400,000 in capital, \$350,000 in surplus; association mutual: \$750,000 in surplus	None	\$1,000 initial fee; \$100 for license; \$100 for financial statement; \$500 fee for captives that redomesticate to Maine	0.375% of first \$20 million in direct gross premiums, 0.30% of next \$20 million, 0.20% of next \$20 million and 0.075% thereafter; slightly less for captive reinsurers. Minimum tax is \$4,000 per year; 2% of gross direct premiums if parent is a Maine corporation	Title 24-A, Chapter 83, Sections 6701-6720, 1997	Kendra Godbout, Director of Financial Analysis, Maine Bureau of Insurance, 34 State House Station, Augusta, Maine 04333-0034; 207-624-8496; fax: 207-624-8599; kendra.l.godbout@maine.gov
Malta	1	1 (Bl est.)	100,000 liri (\$306,870)	Solvency margin set in accordance with European Union directives	500 lira (\$1,534) application fee; 500 lira acceptance fee; 3,068 lira (\$348) annual renewal fee	Corporate tax is 35%. Companies may operate foreign income accounts and get a tax refund on distributions to nonresident shareholders	Insurance Business Act, 1998	Director of Insurance, Malta Financial Services Authority (Insurance Unit), Attard, Malta; 356-21-441-155; fax: 356-21-441-189; communications@mfsc.com.mt
Mauritius	13	13	\$100,000	Solvency margin: higher of 15% of premiums or \$100,000	\$500 processing fee; \$1,500 annual fee	15% corporate income tax; 80% foreign tax credit available	Financial Services Development Act 2001; Companies Act 2001; PCC Act 2000; Guidelines on the Regulation and Supervision of Captive Insurance Business in Mauritius and Financial Services Development Regulations 2001	Financial Services Commission, Fourth Floor, Harbour Front Building, President John Kennedy Street, Port Louis, Mauritius; 230-210-7000; fax: 230-208-7172; fscmauritius@intnet.mu
Montana	10	9	Pure captive: \$250,000; industrial insured: \$500,000; association: \$750,000	None	\$200 application fee; \$300 annual license	\$5,000 minimum annual premium tax. Direct written premiums: 0.4% on first \$20 million, 0.3% on next \$20 million, 0.2% on next \$20 million and 0.075% thereafter. Reinsurance premiums: 0.225% on the first \$20 million, 0.15% on next \$20 million, 0.05% on next \$20 million and 0.025% thereafter	Title 33, Chapter 28, Captive Insurance Companies, 2001	Montana State Auditor's Office, 840 Helena Ave., Helena, Mont. 59601, 406-444-2040; fax: 406-444-3497; stateauditor@state.mt.us

DOMICILE	2004	2003	CAPITAL & SURPLUS	PREMIUM TO SURPLUS	FEES	TAXES	LAWS	REGULATOR
Netherlands Antilles	18	18	None	Solvency margin: the higher of 15% of net premiums or 300,000 guilders (\$179,460) for nonlife; higher of 4% of net technical reserves or 400,000 guilders (\$239,280) for life	6,000 guilders (\$3,589) application fee; 3,000 guilder (\$1,795) annual license fee	2,500 guilders (\$1,495) fixed	Special Insurance License Decree, 1992	Nataly Davelaar-Mercelina, Superintendent of Insurance, Bank van de Nederlandse Antilles (Central Bank), Simon Bolivar Plein 1, Curacao, Netherlands Antilles; 599-9-434-5500; fax: 599-9-461-5004
Nevada	38	19	\$250,000 for pure captive; up to \$750,000 for rent-a-captive	3-to-1 to 5-to-1	\$500 application fee; \$300 annual renewal fee; application review fee of up to \$3,000	0.4% on first \$20 million of net direct premium, 0.2% on next \$20 million and 0.075% thereafter	Chapter 694C of Nevada Revised Statutes and Nevada Administrative Code	Alice Molasky-Arman, Commissioner of Insurance, Division of Insurance, State of Nevada, 788 Fairview Drive, Suite 300, Carson City, Nev. 89701-5453; 775-687-4270, ext. 277; fax: 775-687-3934; lcommish@doi.state.nv.us
New York	28	18	\$250,000 for single-parent captives; \$500,000 for group captives. Parent or each group member must have total net worth of at least \$100 million	At discretion of regulator	Minimum of \$50 for pure captive, \$100 for group captive	Premiums related to N.Y. risks: 0.4% to 0.075% (direct) and 0.225% to 0.025% (reinsurance). Captives also pay Insurance Department assessments in range of 0.02% to 0.03% of N.Y. direct written premiums	Article 70 of the New York Insurance Law	Jody Wald, Captive Insurance Coordinator, New York Insurance Department, 25 Beaver St., New York, N.Y. 10004; 212-480-2757; www.nycaptives.com
Oklahoma	0	NA	Pure captive: 100,000; association stock insurer: \$400,00; industrial captive incorporated as a stock insurer: \$200,000; sponsored captive, \$500,000	Pure captive: \$150,000; association stock insurer: \$300,000; association mutual insurer: \$750,000; industrial mutual: \$500,000; sponsored captive: \$500,000; reciprocal: \$1 million	\$200 application fee; \$300 annual license	\$5,000 minimum annual premium tax; 0.4% on first \$20 million, 0.2% on next \$20 million, 0.075% thereafter (direct) and 0.255% on first \$20 million, 0.15 % on next \$20 million, 0.05% on next \$20 million, 0.025% thereafter.	Oklahoma Captive Insurance Company Act, 36 O.S. Section 6470.1 et. Seq.	Kim Holland, commissioner Oklahoma Insurance Department 2401 NW 23rd St., Suite 28 Oklahoma City, Okla. 73107 405-521-2828; fax: 405-522-2640
Panama	3	8	\$150,000 for nonlife; \$250,000 for life	5-to-1	\$1,000 application fee; \$2,000 annual license fee	None	Law 60, 1996	Ricardo E. Garcia, Superintendent of Insurance and Reinsurance, Ave. Ricardo Arias y Calle 51, P.O. Box 832/1683, World Trade Center, Panama City, Republic of Panama; 507-214-7484; fax: 507-214-7482
Rhode Island	0	1	Minimum capital: single-parent, \$100,000; industrial insured, \$200,000; association, \$400,000. Minimum surplus: single-parent, \$150,000; industrial insured, \$300,000 (stock) or \$500,000 (mutual); association, \$750,000	At discretion of regulator	\$1,000 application fee; \$500 annual license fee	\$2,500 minimum tax. Direct premiums: 0.2% on first \$20 million, 0.15% on next \$20 million, 0.10% on next \$20 million and 0.0375% thereafter. Reinsurance premiums: 1.25% on first \$20 million, 0.075% on next \$20 million, 0.025% on next \$20 million and 0.0125% thereafter	Rhode Island Statutes: Title 27 Insurance; Chapter 43, Captive Insurance Companies	Joseph Torti, Associate Director/ Superintendent-Insurance, Department of Business Regulation-Insurance Division, 233 Richmond St., Suite 233, Providence, R.I. 02903; 401-222-5446; fax: 401-222-5475; jtorti@abr.state.ri.us
Singapore	57	49	\$400,000 Singapore (\$245,280)	Assets must equal liabilities if writing risks outside Singapore; otherwise, highest of \$400,000 Singapore, 20% of previous year's net premiums or 20% of that year's loss reserves	\$5,000 Singapore (\$3,066) annual fee	Corporate tax is 20%. Captives may apply for a 10% concessionary tax rate on their offshore business	Insurance Act (Chapter 142), amended Jan. 1, 2004	Low Kwok Mun, Executive Director, Insurance Supervision Department, Monetary Authority of Singapore, 10 Shenton Way, MAS Building, Singapore 079117 656-229-9440; fax: 656-229-9694
South Carolina	114	67	Pure captive: \$100,000 capital/ \$150,000 surplus. Industrial insured: \$200,000 capital/ \$300,000 (stock), \$500,000 (mutual) in surplus. Association: \$400,000 capital/ \$350,000 (stock), \$750,000 (mutual) in surplus. Sponsored: Varies with the risk.	Varies by company	\$200 application fee; \$300 licensing fee; \$500 annual renewal fee Application review fees are \$12,000 for special purpose financial captives and \$2,400 for all others.	Subject to \$100,000 cap. Direct: 0.4% on first \$20 million of premiums, 0.3% thereafter. Reinsurance: 0.225% on first \$20 million of premiums, 0.15% on next \$20 million, 0.05% on next \$20 million and 0.025% thereafter	S.C. Code of Laws 38-90-10 and 38-10-10 with regulation 69-60	Eleanor Kitzman, Director South Carolina Department of Insurance, P.O. Box 100105, Columbia, S.C. 29202; 807-737-6212; fax: 803-737-6229; scdimail@doi.state.sc.us
South Dakota	1	1	\$100,000 capital/ \$100,000 surplus	None	\$500 for certificate of authority	0.25% of premiums; minimum tax is \$5,000	Chapter 58-46, 1996	Wendell Malsam, Chief Examiner, South Dakota Division of Insurance, 445 E. Capitol, Pierre, S.D. 57501-2000; 605-773-4359; fax: 605-773-5369; wendellm@crpr1.state.sd.us

DOMICILE	2004	2003	CAPITAL & SURPLUS	PREMIUM TO SURPLUS	FEES	TAXES	LAWS	REGULATOR
Switzerland	50	34	Captives writing third-party business: 10 million Swiss francs (\$8.6 million); captive reinsurers: 1 million Swiss francs (\$860,100) and 20% of premium	Same as capital and surplus	Varies annually by market share; minimum of 2,000 Swiss francs (\$1,720)	8.5% federal tax on profits; additional tax rates vary by district. Stamp duty is 1%	1978 Insurance Supervisory Law	Herbert Luthy, Swiss Insurance Commissioner, BPV, Friedheimweg 14, CH 3003, Bern, Switzerland; 41-31-322-7911; fax: 41-31-323-7156
Tennessee	4	4	\$750,000 for single-parent, nonprofit, municipality and utility district captives; \$1 million for group captives	None. Minimum premiums: \$500,000 for single-parent; \$1 million for group captives	\$675 application fee. Annual minimum fee: \$5,000 for single-parent; \$10,000 for group captives. Any premium tax paid is counted against minimum	1% of gross direct written premiums (includes out-of-state premiums if not taxed by another state)	The Tennessee Captive Insurance Company Act, Chapter 13, Title 56, 1978	Kathy Fussell, Insurance Analysis Director, Department of Commerce and Insurance, 500 James Robertson Parkway, Nashville, Tenn. 37243; 615-741-1504; kathy.fussell@state.tn.us
Turks & Caicos Islands	164**	159**	\$100,000 for general insurers; \$180,000 for life insurers. Subject to review of business plan	5-to-1 for captives writing up to \$5 million in net premiums	\$500 license application fee; \$2,000 annual renewal fee	None	Turks & Caicos Insurance Ordinance of 1989 and accompanying 1990 regulations	Albert P. Smith, Superintendent of Insurance, Harry E. Francis Building, P.O. Box 173, Pond St., Grand Turk, Turks & Caicos Islands; 649-946-2791; fax: 649-946-2821; fsc@tcicway.tc
U.S. Virgin Islands	7	7	Single-parent: \$50,000 capital/\$70,000 surplus; industrial insured: \$75,000/\$125,000; association: \$100,000/\$220,000 (stock). Industrial: \$200,000 surplus; association: \$320,000 surplus (mutual)	N/A	\$1,100 application fee; \$6,100 annual licensing fee	Annual franchise tax of \$1,000	Virgin Islands International Insurers Act, Title 22, Virgin Islands Code, Chapter 55	Deverita Carty Sturdivant, Director, Office of the Lieutenant Governor, Division of Banking and Insurance, 18 Kongens Gade, Charlotte Amalie, St. Thomas, U.S.V.I. 00802; 340-774-7166; fax: 340-774-9458; vidoi001@aol.com
Utah	2	2	Pure captive: \$250,000; industrial insured: \$500,000; association captives: \$750,000; reciprocal captive, sponsored captive, \$1 million	At discretion of regulator.	\$202 initial application fee; \$5,000 initial license fee; \$5,000 annual renewal fee	None	Captive Insurance Cos. Act.	Neal T. Gooch, Deputy Insurance Commissioner, Utah Insurance Department, 3110 State Office Building, Salt Lake City, Utah 844114; 801-538-3870; fax: 801-538-3829; ngooch@utah.gov
Vermont	524	507	\$250,000 for single-parent; \$500,000 for industrial insured or sponsored; \$750,000 for association captives; \$1 million for risk retention groups. Approved letters of credit can be used toward capitalization	None	\$200 initial application fee; \$300 annual license fee	\$7,500 minimum annual premium tax. Direct written premiums: 0.38% on first \$20 million, 0.285% on next \$20 million, 0.19% on next \$20 million and 0.072% thereafter. Reinsurance premiums: 0.214% on the first \$20 million, 0.143% on next \$20 million, 0.048% on next \$20 million and 0.024% thereafter	Special Insurer Act of 1981	Leonard D. Crouse, Deputy Commissioner, Captive Division, Vermont Department of Banking, Insurance, Securities and Health Care Administration, 89 Main St., Drawer 20, Montpelier, Vt. 05620-3101; 802-828-3304; fax: 802-828-3460; www.bishca.state.vt.us/captives/capindex.html

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Between the Lines

Compiled by Joanne Wojcik



Fireman's Fund helps films bring home Oscars

Several Oscar-nominated films may not have made it to the Academy Awards had it not been for insurance.

Novato, Calif.-based Fireman's Fund Insurance Cos. insured 16 contending films, six of which won a total of 14 Oscars, including Million Dollar Baby, which won Best Picture, according to a spokesman for one of the world's leading insurer of entertainment-related risks.

The spokesman added that some significant claims were paid in connection with at least three films. Among them:

- Nearly \$50,000 in cash was stolen during the filming of Hotel Rwanda in South Africa. The loss occurred when a group of armed men carrying 9mm weapons pulled over two employees on their way back to the set from the bank, where they had withdrawn the money to cover payroll and other expenses.

- Two filming locations and a camera car being used in the filming of The Aviator were destroyed by wildfires raging through Southern California in October 2003.

"Having to find new locations led to delays which we covered and that

can be expensive, as well as equipment replacement costs," the spokesman said.

- An extensive vintage wardrobe was destroyed by a fire on the set of Ray, which spanned a 50-year period in the life of the late singer Ray Charles.

Down and out, and litigious, in Beverly Hills

A Beverly Hills lawyer doing time for insurance fraud has won a coverage suit while behind bars.

A Los Angeles jury last month awarded Rex K. DeGeorge, who was convicted in 1997 of plotting to sink his luxury yacht to collect \$3.5 million in insurance, \$371,000 in back disability coverage.

Equitable Life Assurance Society and the Paul Revere Life Insurance Co. began withholding disability checks totaling \$8,200 a month in 1999, alleging Mr. DeGeorge faked his ailments and was continuing to work as a lawyer. The claim dates back to 1990, when Mr. DeGeorge, now 66, claims he became disabled as a result of a heart condition and brain damage caused by an auto accident.

But it could be a while before Mr. DeGeorge sees that backdated disability check. CIGNA Property & Casualty Insurance Co., now ACE Ltd., is owed nearly \$2 million in attorneys fees in the 1997 fraud case, according to Neil S. Lerner, a partner at Sands Lerner in Los Angeles, who represents the insurers.

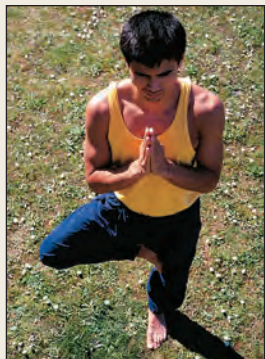
Mr. DeGeorge is currently serving a 90-month sentence for conspiracy, mail and wire fraud and perjury (BI, Sept. 6, 2004).

Healthiest Taiwanese sent to the sofa

Healthy habits are certainly paying off for some citizens of Taiwan, but could the rewards backfire and turn them into couch potatoes?

In a March 1 lottery drawing, the National Health Insurance Program awarded prizes that included a 29-inch television set to the lowest users of health care. The lottery was open to an estimated 120,000 people who have not used the National Health Insurance system in the past five years, including 57,000 who have never used the government-based system since it began 10 years ago.

Three of the prize winners—all over the age of 66—shared their secrets of staying out of doctors offices: walking barefoot on the grass, shunning snacks, taking everything step by step without haste, sticking to a vegetarian diet, regularly practicing yoga and chanting Buddhist scriptures.



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

Comings & Goings



Mr. Godwin



Mr. Spiegler



Mr. Sprouse

Brokers:

London-based Heath Lambert Group has appointed **Nigel Godwin** executive director of its major accounts group. Before joining Heath, Mr. Godwin was a client service director with Aon Corp.

Willis Group Holdings Ltd. has named **Stephen Dascole** and **James Jameson** as senior vps. Mr. Dascole, who will be based in San Francisco, previously was a managing director for Frank Crystal & Co. Mr. Jameson previously was a vp, national practice leader, at Chubb Corp. and will be based in New York.

Also at Willis, **Scott George** has been named senior vp at Willis Re US. Before joining the company, Mr. George was a senior vp at Aon Re Inc.

And **Charles B. LaLone** has joined Willis Re as executive vp and casualty practice leader in the Philadelphia office. Previously, he was a principal at Guy Carpenter & Co. Inc.

USI Holdings Corp. has appointed **Philip W. Remig** as president of the mid-Atlantic offices in Trooper and Allentown, Pa. Before joining USI, Mr. Remig was southeast region sales leader for Aon Risk Services.

Reinsurance:

David Spiegler has been named executive vp and chief actu-

ary at Shelton, Conn.-based BMS Vision Reinsurance Intermediaries Ltd. Before joining BMS, he was president of DS A.I.R. Consulting L.L.C., a company Mr. Spiegler founded.

Hamilton, Bermuda-based Max Re Capital Ltd. has made several senior-level promotions at its Max Re Ltd. subsidiary. All were formerly executive vps.

John Doucette has been named president and chief underwriting officer.

Clark Hontz has been appointed vice chairman of the reinsurance division.

David Kalainoff is the new chief underwriting officer, traditional reinsurance.

Adam Mullan, who is based in Dublin, Ireland has been named chief underwriting officer, specialty reinsurance.

Insurers:

Kerry Guthrie has been named executive vp and chief investment officer for Branchville, N.J.-based Selective Insurance Group Inc. Previously, Mr. Guthrie was senior vp and CIO.

Also at Selective, **Anthony G. Martella Jr.**, previously a vp, has been named senior vp of the company's actuarial reserving department.

AXA Financial Inc. in New York has promoted **Kevin E. Murray** to executive vp and chief information

officer, succeeding Bill Levine, who retired. Previously, Mr. Murray was senior vp and head of the information technology department's application continuity team.

Other providers:

Stephen M. Sprouse has joined Portland, Ore.-based M Benefit Solutions as senior vp. Previously, he was a senior vp at TBG Financial.

Princeton, N.J.-based APEX Management Group, a health care insurance services and actuarial consulting company, has promoted **Timothy Robinson** to chief actuary. He previously was a consulting actuary.

Managed care:

Shelton, Conn.-based Health Net of the Northeast has promoted **William Lamoreaux** to chief operating officer and **Paul Lambdin** to chief commercial officer. Mr. Lamoreaux previously was health care delivery officer and Mr. Lambdin was chief sales officer.

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

Photos should be sent to: Kathy Barnes, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; kbarnes@crain.com.

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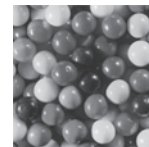
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March 7, 2005

International

P&I clubs impose smaller rate hikes

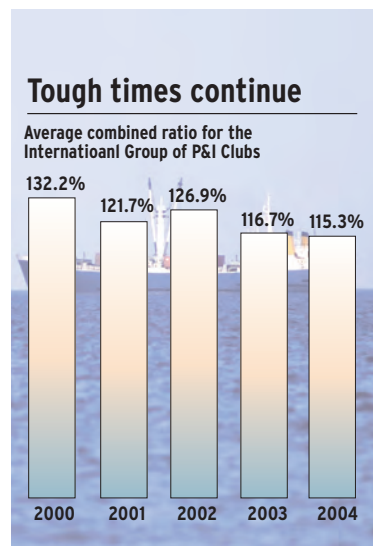
By SARAH VEYSEY

LONDON—Most shipowners saw smaller rate increases for marine liability coverage this year compared with last year's renewal, with some protection and indemnity clubs reducing initially higher pricing demands to retain business.

P&I clubs, which are mutual insurers that write liability coverage for shipping fleets, generally had sought rate increases—in some cases in double digits—in order to make up for continued losses and sluggish investment returns, brokers and other sources note.

For the year ending Feb. 20, 2004—the traditional renewal date for P&I clubs—the average combined ratio of members of the International Group of P&I Clubs was 115.3%, according to a report by

Standard & Poor's Corp. in London. That compares with 116.7% at the



prior renewal period for the International Group, which is made up of 14 of the largest protection and indemnity clubs. In addition, S&P forecasts "a further slight improvement in the average combined ratio" for the year ending Feb. 20, 2005.

Rate increases for P&I clubs at the Feb. 20, 2005, renewal generally were between 5% and 15.5%, with most coming in around 7%, market experts said.

In comparison, at last year's renewal, many clubs were asking for premium rate increases of about 20%, due to underwriting and investment results that generally were even worse than those in 2004, according to brokers and other sources.

And while some P&I clubs stood behind the premium rate increases they had publicized before the lat-

est renewal period, others that had originally set fairly high increases ultimately cut those down, said Stephen Hawke, executive director for Aon Marine, a division of Aon Ltd. in London. He noted that the average rate increase seen was about 7%.

And, he noted, certain clubs that had forecast premium rate increases of up to 5% actually imposed lower increases at renewal.

Some clubs that had sought premium increases of as much as 12.5% reduced increases to prevent business moving to other clubs, noted one market source who asked not to be named.

Because shipowners frequently register parts of their fleets with different P&I clubs, they were reluctant to pay large increases to one

See P&I/page 31

World Updates

Market opening office in Canada

Markel International Ltd., the London-based arm of Markel Corp., is opening an office in Toronto. MINT Canadian Specialty Underwriters Ltd. will write specialty business through Markel's multiline syndicate 3000 at Lloyd's of London. The Canadian unit is slated to open for business in the summer. Gerry Albanese, president and chief operating officer of Markel International, said the use of the Lloyd's franchise will enable Markel to underwrite business in Canada that it would not be able to underwrite through Richmond, Va.-based Markel Corp. Barrett Hubbard, currently a vp at Glen Allen, Va.-based Markel Insurance Co., will head the office as managing director.

JLT's revenues increase, but profits fall in 2004

Jardine Lloyd Thompson Group P.L.C. reported increased revenues for 2004, but the softening insurance market and currency fluctuations were a drag on profits for the year, the London-based broker said. JLT reported revenues of £468.1 million (\$896.9 million) in 2004, a 9.1% increase over 2003. But profits before tax fell to £99.8 million (\$191.2 million) for the year, a 9.7% decrease from 2003. In November 2004, JLT issued a profit warning saying that income for 2004 would be lower than previously expected because of the softening insurance market and the weakness of the U.S. dollar, among other factors. JLT said that during the second half of 2004, it lost about £8 million (\$15.3 million) in expected revenues because of the softening insurance market.

Colosso replaces Martin at Heath Lambert

Ian Martin has retired as executive chairman of London-based broker Heath Lambert Group Ltd. Adrian Colosso, formerly group managing director, has taken over as chief executive of the company, while Mike Bruce, formerly group commercial director, has become group managing director. Mr. Martin took on the role of executive chairman of the company in 2003 when David Margrett, then CEO, resigned.

Brit profits increase 32.1% in 2004

Brit Insurance Holdings P.L.C. posted pretax profits of £102 million (\$195.4 million) for 2004, a 32.1% increase over 2003. In addition, the London-based company announced that Dane Douetil, currently deputy CEO of the group, will become CEO in April. He will succeed Neil Eckert, who will remain at the company as an executive director until the end of 2005 and as a nonexecutive director thereafter.

Australia mulls relaxation of captive rules

By ELIZABETH FRY

CANBERRA, Australia—Australia is exploring a proposal to exempt some captives from insurance regulation, but current restrictions on the types of business that could be written may limit the impact of the change.

In a consultation document circulated late last month, the Australian Prudential Regulation Authority proposes that pure captive operations be treated strictly as self-insurance—and thus not be subject to prudential regulation—provided various conditions are met.

Currently, captive insurers operating in Australia are subject to standard solvency regulation, because Australian insurance law does not distinguish between captives and traditional insurers.

Steve Somogyi, a member of

APRA in Canberra, said APRA considers the distinction between a pure captive and traditional self-insurance to be largely irrelevant from a regulatory standpoint.

"An organization that sets up a captive within its own organization to pool risks, and then insures them with an outside reinsurer, is no different to a company that carries its own self-insurance and maybe takes out a large insurance policy for any catastrophe risk," Mr. Somogyi said.

"We need to regulate insurers with which they take out their cover, but we don't need to regulate the corporation or the internal mechanism itself," he said.

Mr. Somogyi said the proposed change could encourage domestic captive formation among Australian companies that have shied away from that approach because they didn't want to subject them-

selves to prudential regulation. He also predicted the change could prompt some Australian captive parents to bring their captives back to Australia.

While some observers hailed the proposed change, they note, though, that the eligibility requirements could limit the attractiveness of Australia as a captive domicile.

Pure and simple

In its consultation paper, APRA outlines the eligibility criteria for a captive that would be exempt from prudential regulation. They include:

- That it is wholly owned by the parent corporation and provides insurance only to companies within the corporate group. No coverage could be provided to third parties such as contractors, joint-venture partners or customers.
- That it does not write business, such as workers compensation, to enable the parent to meet statutory obligations.
- That it does not provide reinsurance, except to another eligible captive.

Grant Gernhoefer, group risk manager for Perth-based diversified industrial conglomerate Wesfarmers Ltd., said he welcomes the proposed change in principle but sees it has having a limited impact, given the restriction on third-party business.

"Companies could now see establishing a captive in Australia as an option, but it is inevitable that captives will potentially impact on third-party beneficiaries, and that may narrow down the number of companies that will fit the exemption criteria," Mr. Gernhoefer said. He added that he doubts whether the proposed change would entice his company to move its Bermuda-based captive to Australia any time soon.

Mr. Somogyi said, though, that APRA would look at the third-party arrangements falling outside the exemption criteria on a case-by-case basis. In addition, he noted that

Watson Wyatt sued for alleged negligence

By SARAH VEYSEY

LONDON—A trial over alleged negligence by Watson Wyatt Worldwide in its valuation of a Crédit Lyonnais group pension plan is slated to start next month.

The Paris-based investment bank has sued the London-based unit of Watson Wyatt Worldwide over work that the pension consultant conducted for the Crédit Lyonnais Group U.K. Pension Scheme, a Watson Wyatt spokesman said.

The bank claims that Watson Wyatt overstated the funding position of the plan and that, as result of the alleged overstatement, the bank granted richer

benefits to employees than it would otherwise have done, the spokesman said.

The Watson Wyatt spokesman said that the consultancy was "vigorously contesting the ongoing claim."

"We consider that the losses claimed are, in fact, the consequence of management decisions taken by Crédit Lyonnais on their own initiative, without reference to or without having sought appropriate advice from Watson Wyatt," according to a Watson Wyatt statement.

A spokesperson for Crédit Lyonnais could not be reached.

The case is slated for trial in commercial court in London on April 25.

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IN THE SUPREME COURT OF BERMUDA

CIVIL JURISDICTION

NO. 29 OF 2003

NOTICE OF TERMINATION OF

SCHEME OF ARRANGEMENT

BETWEEN

BNIB INSURANCE COMPANY LIMITED

(IN LIQUIDATION)

AND ITS SCHEME CREDITORS

dated 7th February 2003 (the "Scheme")

Take notice that the Scheme in relation to BNIB Insurance Company Limited (In Liquidation) was terminated in accordance with its terms on the 24th day of February, 2005.

Dated this 24th day of February 2005

D. GEOFFREY HUNTER

PAUL A.B. EVANS

Scheme Administrators

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE PETITION OF DAN YORAM SCHWARZMANN AND MARK CHARLES BATTEN, AS PROVISIONAL LIQUIDATORS OF
INDEPENDENT INSURANCE COMPANY LIMITED,
DEBTOR IN A FOREIGN PROCEEDING
CASE NO. 01-13899 (SMB)

NOTICE IS HEREBY GIVEN THAT ON FEBRUARY 24, 2005, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. §304 ORIGINALLY ENTERED IN THIS CASE ON JULY 31, 2001. THE ORDER SHALL REMAIN IN EFFECT PENDING A HEARING SCHEDULED TO BE HELD ON FEBRUARY 28, 2006 AT 10:00 A.M. (THE "RETURN DATE") BEFORE THE HONORABLE STUART M. BERNSTEIN, CHIEF UNITED STATES BANKRUPTCY JUDGE, IN THE UNITED STATES BANKRUPTCY COURT LOCATED AT ONE BOWLING GREEN, NEW YORK, NEW YORK. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING THE CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE STUART M. BERNSTEIN AND SERVED ON COUNSEL FOR THE PETITIONERS LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE PETITIONERS.

CHADBOURNE & PARKE LLP
ATTORNEYS FOR THE PETITIONERS
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112
(212) 408-5100
ATTN: HOWARD SEIFE, ESQ.
FRANCISCO VAZQUEZ, ESQ.

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: Petition of Gareth Howard Hughes and John C. McKenna, as Joint Liquidators, of CAROLINA REINSURANCE LIMITED, Debtor in Foreign Proceedings.

Case No. 01-16090-BRL
In Petition under Section 304

CORRECTED ORDER FOR A PERMANENT INJUNCTION ENFORCING SCHEME OF ARRANGEMENT PURSUANT TO BANKRUPTCY CODE SECTIONS 105(a) AND 304(b)(2)

This matter having come before the Court upon the Verified Petition Pursuant to 11 U.S.C. Section 304 to Commence Cases Ancillary to Foreign Proceedings (the "Verified Petition"), the Motion of the Joint Liquidators of Carolina Reinsurance Limited for a Permanent Injunction and Entry of an Order Pursuant to Sections 105(a) and 304(b)(2) (the "Motion") and this Court having considered and reviewed the Motion, the Verified Petition, the Affirmation of John Christopher McKenna, dated February 9, 2005, the Affirmation of Jennifer L. Fraser, counsel to the Joint Liquidators, dated February 8, 2005, the Affidavit of Peter A. Ivanick, counsel to the Joint Liquidators, dated February 9, 2005, and any responses filed thereto, and having held a hearing on the Motion and having heard arguments by counsel on February 23, 2005; and upon this Court's Order, dated February 3, 2005 permitting service of the Notice of the Petition by mailing and by publication, and establishing February 23, 2005 as the date of the final hearing on the relief sought in the Petition and permitting service of the February 3, 2005 Order by mailing and by publication, and the Court having considered and reviewed the Motion, and there being no answers or responses thereto; and after due deliberation and sufficient cause appearing therefore, the Court hereby **FINDS, DETERMINES AND CONCLUDES THAT:**

1. Carolina Re is the subject of a "foreign proceeding" within the meaning of sections 101(23) and 304 of the Bankruptcy Code;
2. the Joint Liquidators are the "foreign representatives" of Carolina Re within the meaning of sections 101(24) and 304 of the Bankruptcy Code;
3. relief pursuant to Bankruptcy Code section 304(b) is necessary to permit the effective and economical administration of Carolina Re pursuant to section 99 of the Companies Act of 1981 (the "Companies Act") and is consistent with the factors set forth in section 304(c) of the Bankruptcy Code;
4. pursuant to principles of international comity and 11 U.S.C. section 304, the Scheme of Arrangement approved by the Supreme Court of Bermuda on December 3, 2004 (the "Scheme") shall be made binding and enforceable in the United States;
5. the interest of the public will be served by this Court granting the relief requested by the Joint Liquidators; and
6. venue is proper in this district pursuant to 28 U.S.C. § 1410;
7. the Joint Liquidators have demonstrated that permanent injunctive relief would not cause hardships to parties-in-interest that would not be outweighed by the benefits of such relief. Unless a permanent injunction is issued, it would be possible for one or more persons or entities to take action against the Company, thereby interfering with, and causing harm to, the provisions of the Scheme, and that as a result, Carolina Re, its estate and the Joint Liquidators will suffer irreparable injury for which there is no adequate remedy at law.

NOW, THEREFORE, IT IS HEREBY:

ORDERED THAT, the Claim for Relief set forth in the Verified Petition is hereby granted; the Order of the Supreme Court of Bermuda, dated December 3, 2004 (the "Bermuda Court Order") (a copy of which is attached hereto and made a part hereof), which approves the Scheme (a copy of which is attached to the Bermuda Court Order), is hereby given full force and effect in the United States and is binding and enforceable in accordance with its terms against parties in the United States and with respect to any and all property of the Company located in the United States; and it is further

ORDERED, that no Scheme Creditor shall be entitled to take any step or Proceedings against the Company or its property or assets (whether by way of demand, legal proceedings, arbitration, judgment, execution or otherwise whatsoever) for the purpose of obtaining payment of any Scheme Claim or for any purpose, except as may be permitted under the Scheme; and it is further

ORDERED, that this Court shall retain jurisdiction with respect to the enforcement, amendment or modification of this Order, and requests for any additional relief in this section 304 case and all adversary proceedings in connection therewith properly commenced and within the jurisdiction of this Court; and it is further

ORDERED, that except with respect to the matters over which this Court has expressly retained jurisdiction, the ancillary proceeding with respect to the Company is hereby closed, subject to it being reopened pursuant to section 350(b) of the Bankruptcy Code; and it is further

ORDERED, that this Order shall be served as follows:

- (a) by United States mail, first-class postage prepaid, on or before February 25, 2005, upon the parties-in-interest identified at the time of such service; and
- (b) by publication of a summary of this Order (without attaching a copy of the Bermuda Court Order and the Scheme) in Business Insurance, the Wall Street Journal (National Edition), and the Greensboro News and Record on or before March 7, 2005 or as soon thereafter as publication dates allow, and it is further

ORDERED, counsel for the Petitioners shall make copies of the Bermuda Court Order, the Scheme, the Petition and any and all pleadings filed with this Court in connection with the Petition and Motion available upon request to Edward J. Estrada, Esq., at LeBoeuf, Lamb, Greene & Macrae, L.P., 125 West 55th Street, New York, New York 10019 (212) 424-8800, or to estrada@lbgm.com; and it is further

ORDERED, that service pursuant to the foregoing paragraphs shall be good and sufficient service and adequate notice for all purposes.

Dated: New York, New York /s/ Burton R. Lifland
March 1, 2005 United States Bankruptcy Judge

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LEGAL NOTICE

In The High Court of Justice
Chancery Division • Companies Court
No 1034 of 2005

IN THE MATTER OF
Sphere Drake Insurance Limited

AND IN THE MATTER OF
The Companies Act 1985, section 425

NOTICE IS HEREBY GIVEN that, by an order dated 24 February 2005, the High Court of Justice in England and Wales has directed that a meeting (the "Scheme Meeting") be convened of certain creditors ("Scheme Creditors") as defined in the scheme of arrangement referred to below) of Sphere Drake Insurance Limited (the "Scheme Company") in relation to certain business ("Scheme Business"). The Scheme Business is part of the business remaining with the Scheme Company following the conclusion by the Scheme Company under Part VII of the Financial Services and Markets Act 2000 of the transfer of most of its business to Riverstone Insurance (UK) Limited. The purpose of the Scheme Meeting is to consider and, if thought fit, to approve (with or without modification) a solvent scheme of arrangement (the "Solvent Scheme") proposed to be made between the Scheme Company and the Scheme Creditors. Scheme Creditors as defined in the Solvent Scheme are insurance, reinsurance or retrocession creditors of the Scheme Company in respect of the Scheme Business;

AND that such Scheme Meeting will be held at the offices of Lovells, Atlantic House, 50 Holborn Viaduct, London, EC1A 2FG, at 11am (London time) on 19 April 2005 at which place and time all Scheme Creditors of the Scheme Company are requested to attend. Registration for attendees will commence at 10:30am (London time).

Scheme Creditors may vote in person at the Scheme Meeting or they may appoint another person as their proxy to attend and vote in their stead irrespective of whether that person is or is not a Scheme Creditor.

Scheme Creditors known to the Scheme Company have been sent copies of a short form version of the explanatory statement required pursuant to section 426 of the Companies Act 1985 ("Explanatory Statement") and a Form of Proxy and Voting Form to be used for voting at the Scheme Meeting.

The full text of the Explanatory Statement and the Solvent Scheme may be obtained from the Solvent Scheme Website at www.sdpools-solventscheme.co.uk (the "Website"). Copies of these documents, as well as the short form version of the Explanatory Statement and blank Voting Forms and Forms of Proxy, may also be obtained by attending, or on written application to, the offices of Axiom Consulting Limited (the "Scheme Manager"), Lloyds Chambers, 1 Portsoken Street, London E1 8DF, United Kingdom marked for the attention of Paul West and sent by facsimile transmission to +44 (0) 20 7767 2878 or by email to paul.west@axiomcc.com, colin.horwood@axiomcc.com or john.farrow@axiomcc.com.

It is requested that any completed Forms of Proxy be lodged together with Voting Forms with the Scheme Manager at Lloyds Chambers, 1 Portsoken Street, London E1 8DF, United Kingdom marked for the attention of Paul West, not later than 9.00am (London time) on 19 April 2005, but if Forms of Proxy and Voting Forms are not so lodged they may be marked for the attention of Paul West and sent by facsimile transmission to +44 (0)20 7767 2878 or by email to paul.west@axiomcc.com, colin.horwood@axiomcc.com or john.farrow@axiomcc.com by the same time on the same date provided that the original forms are handed to the chairman of the Scheme Meeting at the relevant meeting or posted so as to be received by the Scheme Manager no later than 3 Business Days after the date of the Scheme Meeting. Any Scheme Creditor returning a Form of Proxy only will have the value of its Scheme Liabilities determined for voting purposes by the chairman of the Scheme Meeting on the basis of the information available to the Scheme Manager in respect of such claims.

By the said Order the Court has directed that the chairman of the Scheme Meeting shall be Nicholas Bentley, a director of the Scheme Company, or, failing him, Catherine Regan, company secretary of the Scheme Company, or, failing both of them, Luke Tanzer of the Scheme Company. The Court has directed the chairman to report the results of the said Scheme Meeting to the Court.

Any Scheme Creditor who is unclear about or has any questions concerning the action he is required to take should contact Paul West, Colin Horwood or John Farrow of the Scheme Manager at the above address (email: paul.west@axiomcc.com, colin.horwood@axiomcc.com or john.farrow@axiomcc.com; telephone: +44 (0)20 7767 2700; facsimile: +44 (0)20 7767 2878).

The said Solvent Scheme will be subject to the subsequent sanction of the High Court of Justice of England and Wales.

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Title: Probe not likely to affect other captives

Continued from page 3

between title insurance companies, unlike the deals the regulators are questioning, explained Colleen Garrity, director for Fitch Ratings in Chicago.

But both First American—the second-largest title insurer in the industry, with about a 24% market share—and LandAmerica—the third-largest, with about an 18% market share—said all their current reinsurance arrangements were made with realtors, homebuilders and lenders. Fidelity National—the largest title insurer, with a 32% market share—could not be reached for comment.

Reinsurance premiums paid related to captive reinsurance arrangements have totaled about \$12 million since 1997 for LandAmerica, while the amount of premiums Fidelity National ceded to these reinsurers has been approximately \$10

million over the existence of these agreements, the companies said in separate statements.

"Reinsurance, in general, is very small in title insurance," said Jim Auden, senior director for Fitch Ratings.

Any future captives set up in the title insurance industry will be clearly focused on managing risks, not on compensating companies with control over the placement of the business, Mr. Auden predicted. "In title insurance, when you try to form a captive, it will be scrutinized more in terms of what the intent is," he said.

The investigations into the title insurance industry are "along a similar vein" as the investigations into the property/casualty market, because regulators are looking for conflicts of interest in the distribution process—where intermediaries work with insurers to place busi-

ness—that could lead to violations, Mr. Auden said.

In addition, a key question being asked by regulators in these probes is whether there is an actual transfer of risk or if there is another reason the reinsurance arrangements are being formed, perhaps for kickbacks in title insurance or to manage earnings or manipulate financials in finite risk investigations. Mr. Garamendi alleged that "phony" reinsurance arrangements did not involve a real transfer of risks and were developed merely to disguise illegal kickbacks, a charge that LandAmerica denied.

While observers say the outcome of the title insurance investigations remains uncertain, the consensus among industry professionals is that the probes will not have an impact on the captive insurance industry beyond meaning the end of these particular arrangements.

"It shouldn't have any impact at all on captive formations," Mr. Crouse said.

"I don't see a huge implication for captives," said Jon Harkavy, vp and general counsel of Risk Services L.L.C. in Arlington, Va.

The arrangements in question represent a very small percentage of captive formations, observers note.

In addition, state regulators are alleging that these companies misused the captives because, rather than providing legitimate reinsurance for the title insurers, they were being used to disguise illegal kickbacks.

Captives cannot be used for illegal activities and most are tightly regulated to prevent such misuse, observers say.

"It would be illegal of the people

trying to force you to do business with the captives," Mr. Harkavy said. "The wrongdoing seems to rest not on the captive level but on the ownership of the captive."

It is too early to tell whether there will be any regulatory ramifications, said Henry Witmer, a managing senior financial analyst for Oldwick, N.J.-based A.M. Best who specializes in captives. "It may not take the form of new regulations but, rather, regulators applying additional scrutiny or oversight to captives," he said.

State insurance regulators say they already have strict regulations in place to prevent the misuse of captives. "We run a tight ship here," Mr. Crouse said. "The captives here are closely monitored; they're solvent, and that's the bottom line."

Title reinsurance scheme unravelled

State insurance regulators are alleging that title insurers participate in a scheme in which they pay realtors, lenders and developers illegal rebates in the form of premiums on fake reinsurance written by the companies' captive reinsurers in exchange for the companies channeling business to the title insurers.

According to California Insurance Commissioner John Garamendi, two units of Jacksonville, Fla.-based Fidelity National Title entered into such contracts with Meritage Homes Corp., which has headquarters in Phoenix and Dallas.

Meritage created a captive reinsurer called Meritage Paseo Crossings L.L.C., which contracted with the Fidelity National subsidiaries. Meritage agreed to refer to Fidelity National title insurance business on its developments in California, Arizona, and Nevada in exchange for Fidelity National "ceding" to the Meritage captive 50% of the premium after deducting a \$350 service charge. In exchange, the Meritage captive

purports to cover 50% of the title insurance losses, according to Mr. Garamendi.

"There are substantial doubts that the captive reinsurer would ever pay a dime on the ceded business, but even if it did, it is



'There are substantial doubts that the captive reinsurer would ever pay a dime on the ceded business.'

John Garamendi
California Insurance
Department

clear that the ceded premium is wildly disproportionate to the losses," Mr. Garamendi said in a statement.

For example, on a \$1,350 policy (the estimated premium Fidelity National charges on a \$350,000 policy) for a Meritage home, the Fidelity subsidiary would keep the \$350 service charge and pay \$500 to the cap-

tive reinsurer. Even assuming the reinsurer will pay half the losses on the policy, and assuming a 5% loss ratio for the business, which is higher than the industry average, the total losses on the \$1,350 policy would be only \$67.50, and the ceded losses would be half that, or \$33.75.

The \$350 service charge is below the cost of servicing the policy, but title policies are so lucrative that the Fidelity National subsidiary can afford the arrangement and still make a handsome profit, Mr. Garamendi said.

The terms of the Fidelity National-Meritage deal are typical of these captive reinsurance deals, he said.

Both Fidelity National and Meritage said they would cease participating in these arrangements.

—By Gloria Gonzalez

Letters to the Editor

Continued from page 8

and all parties interested in the sale of long-term liabilities can comment on the transaction. The 45-day comment period ends April 5. All risk managers, policyholders and cedents with long-tail liabilities covered by insurance should consider weighing in by commenting on the proposed sale. If every insurer were allowed to move its asbestos and environmental liabilities offshore by selling to a much less capitalized owner, every insurer might decide to do the same type of transaction with its long-tail liabilities.

Maintaining the solvency of the insurance industry is one of the most important obligations of each state, and we believe Pennsylvania will do the right thing by refusing to approve the Randall & Quilter transaction. And this transaction, in reality, affects everyone involved in maintaining the solvency and security of the insurance industry. Pennsylvania needs to hear from us all.

Letters should be sent to:

The Honorable M. Diane Koken
Pennsylvania Department of Insurance

1236 Strawberry Square
Harrisburg, Penn. 17120

In a time when the insurance industry is under ever-greater scrutiny by both federal and state regulators, it is important for everyone in the process to make known their views. It is important for all of us to take our turn making sure the integrity and solvency of the insurance industry is maintained.

James G. Sporleder

Assistant VP, Assistant Secretary
and General Counsel
Allstate Insurance Co.
South Barrington, Ill.

Conferences are key to closing quality gap

To the Editor: In Paul Winston's January 3 column, "Resolutions for risk managers," his January "resolutions," he made some good points for well-connected risk managers to find things out for themselves and to educate themselves. The trouble

with most of his resolutions is that they are time-consuming to begin with and subject to the quality gap. The quality gap is the difference between the intended result and the actual result, which many risk managers have no standard for measuring.

I find that Mr. Winston's last resolution, "networking at conferences" is the best answer to both of these shortcomings, although he didn't go far enough with it. By attending conferences such as the World Captive Forum, the risk manager or his or her finance director gets to encounter a lot of practitioners, some of whom have a view on how to accomplish those noteworthy resolutions. That's the usual argument in favor of going to such conferences.

But there's another one that is even more important to self-improving risk managers—that is the opportunity to meet with the rest of the conference delegates, who represent service providers, insurance companies (even fronting companies!) and reinsurers of all kinds. They are attending these kinds of conferences with the intention of meeting just such people. It is a great way to save time by getting to meet several of them in a short space of time, which corresponds to my first comment. During these informal get-togethers with service providers at conferences, risk managers and their financial people (if they come along, too) get to compare and contrast what they're hearing at home, or in-house, with what others with a broader experience perspective have to say.

This is one of the best ways to start to bridge the quality gap, in my opinion, and it is one of the most overlooked advantages of specialized conferences in our industry.

Hugh Rosenbaum

Hughro Ltd.
London

Editor's note: Mr. Rosenbaum is a consultant to Tillinghast Towers-Perrin, which, along with Business Insurance, is one of the principal organizers of the World Captive Forum.

P&I: Smaller rate increases

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club if they were being asked for a smaller increase from another, a source said.

There was not significant movement of ships between clubs at the Feb. 20 renewal date, noted Aon's Mr. Hawke.

"There was not a big shift in tonnage," said Sven-Henrik Svensson, senior vp of the Gard P&I Club in Arendal, Norway. "Certainly not for us, and I don't think for others."

He attributed that situation to the generally lower proposed rate hikes than have been seen in the past few years.

In its annual report on the Inter-

national Group, S&P said that its outlook for the P&I industry is stable. This outlook, the report notes, is based in part on the rate increases seen over the past few years, which have reduced the clubs' reliance on investment returns.

But it noted that some clubs likely will report underwriting losses for the year ended Feb. 20, 2004, "despite the benefit of four straight years of above-inflation premium rate increases."

The report noted that further rate increases are likely at the 2006 renewals, "as a buffer against increasing shipowner liability exposure" and claims inflation, among other

factors.

One area where price competition is being seen in the mutual marine sector is on new ships, noted Rowena Potter, credit analyst at S&P in London. As clubs are seeking to underwrite the coverage for these new vessels, there is competition on pricing that may result in the premium being charged for the cover not being commensurate with the risk involved, she said.

Copies of "Marine Market Report; 2005 Edition" are available for £250 (\$480). For more information, contact Kirsty Tate at kirsty_tate@standard-andpoors.com.

Greenberg: 'A world of constant change, evolving risk'

Continued from page 1

Marsh's chairman and CEO.

Evan Greenberg—who joined ACE in 2001 after resigning as president and chief operating officer of AIG—recently sat down with *Business Insurance* Senior Editor Douglas McLeod for an interview on topics ranging from the Spitzer investigation and industry reforms to the attention his family has received since the crisis began.

Q: Eliot Spitzer has described the insurance industry as "rife with corruption." What do you think about that?

A: Mr. Spitzer has his point of view, and I respect that. (But) I think most of the people, the vast majority of people, in our industry are good people intending to do the right thing and conduct themselves properly. Where we have incidences of illegal or grossly improper behavior, we should never try to defend the indefensible. We should identify it, and we should eliminate it and put into place those procedures and safeguards that will keep it from recurring.

I do believe, on the other hand, that the attorney general's investigation provided the impetus that is causing many of us—certainly me and my colleagues—to examine our own practices. If you step back and take a look, it seems to me there is an opportunity for good to come out of it. And that good should be led by those who know the industry best, the participants and the regulators of the industry. We ought to make changes to our practices where changes are necessary.

Q: What changes do you think the industry needs to make?

A: The changes being discussed right now don't go far enough. In the first instance, it's (about) disclosure, and yet I think that more-fundamental change should take place.

Number one, there should be a distinction in law between brokers and agents. That's become obscured. Brokers represent the insured. The agent represents the company. You should be compensated by those whom you work for. Brokers ought to be compensated, therefore, by their client, not the company.

Number two, it ought to be by regulation that all quotations must be disclosed to the client, along with the broker's or agent's recommendation. Failure to do that is selective reporting and not in the spirit of complete transparency.

The third part is that, as it is today, there is no obligation for a broker or agent to disclose the quotation process that will be used for a



given client. In advance of any quotation being made, the process to be employed by the broker or agent, with the knowledge of the insured, should be disclosed to all carriers who are going to participate, so that the ground rules are clear to them all.

These three fundamentals will help to provide transparency and eliminate even the appearance of conflict of interest, as well as improve the environment in terms of even enticing any hint of conflict or behavior that could lead to conflict.

Q: You mentioned the problem of creating an environment where conflict of interest can arise. One of the things Marsh has changed is its global broking model, which channeled all placement activity through a single unit, where the abuses alleged by Mr. Spitzer occurred. Do you feel global broking was one of those problem environments?

A: I don't want to comment on that that way. But what I would say to you is, clearly, in the global broking environment, inappropriate or illegal behavior did take place. So, I think, to some degree, it speaks for itself.

Q: What has ACE heard from its own clients about the allegations?

A: Look, reputation is everything. In my judgment, an insurance company has only a few assets: capital, people and reputation. We were certainly concerned from the very beginning that our clients understand that if we did anything wrong, if there was any wrongdoing in our organization, we weren't going to tolerate it. We would identify it, and we'd correct it. Our clients, in the main, have listened, have shown us a lot of goodwill and given us the benefit of the doubt.

Q: Rival insurers are charging that ACE's planned sale of three runoff entities to a U.K. investment firm will damage their ability to recover reinsurance from the runoff companies. How do you respond to that criticism?

A: The objections are a bit baffling to us. The three entities we are selling, in the first place, are not part of the 1996 Brandywine restructuring order between CIGNA and the state of Pennsylvania. Yet the objections respond and take a view about the original order. It seems to us that's kind of fighting yesterday's battles.

These three entities are reinsurance-only companies that have been in runoff for many years, in fact, long before ACE acquired CIGNA P&C. They're not strategic to ACE, and they absorb time and resources that are better spent on our active business.

Century Indemnity Co. (the parent company of two runoff entities)—which is where the majority of our asbestos and environmental direct policyholder liabilities reside—benefits from the sale. The transaction helps improve Century's own financial position.

The buyer, which we've taken a great deal of care to select, is experienced with runoff companies; they do it for a living. So, frankly, I'm optimistic we'll be successful in the sale, and I'm also confident we have approached this properly.

Q: After you resigned as president and chief operating officer of AIG in 2000, what was it that attracted you to ACE?

A: I think that Brian Duperreault had created and put in place the foundation of a terrific franchise that holds great promise for future development. ACE is an underwriting

company with a real underwriting culture, and that's very attractive to me.

Q: What is it that interests you most about the insurance business?

A: I suppose the insurance business is like so many other businesses: the first thing you have to have as a company is a reason to exist. You have to have franchise value, you have to have something that makes you special. That's also what attracted me to ACE.

Secondly, we're in the business of risk, and underwriting is the fundamental. I'm passionate about underwriting. We're in a world of constant change, and constant change means constantly changing and evolving risk, new areas and new threats and opportunities. That's a dimension I enjoy very much about the business.

Q: Whom in the industry do you most admire?

A: I suppose the guy I admire most is Brian.

Q: How would you describe yourself as a manager?

A: I don't want to answer that question, because everybody else seems to describe me as a manager. I'm just a guy. I think you'd have to ask my people. They're a better judge of how I am as a manager.

Q: Between Jeffrey's and your resignations from AIG and, more recently, the Spitzer charges, a lot has been written about the Greenberg family and your relationships with your brother and father. A recent *Fortune* magazine piece was not very flattering in its description of your career at AIG and the Greenberg family dynamic. How much of what's been reported is accurate?

A: I think I come from a family that has always prided itself on being honorable, and I admire and respect those in my family for the way they conduct themselves. They are honorable people. We all pride ourselves on being professional and being guided by our moral compasses.

Most of what I read has scant resemblance to reality. (But) I'm going to worry about the things that are worth worrying about in life, and half of what I read is just not worth worrying about.

Based on everything you read, you come in here and I'm not the guy that you think you're going to find.

California: Hospitals claim new legislation is unreasonable

Continued from page 4

cated to price it on a retail basis.

"What he's trying to accomplish is unreasonable because of the fact that every person's medical situation is different. You don't go shopping like you do for car repairs," asserted Jan Emerson, vp of external affairs at the Sacramento-based California Hospital Assn.

"Health care delivery is a very complex system, and because you're dealing with humans, not things, not cars, every person's health care is different. It's an absurd notion to be able to say a broken bone is going to be X," she said, adding that "it's absurd to think that this is somehow going to improve health care and help people become better consumers of health care."

Ms. Emerson also defended hospital compliance with the Payers' Bill of Rights.

"The legislation...says that hospitals have

to provide a list of the 25 most common procedures, and that's going to vary depending on what kind of a hospital it is." So, for example, hospitals that specialize in rehabilitation could very well list "gait training" as one of their 25 most common procedures, she explained. Likewise, "an academic medical center that has a burn unit and a pediatric (intensive care unit) is going to be very different than a 30-bed hospital on the North Coast," she added.

Ms. Emerson also said that although the association is not tracking hospital compliance with the law, she has heard anecdotally that the majority of the requests to see the charge-masters have come from consumer advocates, labor unions and reporters.

"The public doesn't care about looking at these very complicated documents," she said.

And the documents are as complicated as

they are due to the evolution of health care financing over the past 40 years, according to Ms. Emerson.

"This was not a document that was developed for consumers. It's a document that was developed by Medicare for billing purposes, and the only people who really understand it are hospital billing clerks," she said.

"It's become an expert-only pricing system," acknowledged Mr. Vigen, but he doesn't agree with Ms. Emerson's logic. "The reason that all that has occurred is the carriers and hospitals each year make things more and more complex," he said.

Rather than waiting for new legislation to be enacted, some employers have started taking matters into their own hands, according to Mr. Vigen. He said has been working with several large employers and the health plans with which they contract to develop narrow

network alternatives that would exclude high-cost hospitals. The initiative is similar to what the California Public Employees' Retirement System did last year, except that Mr. Vigen's groups would exclude individual doctors from their networks as well, he said.

Last May, CalPERS eliminated from its Blue Shield health maintenance organization 38 hospitals it said were charging excessively high rates.

Several of the new, narrow networks Mr. Vigen is helping to develop are already available in certain counties. Statewide networks are in development, he said.

"There's a legislative route," he said, and "there is also a product design, i.e., network design route that is going on as we speak, hoping that the combination of the two of them will start to give more options to employers to deal with this."

COMPENSATION CRISIS

Marsh: Dropping business

Continued from page 1
further cost-cutting measures at the company (see related story).

Now, as Marsh attempts to restore its profitability and recover lost MSA revenues, clients will bear part of the brunt, in the form of higher commissions and fees.

"We were in the past, and will be in the future, the brokerage that provides the greatest value to our clients," Mr. Cherkasky said in the conference call. "We believe as brokerage becomes more transparent, clients will be able to see, more than ever before, the Marsh advantage. But we need to be paid fairly today."

"At times, our clients are going to have to make a choice," Mr. Cherkasky acknowledged. "Do they want Marsh to be their broker?"

"All of us are looking at this out of the same prism, and that is, 'what's it mean for me?'" said John Phelps, director of risk management for Blue Cross & Blue Shield of Florida Inc. in Jacksonville and a Marsh client. "I'm kind of waiting to see what their intentions are for our account. And if they want to dust off and reprise other accounts, that's not material to me. The only thing that is material is what it means to the Blue Cross & Blue Shield of Florida account, and that's going to be a while before that is known."

Unprofitable business

As part of its new business model, Marsh will service only accounts that provide "a fair" return to the brokerage.

Toward this goal, Marsh is abandoning all of its small commercial accounts. It also plans to sever ties with some larger unprofitable accounts but will offer those accounts the opportunity to stay with Marsh, albeit at a higher cost.

The presence of unprofitable accounts is, in part, a product of Marsh's recent reliance on contingent commissions, Mr. Cherkasky said in the conference call. "Before the abandonment of MSA revenue, a break-even or money-losing account could still be an overall profitable account because of the back-end MSA revenue," he said.

Marsh will be phasing out these accounts over time. It expects to be out of the smaller commercial account business by the end of the third quarter, but larger accounts may take up to a year to exit, Mr. Cherkasky.

Mr. Cherkasky noted that, while it is "simpler" for Marsh to exit the small commercial account business, it does plan to give larger accounts the opportunity to stay with Marsh.

"This is not going to be a notice in the mail saying, 'Marsh is exiting your account,'" Mr. Cherkasky said of the larger accounts. Rather, he said, "it's going to be a conversation where we're saying, 'This doesn't work for us, and we're going to try to help you find another broker for whom it does work.' Obviously, we'd love to be pleasantly surprised that people come back and say, 'No, we really do value you and we're willing to pay you more,' but we can't anticipate that," he said.

Observers note that the move toward evaluating the profitability of individual accounts is a sound business practice.

"I think the more significant component of the Marsh announcement is that Marsh is going to be looking at...the profitability and margins on pieces of business," said Ken A. Crerar, president of the Council of Insurance Agents & Brokers in Washington. "I think a lot of firms have not looked closely...what their service costs are per client and what they're getting compensated for and what makes sense to keep and not keep."

Standardized rate cards

Marsh's new business model also calls for higher upfront commissions.

"We have gone to individual insurance companies with rate cards, which set out how much we will charge for the placement of a given type of coverage," Mr. Cherkasky said. "These rates will be our standard charge for all carriers and will be fully disclosed to our clients."

He noted that while the commission rates will be higher than before, they "will still be at the lower end of the market."

"We believe clients will recognize our value and agree to these standard rates," he added.

Observers say that Marsh's move to a standardized rate card was inevitable but that the success of the new model lies with the marketplace and will take time to play out.

The way Marsh structured its commissions "is not economic" to Marsh now without contingent commissions, said Mark Lane, a principal and research analyst with William Blair & Co. in Chicago. "MSAs were, obviously, a huge component of the economics of their business, so for them to try to push up commissions is not surprising, and there's no reason they shouldn't get it."

While Marsh may be attempting to take the contingent commissions they received on the back end from insurers and put it all up front, "it doesn't mean they will get to the same point where it was before," Mr. Lane added.

Timothy J. Cunningham, a principal with OPTIS Partners L.L.C. in Chicago, said a standardized rate card seems "to raise as many questions as it solves."

"Are insurers prepared to pay the same commission? Does that business model recognize that essentially...the placement and service function is monolithic?" he asked.

"Time will tell" if the rate cards will be accepted by insurers, said a spokesman for the Property/Casualty Insurance Assn. of America. "That was a business decision that Marsh had to make for their best interest and for the best interest of their clients," the spokesman said. "The marketplace will determine whether the rate card idea was the right move."

Higher fees

Mr. Cherkasky acknowledged that, in addition to raising its commission rates, some accounts also will see fee increases.

"Those clients that want to retain us, we're going to try to work with (them) to persuade them of the value that we generate and what is a fair return for us," Mr. Cherkasky said.

"It's inevitable that fees will go up," said Gretchen Roepzer, a credit analyst with Fitch Ratings in Chicago. "I don't know any way around that. But there will have to be a fine line. You don't want to alienate accounts and lose even more business."

"I think that there will be selective movement toward trying to increase fees on an account-by-account basis where the profitability of the account is not acceptable," Mr. Lane said. "My expectation is that maybe the focus will be on the commissions first and then, over time, work on the fee side."

While it may be logical for Marsh to move to a standardized commission rate, it doesn't necessarily mean other brokerages that have discontinued accepting contingent commissions will follow suit, observers say.

"I'm not sure there are that many brokers out there with the ability to dictate a rate card commission at the front end," Mr. Crerar said. "Marsh has such a volume of business, they're able to do that."

While it is possible that large players will consider something similar, "there will be some (brokers) that stay exactly the way they are now, with maybe a little more disclosure in their documents and more transparency," Ms. Roepzer said. "There's plenty of smaller and midsized brokers that are accepting all commissions."

Broker revenues increase despite commissions questions

Ranked by 2004 revenues, in millions of dollars

Brokers	2004 Brokerage revenues*	% change from 2003	2004 Net income	% change from 2003	2004 Contingent commission	% change from 2003	Contingent commission policy going forward
Marsh & McLennan Cos. Inc.	\$10,461.00	9.1%	\$180.0	-82.9%	\$541.0	-56.2%	Ceased collecting
Aon Corp.	7,060.00	3.9	654.0	4.1	132.0	-21.9	Ceased collecting
Willis Group Holdings Ltd.	2,004.00	10	427.0	3.1	71.0	1.4	Ceased collecting
Arthur J. Gallagher & Co.	1,325.20	10.2	188.5	28.9	39.5	21.2	Ceased collecting
Jardine Lloyd Thompson Group P.L.C.	896.9	27.9	102.9	-14.3	22.4†	27.9†	Ceased collecting
Brown & Brown Inc.	638.3	17.1	128.8	16.8	30.7	-5.5	Continues to collect contingent commissions, which are primarily profit-based
Hilb, Rogal & Hobbs Co.	609.7	9.7	81.4	8.6	42.4	3.9	Ceased collecting volume-based contingent commissions, but will continue to collect profit-based commissions.

*Brokerage revenues exclude revenues not related to brokerage and consulting services as well as all corporate and fiduciary investment income. † B/I estimate of maximum amount. 1 British pound = \$1.916 (12/31/2004) 1 British pound= \$1.6341 (12/31/2003)

Fourth-quarter charges shrink Marsh profits

By SALLY ROBERTS

NEW YORK—The loss of more than \$300 million in contingent commissions and more than \$1 billion in special charges taken in the fourth quarter took a bite out of Marsh & McLennan Cos. Inc.'s 2004 revenues and profits.

As a result, the company said it is cutting its dividend in half, scaling back some of its employee benefits, laying off another 2,500 employees and spinning off its MMC Capital investment unit.

MMC also unveiled its new business model, which includes a standardized rate card for its commission business and the exit from unprofitable accounts, including all of its small commercial accounts (see related story).

Revenues from MMC's risk and insurance services and consulting operations rose 9.1% to \$10.46 billion in 2004. Growth came despite a 36% decrease in contingent commission revenues to \$541 million, the company said. MMC ceased collecting contingent commissions, which it calls market service revenues, last October, shortly after it was charged with fraudulent self-dealing and bid-rigging in its use of the commissions by New York Attorney General Eliot Spitzer. Gross revenues, which include investment income and revenues from its investment management unit, rose 5.3% in 2004 to \$12.2 billion.

A number of special charges taken in the fourth quarter, more than half of which reflect MMC's recent settlement with New York regulators, however, led to a \$676 million net loss for the quarter compared with a \$375 million profit in the prior-year period. MMC reported \$180 million in profits for the year, down sharply from the \$1.54 billion reported in 2003.

In late January, MMC settled Mr. Spitzer's fraud and antitrust suit for \$850 million (BI, Feb. 7), which resulted in a \$618 million pre-tax charge against fourth-quarter earnings. MMC set aside \$232 million for settlement expenses in the third quarter.

MMC also took a \$16 million administrative charge in the quarter relating to the esti-

mated cost of calculating restitution to clients as part of the settlement agreement, the company said.

In addition to regulatory settlement charges at Marsh, MMC's Boston-based investment management company, Putnam Investments Inc., took an \$80 million charge in the fourth quarter relating to its own regulatory settlements involving improper fund trading.

Marsh also took a \$65 million charge relating to new accounting guidelines in the United Kingdom.

In addition to special regulatory and accounting charges, MMC also took a \$337 million restructuring charge in the fourth quarter relating to the elimination of nearly 3,000 positions. MMC expects annual savings of about \$400 million as a result of the layoffs, it said.

The company also announced that continued restructuring at its Marsh Inc. unit could result in the elimination of another 2,500 jobs, which should result in additional annual expense savings exceeding \$375 million.

In a conference call to analysts last week, Michael G. Cherkasky, MMC president and chief executive officer, said it is time "to turn the page on crisis management" and to focus on the future of the company, for which he said he's "optimistic."

"Four months ago, MMC was in crisis, a crisis so deep people questioned our viability," he said. Today, "no one is questioning MMC's viability. We have stabilized the company. We have overwhelmingly kept our people who believe in each other and our clients who trust their MMC client representatives. We have a new bank facility and numerous options to finance and grow our business in the future. We settled the regulatory issues with New York and are generally having constructive dialogues with the other regulators," he said.

In addition to Marsh's new business model, which the company hopes will allow the brokerage to recoup lost MSA revenues, MMC is reducing its dividend payments by 50% effective in the first quarter of 2005 and scaling back its defined benefit and 401(k) re-

See MONEY/next page

Aon: Broker settles fraud charges with three states

Continued from page 1

suit against Aon alleged undisclosed conflicts in numerous Aon units, including Aon Risk Services, Aon Re and employee benefits unit Aon Consulting.

And, while the suit against Marsh cited senior executives, the attorney general's complaint against Aon goes straight to the top and specifically cites the involvement of Aon Chairman and Chief Executive Officer Patrick G. Ryan and Senior Executive Vp Michael D. O'Halleran in the alleged steering schemes.

Mr. Ryan didn't respond to specific allegations against himself or Mr. O'Halleran.

Instead, in a conference call with analysts, Mr. Ryan said: "Allegations in the complaint contain certain interpretations of fact and conclusions drawn, and we disagree with a number of the interpretations and conclusions."

Similar to Mr. Spitzer's settlement with MMC, Aon's joint settlement included a public apology to its clients from Mr. Ryan.

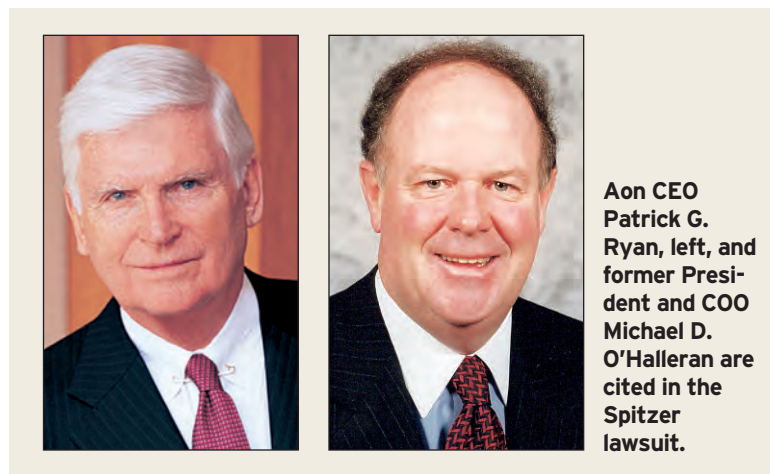
"As these investigations have revealed, Aon and other insurance brokers and consultants entered into contingent commission agree-

ments and other arrangements that created conflicts of interest," Mr. Ryan said. "I deeply regret that we took advantage of those conflicts. This conduct violated the long-standing principle embodied in our Code of Conduct and Aon's Values Statement that our clients must always come first. Such conduct was improper and I apologize for it."

Also, during the conference call, Mr. Ryan said that while certain individuals acted in a way that the company does not approve of, it is not indicative of a more pervasive pattern of activity within the entire company. Mr. Ryan also noted that he expects no criminal charges to be filed in connection with the complaints.

Mr. Spitzer's complaint, which levels charges of common law fraud, unjust enrichment and securities fraud, cites internal communications in which top executives openly discussed efforts to maximize Aon's revenues without regard to clients' best interests.

In addition, the complaint singles out top executive involvement in the alleged efforts to increase placements with an insurer in exchange for that company's use of



Aon CEO Patrick G. Ryan, left, and former President and COO Michael D. O'Halleran are cited in the Spitzer lawsuit.

Aon Re, Aon's reinsurance brokerage operation.

As an example, Mr. Spitzer alleges that Mr. Ryan personally agreed to assist Warren, N.J.-based Chubb Corp. in increasing retail placements in exchange for Chubb's use of Aon Re for reinsurance brokerage services.

Chubb declined to comment.

Mr. Spitzer also alleges that Mr. O'Halleran, who is Aon Corp.'s former president and chief operating officer, personally negotiated "claw-back" arrangements. Under these

arrangements, Aon Re would provide insurers with discounted fees on their reinsurance placements on the condition that Aon could recover the discounts by increasing retail placements, which gave Aon the incentive to steer business to the same insurers.

In addition to Mr. O'Halleran, Mr. Spitzer cites Robert Needle, managing principal of retail syndication, as participating in such steering activities.

While Mr. Spitzer's complaint honed in on Aon Re, Connecticut Attorney General Richard Blumenthal's suit alleges Aon and its benefit consulting operation Aon Consulting violated the Connecticut Unfair Trade Practices Act.

The complaint specifically cites insurers Aetna Inc. and Anthem Blue Cross Blue Shield as colluding with Aon by entering into "undisclosed, secret, back-door agreements" to receive contingent commissions to steer or retain business.

"Aon fought hard for these 'pay-to-play' bonuses and Aon and Aetna and Anthem worked hard to make sure the Connecticut consumers did not know—or fully understand—the true nature of these agreements," the suit alleges.

A spokesman for Woodland Hills, Calif.-based WellPoint Inc., the parent company of Anthem, would not comment on the suit since Anthem was not named as a defendant.

Aetna representatives could not be reached for comment.

"The pervasive, hidden 'pay-to-play' scheme severely hit both public and private purses, including ordinary consumers, towns and cities, tax-payers, major educational institutions and non-profits" in Connecticut, Mr. Blumenthal said in a statement.

"Aon demanded kickbacks from insurers in exchange for business even as it was paid by customers. The scheme distorted and corrupted the insurance market, inflating prices and stifling competition. Despite its explicit promise of 'placing its clients first at all times' Aon put its own financial interests ahead of everything."

In her civil suit filed in Cook County Circuit Court, Illinois Attorney General Lisa Madigan charges Aon with violations of the Illinois Consumer Fraud and Deceptive Business Practices Act and the Illinois Insurance Code.

"Our investigation revealed Aon Corporation accepted secret payments from insurers for steering them business," Ms. Madigan said in a statement. "Aon's acceptance of these secret payments was a direct conflict of interest that harmed Aon's clients."

In addition to favoring insurers that paid the highest contingent commissions, Ms. Madigan's complaint also alleges Aon steered business to insurers that, in turn, would give Aon Re business.

The settlement could have negative repercussions for the broker's creditworthiness.

Fitch Ratings downgraded Aon's long-term issuer and related senior debt ratings to BBB+ from A-, also with a negative outlook.

"Fitch recognizes that the settlement agreement favorably eliminates one major uncertainty for Aon. This positive consideration is outweighed, in Fitch's opinion, by the combination of the civil suit, related settlement costs, and near-term challenges," according to a statement from the rating agency.

Meanwhile, Standard & Poor's Corp. announced that it had removed Aon from CreditWatch, where it had been placed on Oct. 21, 2004. However, it said the outlook for the company was "negative."

"Our rating action is based on the view that the financial impact of the settlement and the adverse effects such charges pose on AOC's competitive position is appropriately reflected in the current rating," said analyst Steven Adler in a press release issued by S&P on Friday.

Aon's stock closed down 1.17% at \$24.45 on Friday.

Aon sets up \$190 million fund to repay clients in settlement

By JOANNE WOJCIK

CHICAGO—Some Aon Corp. clients will be sharing \$190 million in restitution payments the Chicago-based broker is paying as part of a settlement announced Friday with three states that had sued it for suspected fraud.

The world's second-largest insurance broker also has agreed to revamp its compensation structure to make it more transparent to clients and to stop accepting contingent commissions from insurers.

The agreement is similar to an earlier settlement reached in late January with Marsh & McLennan Cos. Inc., the world's largest insurance broker. Marsh agreed to create an \$850 million fund to compensate U.S. policyholders that used Marsh Inc. to place coverage incepting between Jan. 1, 2001, and Dec. 31, 2004, on which Marsh collected

contingent commissions or overrides (*BI*, Feb. 7).

Like Marsh, Aon has not admitted to any wrongdoing or liability, and is not paying any fines or penalties. However, unlike Marsh, no Aon employees are expected to plead guilty to any criminal charges.

None of the \$190 million is recoverable under the broker's errors and omissions coverage, an Aon spokesman said.

Under terms of the settlement, Aon will deposit \$190 million into a settlement fund that will be distributed to clients based on a formula approved by all of the parties to the litigation. The formula was not specifically outlined in the settlement agreement.

The \$190 million includes \$50 million the broker had set aside in the fourth quarter of 2004 to pay a probable settlement, an Aon

spokesman said. Aon will add \$130 million to that amount to establish a reserve of \$180 million, representing the present value of the \$190 million settlement amount. The settlement will be funded in three installments over a 30-month period.

Separately, Aon has established a \$40 million reserve in connection with related litigation matters, which the company did not specify.

Both Marsh and Aon have been sued by shareholders and by participants in the companies' pension plans in connection with drops in their stock prices triggered by concerns over the impact of the investigations into their alleged wrongdoing (*BI*, Nov. 8, 2004).

The settlement also includes a written apology from Patrick G. Ryan, Aon's chairman and chief executive officer, to clients in which he acknowledges that some Aon

See **SETTLEMENT**/next page

Money: 4Q charges shrink Marsh profits

Continued from page 33

tirement plans, Mr. Cherkasky said.

He also noted that MMC has signed a letter of intent to spin off MMC Capital to its management.

"MMC will continue to be the largest investor of capital going forward, but we will not have direct ownership or involvement in the investment decisions or management of the company," Mr.

Cherkasky said.

By spinning off the unit, MMC will be able to "preserve our investment and the investment of all the limited partners, limit any appearance of conflict that has concerned some clients, while at the same time facilitate the creation of new capacity in the insurance market as needed," he said.

While MMC may be spinning off its investment unit, in part to limit

any appearance of a conflict of interest, it does not plan to sell its wholesale unit, Crump Insurance Services Inc., which is the world's fourth largest wholesaler, an MMC spokeswoman said.

Last month, Willis Group Holdings Ltd. announced it was selling its New York-based Stewart Smith Group to American Wholesale Insurance Group. Aon Corp. quickly followed suit, announcing it was

exploring alternatives to its ownership of Swett & Crawford Group (*BI*, Feb. 21).

The divestitures were seen by observers as actions to remove any perceived conflicts that may arise from the brokerages owning retail and wholesale operations.

"Marsh will continue to be in the full service brokerage business," Mr. Cherkasky said on the conference call.

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Late News

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cooperate fully with the inquiry.



PHOTO: AFP

The Station in West Warwick, R.I., burned in 2003, killing 100 people.

Nightclub fire spurs safety recommendations

The National Institute of Standards and Technology has issued recommendations for improving nightclub fire safety. The recommendations resulted from NIST's investigation into the 2003 fire at The Station in West Warwick, R.I., that killed 100 people. NIST recommends that sprinkler systems be installed in all new and existing nightclubs regardless of a facility's size and that clubs limit the use of pyrotechnics and inflammable materials such as wall coverings.

Illinois county sets up inactive asbestos docket

The Circuit Court for St. Clair County, Ill., has instituted a "deferred docket" to deal with asbestos claims filed by claimants who suffer no impairment from asbestos-related disease. The deferred—or "inactive"—docket requires that claimants manifest impairment before their claims can proceed. St. Clair County is one of

several jurisdictions to seek to manage asbestos injury cases in a way that gives priority to cases involving sick plaintiffs over those who fear developing asbestos-related disease but who have manifested no symptoms.

CNA, RenRe subpoenaed over finite covers

CNA Financial Corp. has received subpoenas from the U.S. Securities and Exchange Commission and New York Attorney General Eliot Spitzer's office concerning finite insurance products the insurer has purchased and sold, according to the company's 10-K SEC filing. Meanwhile, RenaissanceRe Holdings said last week it has received a subpoena from the SEC in connection with its investigation of nontraditional insurance products and its restatement of prior year's financial statements to correct accounting errors. It said it expects to receive a similar request from Mr. Spitzer's office.

Restructuring costs hold down USI profits

USI Holdings Corp. said Tuesday that acquisitions and organic growth contributed to a 17.8% increase in revenues for 2004 to \$407.2 million, but profits for the brokerage improved only slightly due to costs from restructuring and insurance industry probes. Pretax profits rose 0.3% for the year to \$28.6 million, primarily due to fourth-quarter charges of \$12.4 million for restructuring costs related to facilities closures and employee severance pay and to \$3.2 million for legal fees and costs related to regulatory investigations and compliance, USI said. A spokeswoman for USI said the layoffs would affect only about 1% of employees.

Bank's pension transfer may have violated tax code

Bank of America Corp. violated

federal law when it allowed employees to transfer to its cash balance plan any pretax contributions they had previously made to the bank's 401(k) plan, Bank of America said the Internal Revenue Service has tentatively concluded. In its annual report, Charlotte, N.C.-based Bank of America disclosed that the IRS informed the bank in a Dec. 10, 2004, letter that the agency had tentatively concluded that the 1998 transfer violated the anti-cutback rule of Section 411(d)(6) of the Internal Revenue Code.

California comp fund's surplus grows 37%

California's State Compensation Insurance Fund, the state's workers compensation market of last resort, saw its policyholder surplus rise by 37.2% last year to \$2.86 billion. The increase stemmed from operational efficiencies, investment earnings and loss control efforts, among other factors, a SCIF spokesman said. Despite the surplus increase, the fund still faces pressure from state regulators to set aside more money for future claims payments before it can further reduce employers' workers compensation premiums, he said.

Cancer top cause of LTD absence

Cancer was the most common cause of long-term absence from work for the fourth consecutive year in 2004, according to disability insurer UnumProvident Corp. Based on data from claims submitted in 2004 to the Chattanooga, Tenn.-based insurer, cancer accounted for 12% of disability claims that involve an absence from work of more than 90 days. Rounding out the top-five causes were pregnancy complications, 10%; joint, muscle and connective-tissue diseases, 10%; back injuries, 9%; and cardiovascular disease, 8%. UnumProvident based the rankings on its private database, which tracks about 178,000 employer policyholders.

AIG unit introduces tax interruption cover

A unit of New York-based American International Group Inc. has developed a new insurance policy that responds to the financial losses a municipality suffers when tax revenue streams are disrupted because of physical loss or damage to a commercial location. Lexington Insurance Co.'s tax interruption insurance is designed for municipalities with populations of up to 50,000 and offers aggregate limits of up to \$20 million. Coverage is triggered when an insured peril causes direct physical loss or damage to real or personal property at a business location specified on the policy, which results in that business' nonpayment of sales, property or other scheduled tax revenue to the municipality.

Briefly noted

Washington Insurance Commissioner Mike Kreidler has ordered Seattle-based **Physicians Insurance Co.** and an affiliate to refund \$1.34 million to about 2,400 physicians for using unfiled rates....**South Carolina** Insurance Director Eleanor Kitzman has taken office following the state Senate's recent vote that confirmed her appointment by the governor....**Indiana** Gov. Mitch Daniels has named **Jim Atterholt** as insurance commissioner. Mr. Atterholt had been acting commissioner. The governor's first choice, insurance agent Harold Calloway, of Evansville, Ind., withdrew his name from consideration.

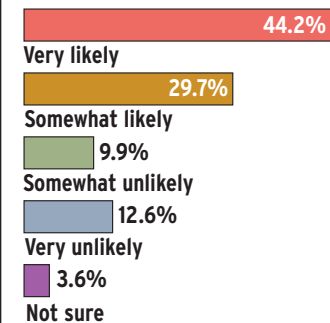
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Items in the Late News column originally appeared in *BI's Daily News* feature on www.businessinsurance.com. Visit the *BI* Web site to sign up to receive *BI's Daily News* by e-mail.

Online Poll

[2/28 - 3/4]

How likely is it that Congress will extend the Terrorism Risk Insurance Act this year?



BI Stock Index

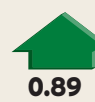
[2/28 - 3/4]

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

Percentage change of BI Stock Index vs. key indicators

BI Stock Index  **2499.00 -0.03**

Dow Jones  **10940.55 0.91**

S&P 500  **1222.12 0.89**

Largest gains

Health Net Inc.	10.39%
United Fire & Casualty	8.83%
Navigators Group	7.71%
Meadowbrook Insurance	6.99%
EMC Insurance Group Inc.	5.90%

Largest losses

Gainsco Inc.	-13.04%
AIG	-4.75%
PMA Capital Corp.	-3.46%
Vesta Insurance Co.	-1.68%
Allmerica Financial Corp.	-1.64%

Weekly change by market segment

Brokers	1.53%
Insurers/Reinsurers	0.88%
Managed Care Organizations	3.05%

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

Settlement: Aon sets aside \$190 million

Continued from previous page
employees may have engaged in improper conduct that violated the broker's code of ethics.

However, "I don't believe they are indicative of common Aon practice," he said during a conference call with analysts on Friday. He also said that he disagreed with "a number of interpretations and conclusions in the allegations" made in lawsuits filed by attorney generals in New York, Connecticut and Illinois, also on Friday.

Mr. Ryan said Aon agreed to the settlement so that the brokerage could put the matter behind it.

The agreement resolves all issues related to Aon raised to date in investigations conducted by attorneys general in the three states, as well as probes by insurance departments in New York and Illinois.

Settlement funds will be distributed among Aon clients who retained the brokerage for insurance

placement, consulting or other services that generated contingent commissions between Jan. 1, 2001, and Dec. 31, 2004.

Aon clients have until Oct. 30 to request a distribution from the settlement fund. If any money remains in the fund as of Oct. 1, 2007, it will be distributed on a pro-rata basis to the policyholders that already received repayment. Clients in California, New Jersey, New York, Illinois and Texas will receive the largest shares of the refund.

None of the funds can be used to pay attorneys fees, according to the settlement.

Also under the settlement, Aon has agreed to changes in its compensation practices to no longer accept contingent commissions and instead take only a single payment in connection with any insurance contract, with the form of payment fully disclosed to and approved by

Aon Settles

■ \$190 million settlement fund to reimburse clients.

■ Settlement funds will be distributed among Aon clients who retained the brokerage for insurance placement, consulting or other services that generated contingent commissions between Jan. 1, 2001, and Dec. 31, 2004.

■ Public apology to clients from Aon Chief Executive Officer Patrick G. Ryan for improper conduct by employees.

Aon clients.

The settlement outlines three possible methods of payment: a specific fee to be paid by the client; a specific percentage commission

on premium to be paid by the insurer; or a combination of the two.

Aon also has agreed not to either directly or indirectly accept or require "any thing of material value from an insurer including, but not limited to, money, credits, loans, forgiveness of principal or interest, vacations, prizes, gifts or the payment of employee salaries or expenses," the settlement agreement states.

The agreement also prohibits Aon from increasing placements with any insurer in exchange for that company's use of Aon Re for reinsurance brokerage services.

It also bars the broker from engaging in so-called "clawback" arrangements in which it would offer rebates on reinsurance brokerage fees paid by insurers in exchange for steering more retail insurance business to them.