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Regulators aid Kemper runoff plans

By DOUGLAS McLEOD

LONG GROVE, Ill.—Troubled Kemper Insurance Cos. expects to submit a runoff plan to Illinois insurance regulators this month following regulators' December approval of accounting changes that added $1 billion to the policyholders surplus of Kemper's main unit at year-end 2003.

Company officials contend that a runoff plan would be more beneficial to Kemper's policyholders and less disruptive to the market than an Illinois receivership.

Lumbermens Mutual Casualty Co. disclosed in its annual financial statement last week that the Illinois Insurance Department has allowed it to discount loss reserves and take other accounting steps that enabled Lumbermens to record surplus of $202.4 million last year when it otherwise would have reported a gaping deficit.

Regulators granted the accounting concessions to aid a runoff plan that will allow Lumbermens to continue paying policyholder claims and avoid formal rehabilitation or liquidation proceedings, confirmed Tom Lurkins, acting supervisor with the Illinois Insurance Department's property/casualty financial analysis unit.

Michael A. Coutu, Kemper's acting president and chief executive officer, said he hopes to submit a plan as early as this week that will map out Kemper's runoff through the end of 2006. At that point, Kemper officials will review the status of the runoff plan and make adjustments as necessary, he said.

Kemper's plan will include efforts to buy back coverage obligations to large commercial policyholders and to commute reinsurance agreements to the extent those actions are consistent with the company's need to maintain positive surplus and ensure sufficient liquidity to pay claims and general expenses, he indicated.

Mr. Coutu dismissed the idea that the reserve discounting and other accounting changes create an artificially rosy picture of Kemper's financial condition.

"The accounting allowances do not replace true economic value," he said. The runoff plan "is predicated on a determination that Kemper

See **KEMPER**/page 46

California city extends benefits to same-sex married couples

By JOANNE WOJCIK

SAN JOSE, Calif.—When a longtime employee of the city of San Jose, Calif., recently presented the human resources department with a marriage license showing she had legally wed her female partner and wanted to add her spouse and two children to her health plan, she was told she'd have to wait until open enrollment at the end of the year.

While the city has offered health benefits to employees' domestic partners since 1998, employees had to wait until annual open enrollment time to add their partners to the plan. In addition, children of same-sex partners were not eligible for coverage.

By contrast, when heterosexual employees get married, it's considered a qualifying event, meaning they can immediately enroll their spouse and any additional dependents.

When San Jose Mayor Ron Gonzales got wind of the newlywed employee's

See **SAN JOSE**/page 46

ACE to stay the course under Greenberg

By JUDY GREENWALD

HAMILTON, Bermuda—Do not expect any major changes at ACE Ltd. with the election of a new chief executive officer, say company officials and industry analysts.

ACE President Evan G. Greenberg, who will assume the role of CEO on May 27, said he has already been closely involved in setting ACE's strategic course over the past few years.

"It's going to be rather boring here. We don't expect any significant management changes," Mr. Greenberg said during a press conference last week discussing the change.

Brian Duperreault, 56, who has held the titles of chairman and CEO of ACE since 1994, will remain chairman of the Hamilton, Bermuda-based company.

Mr. Greenberg, 49, has been ACE's president and chief operating officer since June 2003. He joined the company in 2001 after leaving his position the previous year as president and COO of New York-based American International Group Inc.

With Evan Greenberg's new position at ACE, Greenberg family members now

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The role of ACE Ltd. chief executive officer will pass to Evan G. Greenberg, left, from Brian Duperreault in May.

Late News

Bush drops objections to pension funding bill

Amid a big Bush administration concession, congressional negotiators and their staffs began meeting last week to hammer out a compromise pension funding reform bill. Both the House and Senate have passed bills that for the next two years would allow employers to use the yield on a long-term corporate bond index–instead of the yield on the 30-year Treasury bond–to value pension liabilities. Previously, administration officials had objected to provisions in the bills that gave concessions to certain financially struggling industries, but they have now dropped those objections.

PHOTO: EPA

Terrorist bombings last week in Spain killed nearly 200.

Pool may cover Madrid terror attack

A series of 10 bombs on commuter trains wreaked havoc during the rush hour in Madrid, Spain, on March 11, killing nearly 200 and injuring another 1,400. Losses from the attacks could be covered by the Consorcio de Compensación de Seguros, Spain's state-backed catastrophe reinsurance pool, sources said. No estimates of the insured loss were available. Renfe, the train operator involved, is state-owned, but it does purchase commercial insurance, according to a source in Madrid. The train company could not provide insurance coverage information late last week. Most insurance companies operating in Spain are members of the pool, sources said. It

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Spotlight report

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LARGEST CAPTIVE MANAGERS

Ranking on page 12

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Holes in witness' memory at issue in coverage trial

By GAVIN SOUTER

WTC COVERAGE TRIAL

NEW YORK—Lawyers for Silverstein Properties Inc. threatened to bring a psychologist to the stand to testify on the nature of memory after the judge in the World Trade Center coverage trial again queried whether a key witness had been coached.

Presiding over the fifth week of the trial to determine whether the Sept. 11, 2001, terrorist attack on the Twin Towers was one insured loss or two, Judge Michael Mukasey said that the mind of Beth Ann Herrmann had been "messed with" before she took the stand. Ms. Herrmann was, at the time of the attacks, director of insurance at Silverstein's lender, General Motors Acceptance Corp.

Lawyers for Silverstein immediately disputed the judge's characterization and urged the judge to set the record straight that they had not interfered with Ms. Herrmann's testimony.

The exchange took place without the jury present when Silverstein's lawyers were attempting to introduce documents into evidence that were written by a person who would not be a witness at the trial.

The judge appeared reluctant to admit the evidence. In arguing for the admission of the documents,

See TRIAL/page 44

Managed care earnings surge

Lower medical costs aid profits

By GLORIA GONZALEZ

Major managed care organizations enjoyed strong earnings in 2003 due to lower-than-expected increases in medical costs, a trend that is expected to result in smaller rate increases in the future.

In addition, the announced merger of Indianapolis-based Anthem Inc. and Thousand Oaks, Calif.-based WellPoint Health Networks Inc. in October 2003 highlights an ongoing trend—the consolidation of the managed care industry—that may have a significant impact on future pricing trends.

2003 Managed Care RESULTS

The major managed care companies all experienced significant earnings growth in 2003, with Hartford, Conn.-based Aetna Inc. and Cypress, Calif.-based PacifiCare Health Systems Inc. re-entering positive territory after substantial losses in 2002.

"The results in 2003 were very strong," said Douglas Meyer, senior director at Fitch IBCA in Chicago. "From an earnings standpoint, it was the best year ever for the sector."

Analysts attributed the earnings strength to lower-than-expected medical cost increases. Increases fell in the range of 9% to 11% in 2003, below company estimates of 12% for the year.

"The primary theme behind the good year for the managed care segment was that the premium rate increases remained strong throughout the year and outpaced the medical cost inflation," said John L. Ward, chief executive officer of Cincinnati-based Ward Group. "As a result, most of the major players realized an improvement in the medical cost ratio, and that contributed to the earnings momentum."

Several factors helped slow the pace of medical cost inflation, including the number of popular drugs that went over-the-counter or became available as lower-cost generics and expanded disease management and coordinated patient care programs aimed at individuals with major or chronic health care problems.

Lower utilization rates also were a major factor in the

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MANAGED CARE YEAR-END 2003

Major managed care organizations' year-end 2003 results. Ranked by change in net income. Dollar figures in millions

Company	Net income 2003	Percent increase (Decrease)
PacifiCare Health Systems Inc.	$242.7	412.2%
Aetna Inc.	933.8	370.1
CIGNA Corp.	668.0	159.6
Kaiser Permanente	996.0	93.0
Coventry Health Care Inc	250.1	41.8
Humana Inc.	228.9	37.6
Oxford Health Plans Inc.	351.9	36.9
Anthem Inc.	774.3	29.1
UnitedHealth Group	1,825.0	25.9
WellPoint Health Networks	935.2	24.8
Health Net Inc.	324.0	14.2

PHOTO: JERRY LAMPEN/REUTERS

A proposal to update the Rome Convention would set minimum compensation for aviation losses on the ground, such as the 1992 crash of an El Al jet in Amsterdam, Netherlands.

Airlines oppose proposal to expand crash liability for ground injuries

By PETA MILLER

MONTREAL—Aviation and insurance leaders are expected to argue this week against a proposed update of an aviation convention that they say would increase aircraft owners' liability to uninsurable levels.

Airline and insurance representatives are attending a meeting in Montreal this week of the legal committee of the International Civil Aviation Organization, which issued a draft update in November of the Rome Convention 1952. The proposal aims to limit aircraft owners' overall liability for losses caused on the ground but, among other things, would set minimum compensation and insurance requirements for an expanded array of risks.

The London-based International Union of Aviation Insurers, which outlined its opposition to the proposal last month in a letter to the ICAO, is concerned that the draft would open up potentially unlimited liability for third-party death; bodily injury, including mental injury; and property damage with the potential for asbestosis claims, environmental damage and nuclear damage; which must be covered by the purchase of "adequate insurance."

This would establish a potential aggregate liability, the IUAI said, that "far exceeds both the limits currently purchased by operators and the capacity of the aviation insurance market."

Nuclear risk and liability for asbestosis are not currently insurable in the commercial market, the IUAI letter noted. Environmental liability should be removed or bounded because of the potential to be extended to biological diversity and given the immature state of environmen-

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Inside Business Insurance

Risk managers head for the Hill

A senator discusses the chances for tort reform measures during the annual RIMS on the Hill legislative meeting last week. Page 4

U.K. town hit with manslaughter charge

Criminal charges filed in a case over Legionnaires' disease sets a precedent for the liability of public entities. Page 4

2 Fast 2 Furious to file lawsuit

New Jersey filed a questionable—and dangerous—lawsuit against Nissan, Paul Winston writes. Page 6

Give Kemper plan a chance to work

Kemper's plan for an orderly runoff of its business carries risks but is still preferable to liquidation, one of this week's editorials says. Page 8

IOC exploring coverage for cancellation risk

London market sources say the International Olympic Committee is lining up coverage for the risk of canceling the Athens Games. Page 41

Online

- The new Directory of Captive Managers is available online. *BI's* searchable directory allows registered subscribers to find detailed information on captive managers worldwide.
- A searchable Datebook calendar lists upcoming industry seminars and meetings and allows visitors to add information on their own events.
- A new Opinion Poll for readers asks: Are you more concerned today about insurer security than a year ago?

Departments

REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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RIMS on the Hill 2004

Senate GOP to push med mal reform this year

By MARK A. HOFMANN

WASHINGTON—The Senate will take up medical malpractice reform legislation yet again the last week of March, according to one of the Senate's key reform proponents.

But Sen. John Ensign, R-Nev., added that the planned introduction of a bill designed to give some relief from liability to emergency room personnel would be a political act. The Senate Republican leadership has decided this year to make (medical malpractice liability reform) a political issue, he said in a luncheon address to the Risk & Insurance Management Society Inc.'s sixth annual "RIMS on the Hill" federal legislative meeting in Washington last week.

'We live in an incredibly litigious society. ... Everybody looks to sue for every possible reason. It's almost like "Did I hit the lottery today?"'

Sen. John Ensign R-Nev.

Sen. Ensign also discussed the outlook for asbestos liability reform and class action reform legislation, but he cautioned his audience that significant action might not occur this year.

"We live in an incredibly litigious society," said Sen. Ensign as he called for a "balanced" legal system. "Everybody looks to sue for every possible reason. It's almost like 'Did I hit the lottery today?'"

The need for reform is particularly keen in the medical malpractice liability area, he said. Citing data compiled by the American Medical Assn., Sen. Ensign noted that 19 states are currently in crisis and all but five states are showing signs of medical malpractice crisis as doctors give up high-risk practices such as obstetrics and neurosurgery for fear of litigation and because of skyrocketing medical malpractice insurance costs. The crisis demands "a national solution," he said.

Attempts to pass comprehensive medical malpractice, although successful in the House, have foundered in the Senate (*BI*, July 14, 2003). The Senate leadership decided to pursue more-limited reforms.

Sen. Ensign was a co-sponsor of another narrowly targeted medical malpractice reform bill brought be-

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PHOTO: PA/OWEN HUMPHREYS

Seven people died in 2002 from an outbreak of Legionnaires' disease traced to an air conditioning plant at an arts complex run by the Barrow Borough Council in Northern England.

Corporate manslaughter charges against council borough are first to target a U.K. public authority

By CAROLYN ALDRED

BARROW-IN-FURNESS, England—A corporate manslaughter charge brought against the Barrow Borough Council last month is of major concern to local authority risk managers, according to the chairman of the Assn. of Local Authority Risk Managers.

"This is the first corporate manslaughter charge against an organization in the public sector, and its outcome will be watched closely by risk managers," said Bob Cope, chairman of ALARM and assistant director of finance for the London Fire and Emergency Planning Authority.

The criminal charge of corporate manslaughter is "something we have had great concerns about for some time and have advised public-sector organizations to look at closely," he said.

The Barrow Borough Council and Gillian Beckingham, a design services manager at the council, were charged by the Crown Prosecution Service with seven counts of manslaughter in Barrow Magistrates Court on Feb. 24, a spokesman from the council confirmed. Ms. Beckingham was also charged with a breach of the Health and Safety at Work Act.

The CPS would not give details of the allegations, but the indictments follow the death of seven people from an outbreak of Legionnaires' disease in 2002. The outbreak, which sickened some 150 people, was traced to an air conditioning plant at a council-run arts complex in the town, located in Northern England.

The next court date is scheduled for March 22 at the Crown Court in Preston, according to the council spokesman, who stressed that the council is denying any wrongdoing.

The spokesman refused to comment further on the case.

Barrow's insurer, Zurich Municipal, a Farnborough-based unit of Zurich Financial Services, is working closely with

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Jack Lockton (1942–2004)

Longtime brokerage exec dies

KANSAS CITY, Mo.—Jack Lockton, founder of the Lockton Cos. Inc., died Thursday after a long battle with pancreatic cancer. He was 61.

Mr. Lockton began his career as a surety bond underwriter for the Glens Falls Insurance Co. in 1962. Two years later, he became the first employee of his parents' insurance agency, and the Lockton Cos. was born. Under his leadership, the Kansas City, Mo.-based privately held broker grew to become one of the largest insurance brokers in the country.

Mr. Lockton

Based on $257.4 million in 2002 brokerage revenues, the Lockton Cos. was the 10th-largest insurance broker of U.S. business in 2003, according to *Business Insurance*'s annual rankings.

Among other things, Mr. Lockton was known for instilling a high standard of integrity throughout the brokerage. According to a company statement, one of Mr. Lockton's guiding principles was "A deal is a deal. Your word is your contract and you never go back on your word, even if in retrospect the deal was a bad deal."

"Jack was tremendously determined to build a powerful culture in this company where people can excel," said his brother, David Lockton, who is chairman of the brokerage. "He did that, and we will now make sure we carry his ideals and his passion onward," he said.

In addition to leading the insurance brokerage, Mr. Lockton was involved in a number of community service projects, including serving on the boards of the Kansas City Chamber of Commerce, the Civil Council of Greater Kansas City, the University of Missouri-Kansas City and the Midwest Research Institute. He was honored several times for his business and philanthropic endeavors throughout his life.

In lieu of flowers, contributions can be made to the Compassionate Oncology Pharmaceutical Benefit Program, which the late Mr. Lockton established to provide chemotherapy drugs to people who could not otherwise obtain them. Contributions should be sent to the program in care of the Kansas City Cancer Center, 4320 Wornall Road, Suite 212, Kansas City, Mo. 64112.

—By Sally Roberts

Medicare Rx benefit shaving future retiree health care costs

By JERRY GEISEL

More big employers are reporting that the new Medicare prescription drug benefit law will slash their future retiree health care obligations by hundreds of millions of dollars.

General Motors Corp. reported late last week that the drug law will reduce its accumulated retiree health care obligations by more than $4 billion, to $63 billion, while BellSouth Corp. in Atlanta says its future obligations will be cut by $572 million. Troy, Mich.-based Delphi Corp. pegs the reduction in benefit liabilities at about $500 million, and the American Airlines Inc. unit of AMR Corp. reports a $415 million reduction in liabilities. Earlier, U.S. Steel Corp., the nation's biggest steel producer, said the prescription drug law would shave its retiree health care liabilities by $450 million (*BI*, March 1).

The savings employers expect to rack up are due to the addition of a prescription drug benefit for Medi-

care participants, starting in 2006.

For example, Pittsburgh-based U.S. Steel attributes most of its savings to the expectation that retired steelworkers will opt out of a drug plan that the steelmaker offers in favor of the more affordable benefit offered through Medicare.

Employers with especially rich prescription drug plans also will be able to cut costs. That is because the federal government will subsidize a portion of employers' prescription drug claims if they offer and retain plans that are at least as generous as the benefit Medicare will provide.

Under that provision, the government will reimburse employers for 28% of claim costs between $250 and $5,000 per beneficiary, tax-free.

BellSouth, for example, estimates this subsidy will amount to $690

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Paul Winston

Headlamp thefts not the only crime here

"We allege the company sold cars with these fancy lights, but kept consumers in the dark about how attractive the headlamps were to thieves."

—Reni Erdos
Director of the New Jersey Division of Consumer Affairs

The state of New Jersey last week slapped Nissan North America Inc. with a lawsuit alleging consumer fraud and deceptive practices for knowing that xenon headlamps on its 2002 and 2003 Maximas were a favorite target of thieves but not doing more to prevent their theft or warn consumers of the risk. The state alleges that Nissan sought to profit by selling costly replacement headlamps through its dealers rather than make an offer directly to consumers of a preventive repair.

Paul Winston

This is what we would call frivolous litigation if a consumer had sued the automaker for failing to warn that its car was appealing to thieves. After all, the same high-end features that attract criminals are probably ones that prompt people to buy these options in the first place.

When a state brings such litigation, it's not only frivolous but is a questionable use of the taxpayer's money.

I can just imagine the scene at future auto shows—where manufacturers roll out fancy concept cars with all sorts of high-end gadgets and options, from directional xenon headlamps to rotating alloy rims, to in-dash entertainment systems and GPS devices—as state attorneys general wander the aisles looking for potential lawsuit targets. At the same time, their assistants will be furtively trying to pry DVD players out of dashboards or headlamps out of front ends to build a case against manufacturers for not making it harder to steal these components.

Today Nissan, tomorrow Toyota, Honda, Chevrolet and Ford. Why those companies? Well, according to the National Insurance Crime Bureau, those manufacturers made the cars that were the five most popular among car thieves in 2002. But wait, it wasn't their fancy new models that made the list. The No. 1 most commonly stolen car that year was a 1989 Toyota Camry, which apparently is prized by illegal chop shops for out-of-production parts for street racers and so-called tuners, which are souped-up production cars.

Of course, New Jersey probably feels that Toyota is to blame for not warning buyers in 1989 that in a few years its cars would become a target for thieves who would want to cannibalize them for parts. Now that it does know, it probably ought to be held liable for not providing all of its 1989 Camry buyers with sophisticated anti-theft devices.

The irony here is that features that are intended to make a car appealing to buyers are regarded as a defect that demands litigation in the name of consumer protection.

What's also ironic is that, to this observer, it appears that Nissan took reasonable steps to remedy the problem as the scale of the thefts became known. According to the New Jersey lawsuit, Nissan knew that theft of the xenon headlamps, which are as much as three times as expensive as halogen or incandescent lamps, was an issue in September 2002. Allegedly, a professional thief can pop these out with a screwdriver in about a minute and an unprofessional thief can do it in a few minutes more.

At that point, it was too late for Nissan to redesign its 2002 and 2003 cars, which were already in production. So it warned its dealers that this might be a problem. It subsequently made available to its dealers kits that could be purchased by owners of the Maximas for about $175 and installed to make it harder to steal the headlamps.

As the thefts continued, in November 2003 the automaker alerted 46,000 Maxima owners in the Northeast that the xenon headlamps were a target of car thieves in New Jersey and New York and offered to install an improved anti-theft package at no cost to the consumer.

At the same time, it redesigned its car for the 2004 model year, which seems as soon as practical, to make it harder to steal the xenon headlamps.

I don't mean to minimize the anguish of having a car vandalized or stolen, the pain of incurring a large insurance deductible and the inconvenience of having to wait while the car is repaired or replaced. But the risk of falling prey to car thieves is a criminal matter, not a civil one. If this lawsuit were to proceed—or, worse, were to succeed—it would set a dangerous precedent for any other manufacturer of cars or other goods that attract thieves. And remember that whatever those attractions are, they are what make those items appealing and of value to buyers in the first place. Do we really want to hold companies liable for making things we want?

Lucky for me that I drive a 13-year-old Volvo wagon. Unless Swedish chop shops or street racing soccer moms take to looking for spare parts, I think I'll be OK.

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Editorial

Give Kemper plan a chance to work

FINANCIALLY TROUBLED Kemper Insurance Cos. is about to ask the Illinois Insurance Department's permission to run off its business as an alternative to entering a traditional state-supervised receivership.

Assuming it meets with regulators' approval, such a plan is worth a shot.

Kemper stopped writing new business early last year and has since been raising cash by selling off subsidiaries and renewal rights and commuting reinsurance treaties. It has also, as we report this week on page 1, benefited from loss reserve discounting and other accounting concessions granted by Illinois regulators that boosted the surplus of its Lumbermens Mutual Casualty Co. unit by about $1 billion last year.

Even with these efforts, Lumbermens' surplus dropped 71% to $202.4 million at Dec. 31 from the end of 2002.

If Kemper shows that it can keep its surplus in positive territory while maintaining enough liquidity to pay claims, though, it deserves a chance to run off its own business.

From a policyholder's viewpoint, an orderly runoff would beat the disruption, delay and added cost of a formal rehabilitation or liquidation proceeding. Just ask policyholders of the defunct Legion Insurance Co., who held on to unpaid claims for months while a Pennsylvania court tried to decide whether to order Legion into liquidation.

Many policyholders would probably rather negotiate buyouts of their Kemper policies—taking a lump sum to terminate their coverage today—than risk getting less if the insurer goes into liquidation tomorrow.

Granted, there are plenty of uncertainties. Lumbermens is discounting reserves at a much higher rate than it is earning on its investments, creating the risk of a widening gap between assets and liabilities. There's also the possibility that future adverse loss development will blow the plan's assumptions out of the water. If the runoff fails after a few years, there is also the chance that policyholders who bought back their coverage will have gotten a better deal than others will in a subsequent receivership.

Still, we think it's worth the risk. If it works, all policyholders will be better off.

Hard market has a positive effect

WHILE PERHAPS NOT seen at the time, there has been a silver lining to the hard commercial insurance market of the last few years.

Confronted with huge rate hikes, hundreds, if not thousands, of businesses and professionals have looked for alternatives to the traditional insurance market.

And many of them, as we report in this week's Spotlight report, have either set up captive insurance companies or joined group captives, such as risk retention groups. Indeed, several of the world's major captive domiciles report a record number of new formations last year.

The growth of the alternative risk financing market is, we think, a good thing for buyers and insurers.

For buyers, investing in their own insurance subsidiary means potential relief from the volatility of hard and soft pricing cycles that seem to be part and parcel of the commercial insurance industry.

And becoming your own insurer does, we think, make one more conscious of the need to control losses through better risk management.

For commercial insurers, the growth of the captive market means an opportunity to serve their customers in new ways, such as providing loss control services on an unbundled basis or providing coverage above working layer limits now assumed by the captives.

The hard market also has changed the attitude of many state regulators. Years ago, organizations wanting to establish captives had very few options. They either had to go offshore or to Vermont. The other states either lacked attractive captive statutes or had no captive statutes at all.

That is hardly the case today. Well over a dozen states now have captive statutes, many of them modeled after Vermont's pioneering law, with rapid growth now taking place in several of the newer domiciles.

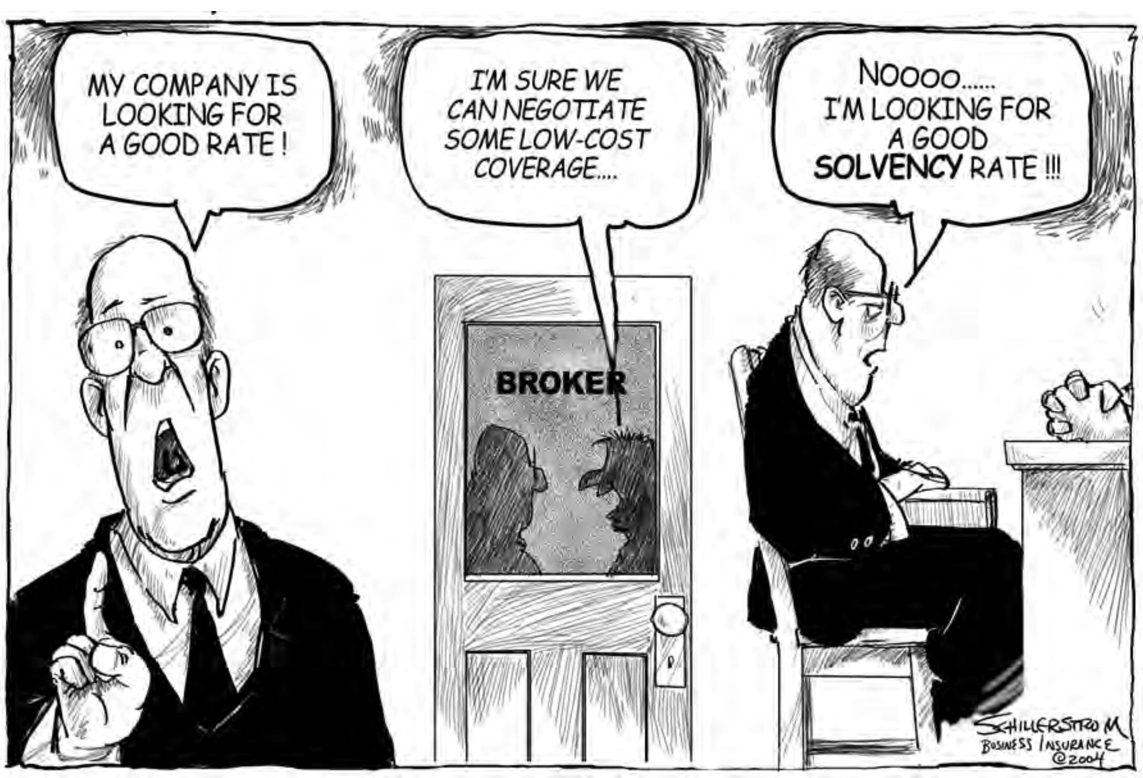
Once hostile to the captive concept, many states now are eagerly embracing captives as a source of jobs and investment.

The hard market also has vindicated the efforts of federal legislators in the mid-1980s when they expanded the Risk Retention Act to enable more buyers to band together to form risk retention groups, which can operate nationwide once licensed in a single state.

For some, like health care professionals, the ability to participate in RRGs has been a true insurance lifesaver, given the exodus of traditional insurers from markets.

No doubt, conditions in the traditional market are improving. But we think captive sponsors, looking for more pricing and coverage predictability, will stick to the risk financing alternatives they have wisely invested in.

Schillerstrom



Letters to the Editor

Editorial on med mal misleading on rate hikes

To the editor: Your March 1 editorial on med mal reform, "Look to States for Med Mal Reform," is inaccurate: It leads readers to believe the cap instituted in California reduced the increase in premiums. There was no decrease in the rate of increase until insurance regulation reforms were passed in the late 1980s, and even still the rates are ever increasing, but not as fast as others.

I doubt you will do anything to correct this misstatement of fact. The propaganda out there and misinformation by the tort reform movement is staggering, but I thought I would make this futile attempt. You might try reading the government's own GAO report to get a better handle on the situation. Doubt this will happen, either.

Glad to see you did not come out and totally slander lawyers, as most of your brethren do in similar articles. Darn, I should not have put that idea in your head. Guess I know what will be in your next editorial. Happy lawyer bashing!

Eric H. Philpot
Attorney
Philpot Law Firm
Greenville, S.C.

Business Insurance* welcomes letters to the editor. The section is intended to be a forum for readers' opinions and comments. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Please send your letters to: Letters to the Editor, *Business Insurance*, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; fax: 312-280-3174; e-mail: *pwinston@crain.com

COUNTING CAPTIVES

Domicile	2003	2002
Bermuda	1,150*	1,157*
Cayman Islands	644	600
Vermont	507	443
Guernsey	383	382
British Virgin Islands	307	282
Barbados	248*	239*
Luxembourg	216*	213*
Dublin	205	181
Isle of Man	173	167
Turks & Caicos Islands	159**	143**
Hawaii	122	101
South Carolina	63	27
Singapore	49	51
Switzerland	34	37
Labuan	21	21
District of Columbia	20	6
Nevada	19	7
Arizona	18	4
Bahamas	18	18
Netherlands Antilles	18	16
New York	18	4
Georgia	16	17
Jersey	15	19
Mauritius	13	11
British Columbia	12	16
Gibraltar	12	14
Colorado	11	11
Montana	9	5
Panama	8	2
U.S. Virgin Islands	7	12
Tennessee	4	4
Delaware	3	3
Illinois	3	3
Hong Kong	2	2
Arkansas	1	1
Guam	1	1
Malta	1*	1
Rhode Island	1	1
South Dakota	1	1
Maine	0	1
Virginia	0	0

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

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 *biorders@crain.com.*

Insurance crunch driving broad gains in captives

By JERRY GEISEL

The captive insurance company market is, in a word, hot.

Several major domiciles, including the Cayman Islands, Vermont, Hawaii and South Carolina licensed either a record or near-record number of captives in 2003.

The captive boom also is being felt in domiciles that, until recently, were largely bypassed by the alternative risk market.

New York, for example, licensed a record 14 captives last year, boosting its captive roster to 18 from just four in 2002, while Montana saw its captive base more than double last year to nine from four in 2002.

The tough conditions in the commercial property/casualty market, especially for a broad range of health care providers, continue to fuel captive growth.

"The hottest areas are medical malpractice and professional liability," said Jim Swanke, a principal in the Minneapolis office of Towers Perrin's Tillinghast unit.

"The market is very tough right now for health care providers," noted Tom Jones, a partner with McDermott, Will & Emery in Chicago.

The withdrawal of major carriers such as The St. Paul Cos. Inc. from the medical malpractice market and the failure of others have left buyers scrambling for coverage that, in some cases, simply isn't available or is unaffordable.

Confronted with brutal conditions in the insurance marketplace, health care providers are turning to captives, especially group arrangements, to finance their liability risks.

For example, last December, 29 skilled nursing care facilities in 13 Midwestern and Western states, banded together to form a risk retention group in Nevada, to write professional and general liability coverage.

The facilities "were pretty much loss free, but they were not getting a good deal in the marketplace," explained Sanford Elsass, president and chief executive officer in New York for Uni-Ter Underwriting Management Corp., which is providing management and administrative services to the RRG. Uni-Ter is an Atlanta-based subsidiary of reinsurance broker U.S. Re Cos. Inc.

The commercial insurers remain-

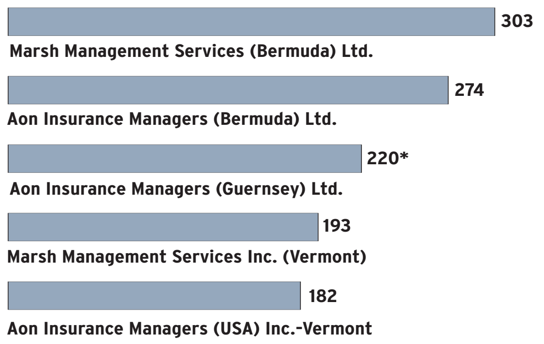
See CAPTIVES/page 14

Top domiciles

Rankings

LARGEST MANAGERS BY DOMICILE

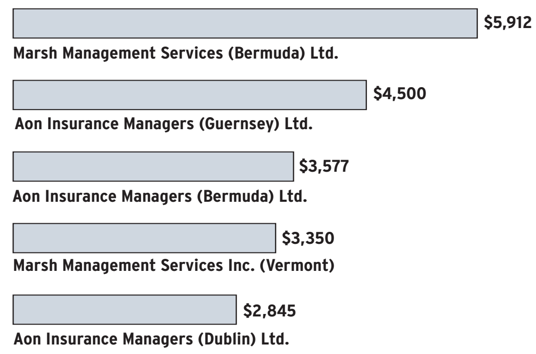
Operations ranked by number of captives managed at year-end 2003



* *BI* estimate Source: *BI* survey

PREMIUM VOLUME LEADERS

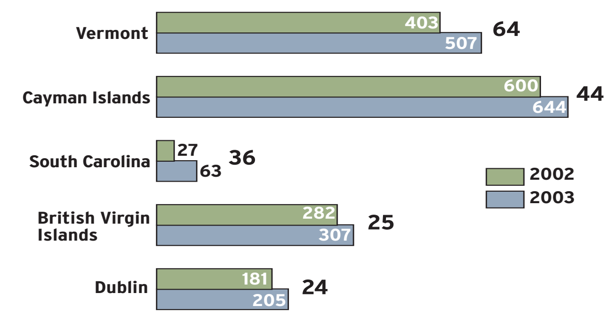
Ranked by 2003 gross captive premium volume under management, in millions of dollars



Source: *BI* survey

DOMICILES WITH BIGGEST GAINS

Ranked by net increase in captives from year-end 2002



Source: *BI* survey

Largest captive managers worldwide

Ranked by licensed captives under management in 2003

Rank	Company/Address	Phone/Fax/Web site	Parent company	Captives 2003	Captives 2002	Domiciles	Captives formed in 2003	Total staff	Principal officer
1	Aon Insurance Managers Jubilee Buildings, Victoria Street, First Floor, Douglas 1M1 2LR, Isle of Man	44-1624-670-133 Fax: 44-1624-670-132 *www.aoncaptives.com*	Aon Corp.	1,230 [1]	1,142	30	128	447	Philip Stamp, chairman/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.	1,041	983	26	130	412	Andrew D. Carr, chairman- Captive Management Practice
3	International Advisory Services Ltd.[2] 44 Church St., P.O. Box HM 1760, Hamilton HM HX, Bermuda	441-295-3688 Fax: 441-295-2584 *www.ias.bm*	–	254	263	5	18	119	David Ezekiel, managing director
4	Willis Management Ltd. 112 Lake St., Burlington, Vt. 05401	802-658-9466 Fax: 802-658-5520 *www.williscaptives.com*	Willis Group Holdings Ltd.	227	227	12	22	108	Guy F. Ragosta, managing director-Willis Captive Actuarial Pooling Solutions Division
5	HSBC Insurance Management 8 Canada Square, Level 22, London E14 5HQ, England	44-207-991-0270 Fax: 44-207-992-4613 *www.hsbc.com*	HSBC Holdings P.L.C.	112	105	3	15	35	Peter Walker, chief executive
6	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.	94	79	10	8	52	Paul Obolensky, president
7	JLT Risk Solutions P.O. Box HM 1838, Hamilton HM HX, Bermuda	441-292-4364 Fax: 441-295-3982 *www.jltgroup.bm*	Jardine Lloyd Thompson Group P.L.C.	91	71	4	17	34	Paul Bailie, deputy chairman
8	USA Risk Group P.O. Box 306, Montpelier, Vt. 05601	800-872-7475 Fax: 802-229-6280 *www.usarisk.com*	–	68	52	6	19	25	Andrew Sargeant, president
9	Quest Management Services Ltd. Skandia International House, 16 Church St., P.O. Box HM 2062, Hamilton HM HX, Bermuda	441-295-2185 Fax: 441-292-1143	–	65	63	1	5	14	Nicholas S. Dove, principal/president
10	Atlantic Security Ltd. Windsor Building, 18 Queen St., Hamilton HM 11, Bermuda	441-295-5425 Fax: 441-295-5444 *www.asl.bm*	ASL Holdings Ltd.	52	52	3	1	16	Colin James, president
10	Becher + Carlson Management Ltd. Wessex House, 45 Reid St., Hamilton HM JX, Bermuda	441-295-0519 Fax: 441-295-0933	Risk Strategy Partners Inc.	52	48	4	7	14	Tony Bibbings, senior vp

1 *BI* estimate 2 Formerly IAS Global Captive Group
Source: *BI* survey

Visit *www.businessinsurance.com* for more information and to access the full searchable Directory of Captive Managers

Captives: Insurance crunch driving gains

Continued from page 10

ing in the market, Mr. Elsass said, were taking advantage of shrinking capacity to quote higher rates for the nursing facilities.

Now, with an RRG called Lewis & Clark LTC Risk Retention Group, the nursing facilities hope to control their own risk-financing destiny, he said.

And other long-term care facilities are likely to set up captives in the months ahead. Uni-Ter alone expects to help establish five new group captives—all risk retention groups—for LTC facilities this year.

LTC facilities, though, are far from the only type of health care provider establishing captive insurance companies.

At the end of 2002, PinnacleHealth Systems, a Harrisburg, Pa.-based health care provider, set up a risk retention group to cover both health care facilities and staff physicians.

"There is not a lot of availability, and what is out there is very expensive," said Bob Gabler, Pinnacle's director of insurance and risk management.

While the health care industry is a key driver of growth in the alternative risk market, employers in virtually every industry are joining the captive movement.

In industry after industry, "there is more and more dissatisfaction on how coverage may be available one day and then not the next," said Ernst Csiszar, director of the South Carolina Department of Insurance in Columbia, S.C.

"Most industries have been well-represented" in the captive formation movement, said Jill Husbands, a managing director with Marsh Management Services (Bermuda) Ltd. in Hamilton.

Examples abound of that captive diversity. For instance, last year members of a forest industry logging group in the state of Washington set up a group captive in South Carolina to write general and business auto liability coverage.

With its lean operating structure, the captive is offering coverage for 10% to 15% less compared with the commercial market, said Bill Pickell, general manager of the Washington Contract Loggers Assn. in Olympia, Wash.

Similarly, a group of California-based intermodal trucking companies, which primarily transport cargo containers between shipyards and warehouses, say their new Washington, D.C.-based captive—Intermodal Insurance Co., a Risk Retention Group—should cut premiums for policyholders by 20% to 25% compared with standard insurance rates.

The intermodal trucking companies settled on a group captive as an alternative to the "ridiculous premiums" commercial insurers were charging, said Jay Ginnow, vp at Bliss & Glennon in Redondo Beach, Calif., a managing general agency and a consultant to the program.

Growth in the captive market isn't being driven only by new formations, though. Existing programs also are expanding their membership rolls in the hard market.

For example, the number of policyholders at the Nonprofits' Insurance Alliance of California increased in 2003 to 4,200 from 3,700, while premium volume expanded to $37 million from $30.1 million in 2002.

And growth should continue in 2004 as well. Pamela Davis, president of the Santa Cruz, Calif.-based alliance, said premium volume is likely to hit $43 million this year, with the number of policyholders exceeding 5,000.

"Based on what we have seen so far," that kind of growth is quite doable, said Ms. Davis, who attributes the group captive's growth to conditions in the traditional market, the high quality of services provided to policyholders, the maintenance of good relations with agents and brokers and consistent pricing.

> **'When the market softens, fronting insurers broaden policies, then when the market tightens, they become more restrictive. I want that flexibility in terms and conditions to be permanent.'**
>
> *Brian Donovan*
> *Steel Tank Insurance Co., A Risk Retention Group*

"People have come to know what we will do what we say," Ms. Davis said.

For smaller insurance buyers, which may be tired of what they see as unfair treatment by commercial insurers but lack the means to fund the captives themselves, insurers and brokers are promoting sponsored captives, which they set up to provide coverage to clients through independent cells. The cells are funded, at least in part, by clients.

One such sponsored captive, or cell program, is being finalized in the Cayman Islands by RiskProNet International Inc., a network of 29 independent brokers.

"Clients are becoming a lot more sophisticated and are looking to take greater control of their insurance program. Still, they may lack the capital to set up their own captives," said Bill Curtis, chief executive officer of SullivanCurtisMonroe, a broker in Irvine, Calif., a member of RiskProNet.

Insurers, too, are making entries in the sponsored market.

Scott Barry, president of captive services for Liberty Mutual Insurance Co. in Bala Cynwyd, Pa., which offers sponsored programs to clients, said the programs have become appealing for small groups of employers in the same industry.

"There may be 10 or 20 like entities where the buyers have the same (insurance) problems but know and trust each other," he said.

While buyers may lack the capital to establish their own captives, they are "intelligent enough to know that this situation will work," said Mr. Barry, referring to the sponsored program.

How long the captive market will keep booming can't be predicted with certainty. Still, some captive executives doubt there will be much of a slowdown or that existing captives will lose many members.

Ms. Davis of the Nonprofits' Alliance noted that even when the traditional market was soft, the captive still enjoyed membership retention averaging 93% to 95%.

"Members enjoyed so much what you did for them in the hard market that I don't think they are going to move when the market softens," she said.

"Most captive owners are committed to the concept," said Pat Stangle, president and chief executive officer of EWI Re, a reinsurance broker in Dallas.

Still, this isn't to say that captive sponsors don't face obstacles, perhaps the biggest one being the continuing high cost and scarcity of fronting insurers.

"Fronts still are expensive and can be difficult to obtain," said Marsh's Ms. Husbands.

The problems in the fronting market explain, at least in part, the growth of risk retention groups, of which a record 58 were formed last year, according to Karen Cutts, managing editor of the Risk Retention Reporter in Pasadena, Calif.

Under the federal law that authorized the groups, RRGs, after meeting the licensing requirements of one state, can operate nationwide, eliminating the need for a licensed commercial insurer to issue policies.

"Fronting no longer is an issue," said Brian Donovan, president of Steel Tank Insurance Co., A Risk Retention Group, in Lake Zurich, Ill., which converted several years ago to an RRG from an association captive structure.

By dispensing with a fronting insurer, the RRG now has the ability to customize its policies and gain more control over the claims handling process, he said.

"When the market softens, fronting insurers broaden policies, then when the market tightens, they become more restrictive. I want that flexibility in terms and conditions to be permanent," Mr. Donovan said.

Captive manager directory is online

The 2004 *Business Insurance* Directory of Captive Management Companies is available online to subscribers of the magazine in the Directories area of *www.businessinsurance.com*. The directory lists 123 captive managers operating in domiciles worldwide.

The online directory allows users to search by company name, parent company, domicile, services provided, total number of captives managed and premium volume of captives managed. The directory allows users to retrieve the information that they need and that meets the criteria they choose.

This directory of captive managers will be included in the 2004/2005 Market Sourcebook, a compilation of all of *Business Insurance*'s directories and related charts that will be available both in print and on CD-ROM in December.

If your company would like to be included in the 2005 *Business Insurance* Directory of Captive Management Companies, please contact the directory department by phone at 312-649-5279 or by e-mail at *bidirectory@crain.com*.

Amid flat growth, Bermuda aims for broader appeal

By MICHAEL BRADFORD

HAMILTON, Bermuda—Bermuda, despite its image as a sophisticated and pricey domicile, is attracting a larger share of smaller captive owners to the neighborhood that historically has been the home of some very large players.

Captive managers are getting consistent inquiries from midsize companies that want to get into the captive game, and the appeal of rent-a-captives continues to provide smaller newcomers with a risk-financing alternative.

And agents and brokers are driving formation of group and association captives, according to Bermuda's captive managers.

Using the Bermuda Monetary Authority's list of new incorporations, which includes all types of insurers licensed during 2003, *Business Insurance* estimates that around 61 new captives were formed. The BMA could not provide the number of captives that were taken off the rolls last year. If that number is comparable with the 2002 figure of 68, Bermuda was left with an estimated 1,150 captives at the end of 2003, slightly fewer than the estimated 1,157 registered at the end of the previous year.

Despite the leveling of formations, Bermuda managers say they expect interest in captives to remain high throughout this year. Much of that interest, they say, is coming from smaller companies.

There will be "strong interest in captives, certainly through 2004," said Alan C. Cossar, group managing director at Aon Insurance Managers (Bermuda) Ltd. "A lot of our client base, because of the hard market, had to take sizable increased retentions, some of which went into captives, some of which they retained."

That trend will continue to spark captive activity, which is coming from businesses smaller than those that typically form offshore insurers, according to Brian Durrant, executive vp at Aon in Bermuda.

There is "a new client base out there," Mr. Durrant said. Managers the size of Aon "have tended to gravitate toward the Fortune 500," he said. "But what we're seeing now is another whole layer of potential clients who are the medium-sized clients."

Mr. Durrant said Aon helps such companies by structuring captive arrangements that will rely partly on United Insurance Co., a Cayman Islands-based mutual facility that provides buffer layer coverage to captives. Aon regularly receives inquiries from businesses that say insurers leave them too exposed because of the high attachment points of their coverage, he explained. One solution is to fund a portion of a large retention in a captive and bridge the layer between that coverage and the insurer's attachment point with a policy written by United.

Aon handled slightly fewer captives in 2003 than the year before, with 274 under management. Premium volume under management rose to about $3.58 billion from about $2.98 billion.

Thomas R. McMahon, chief operating officer at CNA Risk Services Ltd., said he believes market conditions are unlikely to change over the next year and that smaller companies will show interest in captives.

"The whole captive concept," he said, "is moving down into the smaller organizations" as insurance buyers get more and more sophisticated.

That applies as well to smaller agents and brokers, "who are becoming more familiar with captives," Mr. McMahon noted. Part of their education is the result of efforts of several states in America to develop captive legislation, he said. "It's not something that is exclusively offshore anymore."

Intermediaries have helped Bermuda managers like CNA Risk Services.

"2003, for us, was quite an active year," Mr. McMahon said. "Particularly the last six months of the year. We've seen a growing interest" in formations and questions about captives, nearly all of it related to group captives, he added.

Much of the interest comes from agents and brokers through relationships cultivated by the Bermuda operation's Chicago-based parent, CNA Financial Corp., Mr. McMahon explained. "CNA has had good relationships with... midtier agents and brokers in the U.S." who are knowledgeable about group captives and are interested in setting them up in Bermuda, he said.

CNA saw its captive count rise by two to 12 in 2003, with premium volume under management climbing to $652 million from $455 million in 2002.

Other managers also report interest from intermediaries.

"We've seen quite a bit of interest

in the past year" from agents and managing general agents, said Paul Bailie, a partner with JLT Risk Solutions Management (Bermuda) Ltd.

"A lot of our business now isn't new captives," he said, but involves establishing segregated cells in existing rent-a-captives. Much of that business comes from brokers and managing general agents that are "taking a slice of the action in the programs that they are acting as agents for," Mr. Bailie explained.

JLT is "putting more time and effort into getting that business because it's quite good business to get," he said. As rates have firmed, prompting some clients to retain more working-layer risk, brokers and MGAs "could see that there was room to make some money by taking some position alongside the main carrier; taking 10% or 20% or a first layer," he noted.

The increased business helped boost JLT's premium volume under management to $1.02 billion in 2003, up from $807 million the year before. Licensed captives managed by JLT increased to 43 last year from 38 in 2002.

Interest in rent-a-captives and segregated account companies remains strong in Bermuda.

"It has…accelerated in the last six to nine months," said Mr. Durrant of Aon. Smaller companies find it is a more affordable entry into a captive than establishing a new insurer, he explained.

"Also, the great thing about the segregated account approach, which is what we use here in our rent-a-captive facility, is that it ultimately is much more easily detachable if you decide you've grown large enough to form your own captive," Mr. Durrant said. "I think a lot of middle-sized businesses that we are talking to find that a very appealing concept."

Some existing captive owners also are moving to the segregated account model. One association captive managed by International Advisory Services Ltd. is converting to a segregated cell company, according to David Ezekiel, president of the management company. "The owners don't mind sharing risks," he said of the captive's participants, "but in terms of capital calls, etc., just don't want to be impacted by other shareholders."

Mr. McMahon said that many companies inquiring about rent-a-captive arrangements are too small to participate. Many want to set up and pay $300,000 to $400,000 in yearly premiums, but CNA generally requires around $1 million in premium to make a rent-a-captive approach worthwhile.

Rory Gorman, managing director with Marsh Management Services (Bermuda) Ltd., said that Marsh's rent-a-captive facility has done "quite well," as have those that the firm manages but does not own. "We've gone from zero to 100 miles per hour," having come into the rent-a-captive arena in the past two years, he said.

While other managers that specialize more heavily in rent-a-captives may have seen even greater activity, "for us, it's a market we're quite pleased with," Mr. Gorman said.

But other factors are hampering the growth of rent-a-captives. Many of the inquiries to Quest Management Services Ltd. are for workers compensation risks, and securing fronting arrangements for those accounts is difficult, said Nicholas S. Dove, Quest's president.

"The interest is there; it's putting the deals together" that keeps them from forming, Mr. Dove said.

Quest formed six new captives in 2003, none rent-a-captives, and ended the year managing 65 captives generating $400 million in premiums. That compares with 63 captives paying the same amount of premiums in 2002.

But other limitations in the insurance market are helping rent-a-captive growth, said Mr. Gorman.

"There is no commercial insurance available" for some risks, Mr. Gorman said. "You just may not be able to find what you are looking for. If there is a rent-a-captive arrangement on offer, that may be all you have left."

Marsh remains the island's leading captive manager in terms of premium volume under management, but that number was significantly lower in 2003, falling to $5.91 billion from $9.60 billion in 2002. The decrease is in part because Marsh reclassified some companies it previously had counted as captives.

Mr. Gorman explained that those that were reclassified are "commercial insurance entities" that are not insuring their parents or affiliates. "They are not remotely connected to the parent" in terms of the coverage they write and should not be considered captives, he said.

Altogether, with the reclassifications, liquidations and other reasons, 41 captives left Marsh's rolls. The loss was partly made up, though, by the 23 new captives that signed up for Marsh's management services, giving the company 303 captives under management.

Mr. Gorman said he has noticed the reversal of one trend in Bermuda over the past couple of years: that of captives being formed to write third-party affiliated business.

Most risk managers don't have time for such activities, Mr. Gorman said. "The hard market has forced a lot of risk managers to focus on their own risks," he said. As a result, profits that could come from third-party writings are not a high priority.

Bermuda captives still face lingering problems with regard to fronting services and reinsurance, albeit with some slight improvement over previous years, managers report.

"The fronting market is still difficult," said Mr. Ezekiel. "There appear to be fewer and fewer players in the field. But I wouldn't call conditions overly difficult or dire. Reasonably difficult to work in, but very workable."

"I wouldn't say it's easy, but it's probably not quite as difficult," agreed Mr. Bailie. Finding a fronting insurer is not the most difficult part of the arrangement, he said; it's the front's demands for collateral or parental guarantees in exchange for providing services. "That's something that gives our clients some problems, particularly from a tax perspective. You can't really have a captive totally supported by the parent. We've worked pretty hard to try and get around that situation and get fronting companies comfortable with captive security, which in some cases has meant captives have had to be capitalized at higher levels than they previously were."

Reinsurance capacity for captives is gradually expanding, Mr. Bailie said. Those particularly reliant on reinsurance, and therefore prone to the most difficulties in securing it, are group captives and smaller programs, he said.

Mr. Ezekiel said that reinsurance is available, but finding it means approaching "a lot more players."

And there's a lot of work to do before coverage is written, he said. "What we're seeing is a lot more work and information being required before one actually puts a reinsurance deal to bed….The bar has certainly been raised in terms of the sort of things they will quote on."

After a restructuring that saw IAS emerge from the financial troubles of its former parent, Mutual Risk Management Ltd., IAS ended the year with $2.75 billion in premiums under management, up from $2.50 billion in 2002. The company managed 167 captives last year, three more than the previous year.

LARGEST MANAGERS OF BERMUDA CAPTIVES

Ranked by gross premium volume in millions of dollars

Manager	Premium volume 2003	Premium volume 2002	Captives 2003	Captives 2002
Marsh Management Services (Bermuda) Ltd.	$5,912.0	$9,600.0	303	319
Aon Insurance Managers (Bermuda) Ltd.	3,576.8	2,982.0	274	279
International Advisory Services Ltd.	2,750.0	2,495.0	167	164
JLT Risk Solutions Management (Bermuda) Ltd.	1,019.4	806.8	43	38
CNA Risk Services Ltd.	652.0	455.0	12	10
Becher + Carlson Management	545.0	370.0	25	25
HSBC Insurance Solutions (Bermuda) Ltd.	425.0	150.0	22	18
Quest Management Services Ltd.	400.0	400.0	65	63
Atlantic Security Ltd.	370.0	278.8	49	48

Source: *BI* survey

No record year, but med mal crisis brings solid gains

By SALLY ROBERTS

GRAND CAYMAN, B.W.I.—Continued difficulty in the medical malpractice insurance market was a catalyst for another strong year of captive formations in the Cayman Islands in 2003.

The world's second-largest captive domicile licensed 83 new captive insurance companies in 2003, with more than 65% of those funding professional liability coverage for hospitals and other health care providers.

Eighteen of the new captives licensed in 2003 were segregated portfolio companies, which is Cayman's form of cell captives. The 79 SPCs in Cayman now make up 12% of its total captive population. And the number of segregated cells within the SPCs also continues to grow, with an additional 39 cells being formed last year.

Although the segregated cells are not counted in Cayman's total captive count, they did contribute to the 21.5% rise in premium volume last year over 2002, to $4.98 billion.

Factoring in 39 captives that closed in 2003, Cayman was home to 644 captives at the end of the year, up 7.3% from 2002's total.

Among segregated portfolio companies, there were 350 active cells, which, in some cases, are as large

and complex as other single-parent or group captives, captive managers note.

While Cayman continues to enjoy strong captive growth, 2003's gains fell short of the record 97 captives formed in 2002, and, so far in 2004, the pace continues to wane, regulators and some captive managers say.

They say that, in addition to a general stabilization in the traditional insurance market, competition from onshore domiciles is hindering captive formations in Cayman.

At the same time, the difficult fronting market for captives, while improving, also has stymied the growth of existing and prospective captives, some captive managers say.

Overall, "the captive market here is still thriving and very busy," said Mary Lou Gallegos, head of insurance supervision for the Cayman Islands Monetary Authority, which oversees the captive industry. Ms. Gallegos succeeded Gordon Rowell, who stepped down as head of insurance supervision in March 2003.

Although the industry continues to thrive, Ms. Gallegos said the record pace of formations has slowed and will continue to slow in 2004 due, in part, to increased competition from onshore domiciles, which have not only increased in number but have beefed up their marketing efforts.

"With that said, I still strongly believe captive owners are going to look for domiciles that are well regulated and established," which bodes well for Cayman, she said.

"The island itself did very, very well," said Seamus Tivnan, managing director of Marsh Management Services Cayman Ltd. "I didn't expect (captive formations) would go above 70, but we did 83," he said. In 2004, "I hope we're in the 80s, but I think it will be somewhere in the 60s."

"So many people were forced into captives in the last few years," Mr. Tivnan said of Cayman's record number of formations. "As we've said for years, there can't be that many people left to form a captive, but as more companies grow into a size that warrants a captive, more business follows," he said.

Indeed, captive managers point out that, in contrast to 2002, when many companies needed to form captives quickly due to severe market constrictions, in 2003, many of the companies forming captives were looking at them for the first time and, therefore, spent more time getting them established. Managers noted, though, that while 83 new captives is down from the previous year, it is still well above Cayman's historical average of about 45 captive formations per year.

"2003 probably was as busy, if not busier, (than 2002) from our perspective," said Michael W.B. Gibbs, president of Kensington Management Group Ltd.

"The market is still making people look seriously at what their options are," Mr. Gibbs said. "I think, in the last couple of years, obviously, things have changed dramatically, and we're still seeing a number of people who are interested in getting into a group program."

"We had one of our best years here in Cayman last year," said W. Scott Frazier, executive director of Aon Insurance Managers (Cayman) Ltd. "Sixty percent of our new business came from the health care sector," he noted. "Our pipeline is still pretty full, and a lot are health care companies."

Indeed, many Cayman captive managers are concentrating their efforts on health care-related captives as the medical malpractice crisis continues to provide more opportunities.

Most, if not all, of the large U.S.

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Cayman: Solid gains

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hospital systems and a majority of the midsize systems have captives today, noted Luis Filpe, vp of IAS (Cayman) Ltd. It is the small community hospitals that are now getting together on a group basis or forming SPCs, Mr. Filpe said. "So we're concentrating on the small community hospitals," he said.

Willis Management (Cayman) Ltd. also is setting its sights on health care captives.

The medical malpractice crisis has created more captive opportunities in Cayman, "but we haven't grown as much as other managers because we haven't concentrated on health care in the past," said Stephen Gray, vp of Willis' Cayman captive operations. Historically, only about 35% of Willis captives were in health care, but a majority of the new opportunities today are health care-related and many of those opportunities are coming from Willis' retail brokerage network, Mr. Gray said.

The three new captives Willis formed in 2003 all had health care-related parent companies, he added.

In addition, several managers also pointed out that a number of U.S. hospitals have begun looking to form or convert their existing Cayman captives into SPCs as a means of offering their physicians professional liability coverage.

If physicians cannot find medical malpractice coverage, hospitals are going to lose business to other hospitals, "so they've questioned whether they should set up an SPC, bring (physicians) in and keep their business separate from the institutional business," Marsh's Mr. Tivnan said.

"At the end of the day, it depends on the mentality and the philosophy of that institution," he noted. "If they write six doctors and there's not enough assets to cover their liabilities, are they going to allow the bad publicity of them not paying the claims? If you're going to...become a deep pocket, why set up as an SPC?"

While health care-related captives are keeping most of the captive managers in Cayman busy, one manager is quick to point out that Cayman's captive expertise does not lie solely with health care.

"We are very conscious of the fact that we don't want Cayman to be known just as a health care domicile," noted Paul N. Macey, an associate with JLT Risk Solutions (Cayman) Ltd. "While it's a very important business for us, we're competing for nonhealth care-related business as well."

Indeed, while health care-related captives make up 33% of Cayman's captive totals, 21% fund workers compensation risks, 11% fund property risks and 10% fund professional liability risks. Cayman also is home to a number of captives that fund general liability, accident and health, life, marine and aviation and products liability risks.

Captives in Cayman, as elsewhere, faced fronting challenges in 2003 that dampened the domicile's growth, captive managers say.

While a number of fronting companies have come back into the market, captive managers say that, in some cases, the collateral requirements fronting companies are demanding today are too onerous for existing and prospective captive owners.

"The collateral requirements are such that some companies do not have the wherewithal to meet them," said Tom Clark, director of HSBC Financial Services (Cayman) Ltd. "And some programs have gone into runoff because they cannot meet certain requirements."

Whereas collateral requirements historically have been based on projected losses, some fronting companies now are looking for the overall capacity as collateral so "they are 100% secure, regardless of expected losses, which makes it more akin to banking rather than insurance," Mr. Tivnan said.

He noted that, with single-parent captives funding health care risks, "finding a front wasn't difficult, it was coming up with the financial requirements."

As such, several parent companies of Cayman captives looked at forming a risk retention group in the United States, thereby avoiding the need for a front and then reinsuring the risk of the RRG back to the Cayman captive,

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LARGEST MANAGERS OF CAYMAN CAPTIVES

Ranked by gross premium volume in millions of dollars

Manager	Premium volume 2003	Premium volume 2002	Captives 2003	Captives 2002
Marsh Management Services (Cayman) Ltd.	$1,827.0	$762.0	174	158
Willis Management (Cayman) Ltd.	1,275.0	1,231.0	32	31
Aon Insurance Managers (Cayman) Ltd.	1,004.6	768.0	93[1]	72[1]
HSBC Financial Services (Cayman) Ltd.	596.3	260.0	86	82
Kensington Management Group Ltd.	581.2	401.3	27	24
IAS (Cayman) Ltd.	319.9	333.3	70	72
JLT Risk Solutions (Cayman) Ltd.	222.4	146.4	32	21
Caledonian Insurance Services Ltd.	139.6	138.4	22	20
Chandler Insurance Management Ltd.	59.1	57.2	13	14
Fair Winds Captive Management (Cayman) Ltd.	55.0	NA	9	NA
Monkton Insurance Services Ltd.	17.3	24.6	7	7

1 Number of licensed captives provided by Cayman Islands Monetary Authority

Source: *BI* survey

Cayman: Solid gains

Continued from page 20
Mr. Tivnan said.

John Pitcairn, president of Fair Winds Captive Management (Cayman) Ltd., noted that while collateral requirements are tighter, the additional requirements "have not been a barrier for well-run, quality companies."

Mr. Pitcairn also noted that, on the positive side, the increased requirements give "everybody more comfort, as the initial capitalization of the companies…(is) slightly higher."

Some fronts are just walking away from captive business.

Steven R. Butler, financial director for Chandler Insurance Management Ltd., noted that he tried to place three different California-based risks into captives last year, and no front "wanted to touch it. And they were good books," he said.

"Our insurer contacts do relatively little in California, outside of workers comp and aim to reduce even that, let alone look at taking on more there," Mr. Butler said.

Meanwhile, other types of alternative risk financing or capital market deals also are showing signs of growth once again in Cayman, according to Daniel E. MacLean, a vp with Aon Insurance Managers (Cayman) Ltd.

Capital market deals "went soft for a little while…but came out of the woodwork" in 2003, Mr. MacLean said. Aon, for instance, helped secure one catastrophe bond deal and two credit default swaps in 2003.

HSBC also licensed two cat bond deals in 2003, said Mr. Clark. "As reinsurers get downgraded by the rating agencies, (cat bond deals) provide good security for ceding companies," he said.

"From where it started six or seven years ago, it probably didn't take off in the way we'd liked to have seen it take off," Mr. Clark said of capital market business. "Where it will go going forward, I don't know," he said.

Strong state support helps domicile keep top U.S. status

By RODD ZOLKOS

MONTPELIER, Vt.—With a second straight record-setting year for new captive formations, Vermont continues to solidify its spot as the foremost U.S. captive domicile, as well as a world captive leader.

Even as newer domiciles around the country grew last year, Vermont's licensing of 77 new captives stood as testament to its pre-eminence. With 13 captives dissolved in 2003, the state had a total of 507 active captives licensed at the end of the year.

And, in a move that showed the state's commitment to the captive industry, the state enacted a package of captive legislation in 2003 that adjusted premium tax rates and enhanced the status of Vermont's captive regulatory operation within state government.

Elevating the captive regulatory operation's status to a "division" within the Vermont's Department of Banking, Insurance, Securities and Health Care Administration—and naming top captive regulator Leonard D. Crouse deputy commissioner of captive insurance—puts captives "on the same footing as banking, securities, health care," Mr. Crouse said.

The move recognized not just the efforts of his Mr. Crouse and the captive division but also the importance of the captive industry to Vermont, said Nancy Gray, managing director at Aon Insurance Managers (USA) Inc. in Burlington, adding, "Our clients were incredibly pleased to hear about that."

Following 2003's record pace, "we don't know where this year's going to come in," Mr. Crouse said. "I don't feel we're going to set records. This whole business has to slow down a little bit."

"We said that last year," added Derick White, who was promoted to director of captive insurance in Vermont along with Mr. Crouse's move to deputy commissioner.

Last year's new formations included 38 new pure captives, "which, in itself, is more than many years in total," said Peter Raymond, director of financial examinations in the captive division.

Among the parent companies of new captives formed in Vermont last year were many household names, including Starbucks Corp., Boston Scientific Corp., H.J. Heinz Co. and Major League Baseball.

Of the 20 risk retention groups formed in Vermont in 2003, most were hospital groups, according to Mr. Crouse. "I think the alternative market has proven they can be a help in addressing the medical malpractice crisis that's out there," he said.

Gross premium volume written by Vermont captives jumped to an estimated $8.55 billion in 2003, up 17.1% from 2002. Premium taxes generated by captive business in the state are estimated at $20.0 million for 2003, up from $17.7 million in 2002 and $12.7 million in 2002 and 2001.

Vermont's premium tax revenue from captives is soon "going to surpass the amount of revenue from the traditional side," said Roger D. Teese, president and chief executive officer of SB&T Captive Management Co. in Burlington.

The premium tax rate adjustments enacted in Vermont last year recognized that the increased premiums captive parents were putting into their alternative risk transfer vehicles were also increasing their tax burdens.

The changes saw the graduated rates applied to captive premiums reduced by 5% at each band. For example, the former 0.4% rate on the first $20 million in premium was reduced to 0.38%, while the rate applied to the next $20 million in premium was cut to 0.285% from 0.3%, effective this year. The law also raised the minimum premium tax to $7,500 from $5,000 while setting a maximum premium tax cap at $200,000.

While the Legislature and the governor recognize the value of the captive industry to Vermont, there's also an understanding that "it's a very portable industry," said Molly Lambert, president and chief operating officer of the Burlington-based Vermont Captive Insurance Assn.

"And the Legislature and the governor are very cognizant of that," Ms. Lambert said. "And that's why, at every opportunity, I think, they signal their support and make sure that the industry understands that we want it here."

Vermont's Legislature and administration also have remained re-

Continued on next page

LARGEST MANAGERS OF VERMONT CAPTIVES

Ranked by gross premium volume in millions of dollars

Manager	Premium volume 2003	Premium volume 2002	Captives 2003	Captives 2002
Marsh Management Services Inc.	$3,350.0	$2,800.0	184	156
Aon Insurance Managers (USA) Inc.	2,500.0	2,100.0	158[1]	137
AIG Insurance Management Services Inc.	625.4	309.3	32[1]	29
USA Risk Group of Vermont Inc.	610.5	407.1	29	30
Yankee Captive Management Inc.	520.6	396.1	11	12
Willis Management (Vermont) Ltd.	462.4	386.5	37	33
SB&T Captive Management Co.	315.9	356.5	21[1]	16
CPA Mutual Management Inc.	125.0	NA	1	NA
Strategic Risk Solutions (Vermont) Ltd.	73.0	71.6	17	17
Becher + Carlson Management (Vermont)	27.0	5.2	6	6

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

Continued from previous page
sponsive in ensuring that the captive division is adequately staffed to maintain proper regulation.

"At the same time department budgets were being cut across the board, Gov. Jim Douglas added four new positions to the captive division and elevated Len Crouse to the position of deputy commissioner," said Daniel D. Towle, director of financial services in the Vermont Department of Economic Development.

"You can't get a stronger testament of support from a new governor," Mr. Towle said. "From our perspective, the governor and the Legislature remain very supportive. That's why we've been successful all these years."

"With staffing, we've clearly got a plan in place for the next four years, and we've got everyone on board," the division's Mr. White said. "So we've got plans in place to keep up."

The increasing number of captives adds to the division's workload in a variety of ways, Mr. Raymond said. "It's not just exams," he said. "We did 20 new risk retention groups last year, so we needed staff just to do the increased surveillance on risk retention groups."

In addition to committing to the needed numbers of personnel in the captive division, the state government has authorized salaries that allow the state to compete with captive managers, audit firms and others in hiring staff.

"The last one I hired worked for a captive audit firm for five years and has a master's in accounting," Mr. Raymond said. "So we're getting good people."

"They were fortunate to increase their salaries so they can hire staff from captive management companies," Jeffrey S. Kenneson, director-captive operations at SB&T, said of the captive division, "because two or three years ago they were losing people."

The captive division isn't alone in adding staff. As Vermont-based managers add new captives to their rosters, they're almost all bringing new hires on board as well.

At Aon, which added 20 new captives in Vermont in 2003, "we added nine new staff last year," Ms. Gray said. The company now has 52 people in its Burlington office, "and we're expecting a good growth in staff this year as well," she said.

Marsh Management Services Inc. formed 31 new captives in Vermont in 2003, and "I think we added 18 staff last year," said Julie Boucher, managing director at Marsh in Burlington, which had a staff of 69 at year-end 2003.

"Because we were experiencing growth so quickly, we had been adding staff right along. But we used 2003 to add staff looking ahead," Ms. Boucher said. "We've had tremendous luck being able to find great people."

"We're busting down the walls," said James R. Girardin, senior vp at Willis Management (Vermont) Ltd. in Burlington, which formed eight Vermont captives in 2003. Willis has 14 people in the office now, "and we're attracting great talent from Big Four firms," Mr. Girardin said. "We've had terrific hires. Our backroom is as strong as it ever was."

An industry venture intended to ensure that the needed base of qualified individuals remains available to Vermont's captive industry into the future is The International Center for Captive Insurance Education, or "Captive University," as it's being called.

A collaborative effort between the VCIA and the University of Vermont, the venture will provide courses, seminars, teleconferences and Web conferences on captive-related topics from the most basic to the most advanced levels.

"I just think it's a great thing to do for the industry and a great thing for Vermont to be a leader in it," said Andrew Sargeant, president of USA Risk Group of Vermont Inc. in Montpelier.

"I think it's going to be a great tool for us as captive managers," said Aon's Ms. Gray, "because they're going to help us in educating staff."

Faced with competition from a growing number of domiciles, Vermont's biggest advantages remain the quality of its regulation, its established industry infrastructure and its maturity as a domicile.

Guy F. Ragosta, managing director at Willis in Burlington, noted that, with the laws of most U.S. domiciles largely the same, it's the quality of the regulation and the domicile's infrastructure that makes the difference in deciding where to form a captive.

Marsh's Ms. Boucher credits Vermont's ongoing success with "the track record that it has with 20-plus years of experience and the regulatory team of Len Crouse and his department." Other states may be "jumping on the bandwagon," she said, but in Vermont, "they're here, they have the experience. There's no question."

USA Risk Group's Mr. Sargeant said, "It still comes down to the infrastructure. And the guys down the road, Len and them, they're the best. We, as managers, know what to expect."

"That's what you can't buy or get too quickly in these other domiciles," Mr. Sargeant said. "It comes with experience."

Ms. Gray said, "As part of the application process, every client has to come to Vermont and meet with Len and Derick, and I've never heard of one client walking away from that meeting and saying those guys aren't experts in their field. They get the sense this is a very well regulated industry, and that's important to them."

"You don't need to worry about the domicile," said SB&T's Mr. Teese. "You can think more about the program."

"There's a lot of trust that's been built up over the years in Vermont," Willis' Mr. Girardin said. "And that's not going to be going away any time soon."

"I think, when clients make a decision to form a captive onshore, they automatically think of Vermont," Ms. Gray said. "If a company decides to go to another domicile, there are other factors that draw it to another domicile, and it's after first considering Vermont."

Firm market helps boost Guernsey's captive ranks

By SARAH VEYSEY

ST. PETER PORT, Guernsey—Guernsey's captive insurance industry had another year of steady growth in 2003, with 20 new traditional captives and 12 protected cell companies receiving licenses to operate on the Channel Island.

At the end of 2003, there were 383 captives registered in Guernsey, compared with 382 at the end of the prior year, according to the island's director of insurance.

Alan Fleming, a former risk manager who has worked for several large U.K. companies, was appointed director of insurance during 2003 (*BI*, Aug. 11, 2003). He succeeded Steve Butterworth, Guernsey's longtime insurance regulator, who retired last summer.

While 32 new captive entities received licenses during 2003, almost as many captive parents consolidated or closed their captives, Mr. Fleming explained.

For example, several companies were set up to write professional liability risks, and they have now gone back to traditional insurance markets for that coverage, Mr. Fleming noted. "So it isn't that the market is static," he said.

There has been a "churning" within the number of captives operating in Guernsey, according to captive managers operating there.

For example, Dominic Wheatley, managing director of Willis Management (Guernsey) Ltd., said that during 2003, Willis in Guernsey gained three new captives, though a couple closed down and one moved because of a parental merger.

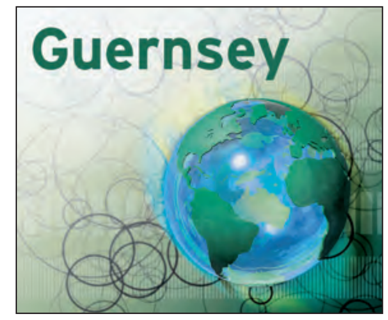
Last year saw significant "organic growth" within the captives already domiciled in Guernsey, said Clive James, managing director of Aon Insurance Managers (Guernsey) Ltd. That growth has been driven predominantly by hard market conditions for traditional insurance, he noted.

"We are putting more business through them, there's more diversity there, certainly a number of captives are getting significantly larger as a result of that," Mr. James said.

"And we have converted a number of captives into protected cell companies, whereby they are splitting out the risks, so you are having different cells for different risks," he said. "That may be driven by the policies themselves or may be driven by sector or geographical split."

Such structures, Mr. James said, are known as single-owner protected cell companies, within which the risks of the parent company are separated into individual cells.

In some cases, he noted, the regulator may encourage captive parents to take this approach. "For example, for mortgage insurance guarantee policies, (the regulator) likes us to keep that separate from, perhaps, the general insurance side," he explained.



Much of the growth in captive use in Guernsey has come on the protected cell side, Mr. James noted.

Willis' Mr. Wheatley said the hard market had prompted the use of what he described as "strategic captives" by some parent companies.

Those captives are, in some cases, writing reinsurance for ceding insurers, prompted by hard market conditions in the traditional reinsurance market, and life insurance, prompted, in some cases, by regulatory issues in their parent's home country, he noted.

Reviewing merely the numbers of captives licensed in Guernsey does not give a true picture of the

Continued on next page

LARGEST MANAGERS OF GUERNSEY CAPTIVES

Ranked by gross premium volume in millions of dollars

Manager	Premium volume 2003	Premium volume 2002	Captives 2003	Captives 2002
Aon Insurance Managers (Guernsey) Ltd.	$4,500.0	$2,825.0	220[1]	210
Marsh Management Services (Guernsey) Ltd.	727.0	792.0	73	73
Willis Management (Guernsey) Ltd.	400.0	420.2	55	57
Heath Lambert Insurance Management (Guernsey) Ltd.	245.0	400.0	26	26
JLT Risk Solutions (Guernsey) Ltd.	144.0	89.0	11	8
IAS (Guernsey) Ltd. [2]	52.0	25.0	4	12

1 *BI* estimate 2 Formerly Mutual Risk Management (Guernsey) Ltd.
Source: *BI* survey

Continued from previous page

amount of captive business being done there, said Mr. Wheatley. Some captives still exist but do not write significant amounts of business, he said.

"There are some lines of business, particularly things like mortgage indemnity guarantee insurance, that Guernsey did a lot of business in during the 1990s, and the last few years, a number of the banks and lenders involved in that have pursued different strategies. So that volume of premium, which was quite considerable, has declined," he said.

Conversely, some captives are writing large amounts of premium and expanding the lines of coverage that they take on, he said.

Guernsey's status as a mature market means that a spurt in the growth in the number of captives is unlikely, captive managers agreed.

Most of the island's captives are formed by U.K.-based companies, note the managers, but South Africa and continental European countries, among others, are potential growth areas for captive sponsors.

The European Union's addition of 10 member countries in May 2004 may also provide opportunities for captive expansion, noted Mr. Wheatley.

But Mr. James said that, "unlike Dublin, Gibraltar and Malta, (Guernsey) cannot write directly into the European Economic Community, which is a big key issue for a lot of companies at the moment."

Captive managers are looking at how the domicile can stay among the largest and continue to grow.

"I think the challenge for Guernsey is not to be the biggest in Europe but to actually get back on a growth trend," said Mr. Wheatley.

Managers are looking to the example of swiftly growing domiciles such as Bermuda to assess "what they do so well," said Mr. James. "I think, as a domicile, that is what we need to look at. And I think there will be a lot of concentration on that over the next 12 months."

Mr. Fleming is forming a group to discuss how Guernsey can develop going forward and compete with other domiciles, Mr. Wheatley noted. "Obviously, Guernsey has to continue to evolve and maintain its pre-eminent position," he said. "It has not got obvious advantages in the way that, for example, Gibraltar has in terms of admitted status within the European Union, but it has other compensating qualities."

Mr. Fleming said he maintains a dialogue with both captive managers and politicians on issues important to the regulation and growth of the domicile.

During 2003, a report by the International Monetary Fund commended Guernsey's financial regulation and law enforcement standards. The State of Guernsey's Advisory and Finance Committee invited the IMF to conduct the investigation leading to the report. The report found that Guernsey had a "high level of compliance" with every standard against which it was judged, including the Insurance Core Principles of the International Assn. of Insurance Supervisors.

"Guernsey is formally assessed by the IMF to have a high level of compliance with international standards of regulation in banking, insurance, securities, trust and company service provision, anti-money-laundering and combating the financing of terrorism," Deputy Laurie Morgan, president of the advisory and finance committee, said in a statement. "Such a positive assessment by the IMF reinforces our excellent international reputation, and this, in turn, is good for Guernsey and good for business."

"From the point of view of Guernsey's international reputation, Guernsey had a very good year," said Mr. Wheatley. "We had an excellent report from the International Monetary Fund about our regulatory standards," he said. "I think that all backs up Guernsey's pre-eminent position as a high-quality domicile, generally."

"We are very pleased about that," said Mr. Fleming, noting that his predecessor, Mr. Butterworth, deserved credit for the work done.

Another initiative involving Guernsey's regulatory body is an education program on captive management issues. The island has introduced a "Captive Insurance Management" certificate, for example, Mr. Fleming noted.

The program is accredited by the U.K. Chartered Insurance Institute and covers a range of topics, from reasons for forming captives to reinsurance to tax considerations, and is designed for anyone interested in captives, said Fiona Naftel, deputy chief executive of the Guernsey Financial Training Agency.

That program is being run by Caledonian University, based in Glasgow, Scotland, which offers several university-level insurance and risk management courses. "And some of the other domiciles are starting to look at this now," Mr. Fleming said. "It is good, because our role is to try to improve the standards within Guernsey."

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Credit life insurers leaving for other climes

By DOUGLAS McLEOD

TORTOLA, British Virgin Islands—The British Virgin Islands' captive insurance sector is growing steadily, even as the number of BVI-domiciled credit life insurers shrinks.

The islands' Financial Services Commission approved 57 new captive insurance licenses last year, of which 50 were actually issued, allowing captives to commence operations by year-end, according to Michael Oliver, BVI's director of insurance. Some of the licenses approved but not issued last year have been issued since the beginning of 2004, Mr. Oliver said.

Meanwhile, BVI lost about 25 licensees last year, a number of them credit life insurers that moved to other domiciles, including the Turks & Caicos Islands, Mr. Oliver said. While BVI had roughly 60 credit life insurers in 2002, that number had fallen to 46 by the end of last year.

"That number will come down dramatically in 2004," he predicted.

Credit life companies—which must meet the same regulatory requirements as captives in BVI—"obviously feel other jurisdictions are more suitable to their requirements," he observed. "It's not something our insurance managers are really looking for."

The U.S. Internal Revenue Service is cracking down on certain credit life insurers and other "producer-owned reinsurance companies" formed by car dealers, lenders and retailers that claim tax exemptions under Section 501(c)(15) and two other sections of the U.S. tax code. The IRS has subpoenaed Miami-based American Bankers Insurance Group Inc. for the names of clients that have established PORCs in the Turks & Caicos.

"That's not an issue for us," Mr. Oliver said of the IRS scrutiny. "That kind of business would not be part of our ongoing business."

With the number of newly licensed insurers partially offset by those dropped from the register, BVI finished 2003 with 307 licensed captives, up from 282 at the end of the previous year.

The domicile continues to attract small to medium-sized insurers formed by U.S. owners, according to Mr. Oliver. More than 90% of current BVI captives have U.S. parents and about half have net written premium volumes under $1 million, he said.

"We tend not to have very large captives down here," he noted.

Of the 57 licenses approved last year, 19 were for companies in the "health care and social assistance" field. These are mostly captives writing property/casualty coverages for nursing homes and other medical facilities, Mr. Oliver explained.

While the Cayman Islands are still the largest domicile for health care captives, "the needs in the U.S. have significantly increased in the last year," he noted. "We are seeing more and more interest in BVI in health care-related" fields.

Another 12 of last year's license approvals were for captives with parents in the "finance and insurance" sector, including agency captives, reinsurance subsidiaries and insurance advisor captives, he reported.

Other new business came from West Coast real estate developers in the United States that are using BVI captives for construction defect coverage, he added.

In 2002, BVI amended its Insurance Act, 1994 to allow the formation of segregated-cell insurers. Three or four such companies have been formed so far, and while their growth has not been "explosive," they are expected to expand steadily, Mr. Oliver said.

The BVI government is expected this year to enact solvency legislation covering all industries in the domicile, including insurance, Mr. Oliver said. Among other things, the legislation will establish receivership procedures and provide for the licensing and regulation of insolvency practitioners.

The new law will replace existing insolvency provisions in the domicile's insurance law.

BVI's Financial Services Commission has appointed Christopher Hill to the newly created post of director of solvency. Late last year, the domicile also joined the International Assn. of Insolvency Regulators, becoming the first Caribbean country to join the regulatory group, whose six other members include Canada, the United Kingdom and the United States.

Mr. Oliver took over as BVI's insurance director last July, replacing William McCullough, who retired. He has previously served as an advisor to insurance regulators in the United Kingdom and as an officer of U.S. and U.K. insurers.

Captive manager directory is online

The 2004 *Business Insurance* Directory of Captive Management Companies is available online to subscribers of the magazine in the Directories area of *www.businessinsurance.com*. The directory lists 123 captive managers operating in domiciles worldwide.

The online directory allows users to search by company name, parent company, domicile, services provided, total number of captives managed and premium volume of captives managed. The directory allows users to retrieve the information that they need and that meets the criteria they choose.

This directory of captive managers will be included in the 2004/2005 Market Sourcebook, a compilation of all of *BI*'s directories and related charts that will be available both in print and on CD-ROM in December.

If your company would like to be included in the 2005 *Business Insurance* Directory of Captive Management Companies, please contact the directory department by phone at 312-649-5279 or by e-mail at *bidirectory@crain.com*.

Barbados expects to see 2004 growth

By GLORIA GONZALEZ

BRIDGETOWN, Barbados—An aggressive marketing campaign and favorable legislative changes are expected to fuel stronger growth in the Barbados captives industry in 2004 than was seen last year, managers say.

Barbados added 15 new exempt companies last year—up from 11 the previous year—bringing the total number of registered insurers to 413, according to Carlos Belgrave, the domicile's supervisor of insurance. The exempt insurers formed last year include nine formed by U.S. parent companies, three by Canadian parent companies and three from other jurisdictions, Mr. Belgrave said.

"We would have liked it to be 30 to 40, but 15 in the difficult market in which we are operating, I think, is a reasonable number," he said. "We still do not think it's good enough. We will try this year to see how we can get more to register."

Business Insurance estimates that about 40% of the registered companies are commercial insurers or reinsurers formed to write third-party business. This would leave an estimated 248 captive insurers at year-end 2003, up from an estimated 239 at the end of 2002.

Barbados has hired a Vermont-based representative, Kate Westover, to help attract captive business to the domicile and has launched a marketing campaign to promote its advantages over other domiciles, including its network of tax treaties and lower startup and maintenance costs for offshore operations.

"I think the market underappreciates how practical it can be to do business in Barbados," said Chris Towner, executive chairman of St. James-based The Towner Management Group. "Barbados is very cost-effective, and it's very practical from a regulatory point of view, in that the managers have a lot of responsibility and also autonomy."

Captive managers expect to see an increase in business from both the United States and Canada in 2004. Canada has traditionally been a niche market for Barbados captives, but business may have been hurt in recent years by the uncertainty over how Canadian tax authorities will treat captives following 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 as exempt insurers. 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.

See BARBADOS/next page

LARGEST MANAGERS OF BARBADOS CAPTIVES

Ranked by gross premium volume in millions of dollars

Manager	Premium volume 2003	Premium volume 2002	Captives 2003	Captives 2002
Marsh Management Services (Barbados) Ltd.	$1,010.0	$275.0	30	27
Towner Risk Management Ltd.	766.0	518.0	17	20
MIMS International (Barbados) Ltd.	690.8	541.9	24	24
IAS (Barbados) Ltd.	648.0	138.0	11	13
Aon Insurance Managers (Barbados) Ltd.	105.0	149.0	47	42
American International Management Co. (Barbados) Ltd.	34.5	23.0	3	3

Source: *BI* survey

Barbados: Growth ahead

Continued from previous page

Several captive managers say this addresses the core concerns for Canadian authorities, who have yet to approve the practice.

"I don't think companies have held off pending resolution," said Nicholas Crichlow, senior vp for Bridgetown-based Marsh Management Services (Barbados) Ltd. "I think they have gone forward on the basis that it will be resolved favorably."

Other managers believe the uncertainty may have restrained captive development, although they say Canadian companies are still forming captives for genuine insurance reasons.

"What we've really noticed over the last year is that the tax considerations of setting up a captive are now really taking a second seat to market conditions," said Martin Hole, president of St. Michael-based MIMS International (Barbados) Ltd.

Some managers also see Latin America as a potential growth market.

Gregory Rose, manager of Bridgetown-based Lynch International, said he is seeking captive business in South America, particularly Venezuela. "It's, in my opinion, a growing market," he said. "Risk management is developing there, so obviously, captives would be a big feature of the structures that they'll be looking at to offer the best opportunities for managing risk."

Insurance professionals expect an increase in the number of segregated cell and separate account companies formed in the domicile this year.

In 2001, Barbados enacted legislation allowing the formation of segregated cell and separate account insurers, although the legislation was not finalized until last year. Only three segregated cell companies have been formed, but companies have expressed significant interest in cells.

"It did not take off initially as we anticipated, but it is now growing," Mr. Belgrave said. "There is interest in that type of operation, so we would expect, as we go forward, it will be a big seller for Barbados."

The Barbados government has also proposed legislation that would allow local investors to operate exempt companies in the offshore market, Mr. Belgrave said. Traditional insurance law mandated that exempt companies have parents located outside of the Caribbean Community region. The new legislation, which should be in place soon, would allow local investors to own exempt companies to write business outside the region, he said. Mr. Belgrave believes this could lead to as many as five new captives.

All of the captive managers surveyed by *BI* said they would form several new captives this year as more companies establish a presence in the domicile.

"I'm very optimistic," Mr. Hole said. "The name of Barbados is going to come more to the forefront than it has in the last few years."

Domicile gains from clarified tax status for French parents

Availability of equalization reserves also draws Europeans

By PETA MILLER

LUXEMBOURG—Although Luxembourg saw only modest net growth in captives in 2003, it did add 12 captives last year, in part due to growing interest among French companies.

Business Insurance estimates that Luxembourg finished 2003 with 216 captives, which was three more than it had at the end of the prior year. The main factor holding down growth was consolidation among captive parents, which resulted in the withdrawal of nine licenses during the year, according to Victor Rod, insurance commissioner at the Luxembourg Insurance Authority, and captive managers in the domicile.

At year-end 2003, the LIA reported 270 licensed reinsurers, up from 267 the year before. Mr. Rod said that around 80% of these companies are captives, so *BI* estimates that the total number of captives as of year-end 2003 was 216.

In geographical terms, the biggest growth was among French companies, although companies in Belgium, Italy and Spain also have been active in the Grand Duchy, said Lambert Schroeder, managing director of Aon Insurance Managers (Luxembourg) S.A.

Interest among French companies has stemmed partly from a 2002 court ruling in France that

barred tax authorities from penalizing companies established in other E.U. states, such as Luxembourg, that have double-tax treaties with France. Prior to that ruling, uncertainty about the tax treatment of French captives operating in the domicile had lessened French parents' interest.

In addition, interest in setting up captives in Luxembourg has increased because of the European Union's decision in May 2003 to drop Luxembourg from a list of countries under investigation for having harmful tax practices, Mr. Rod said.

Most captives operating in Luxembourg write traditional property/casualty risks, with an emphasis on long-tail exposures, according to captive managers.

Luxembourg is an attractive domicile for such captives because its laws allow reinsurers, including captives, to set up so-called equalization or catastrophe reserves, said Mr. Schroeder. Such reserves, which are set aside to cover large catastrophes in future years, are tax deductible in Luxembourg.

Another appeal of the Grand Duchy is that it is "considered a stable, longstanding domicile from the economical, political and technical standpoint," said Frederick Gabriel, senior vp at Marsh Management Services (Luxembourg) S.A., noting that the domicile's first law on reinsurance was passed in 1984.

And there is still room for growth among continental European companies—particularly in German-speaking countries—because such companies' use of captives is not as extensive as it could be, noted Mr. Schroeder.

Furthermore, he said, the countries joining the European Union in May—Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia—"could also have potential, but this is also a question of time."

Yannick Zigmann, account executive at Sogecore S.A, was also upbeat about Luxembourg's prospects in 2004, though he admitted that Sogecore last year concentrated more on captive formations elsewhere, such as Ireland and Guernsey.

Mr. Rod noted that there were no mergers among Luxembourg's captive managers in 2003, though there were some transfers of clients from one manager to another.

Market woes foster expansion in captive numbers and lines

By SARAH VEYSEY

DUBLIN, Ireland—After holding steady for a few years, the number of captives surged in Dublin in 2003, breaking the 200 barrier for the first time.

New Dublin captives are being formed to give owners risk-financing alternatives to hard insurance market conditions, as well as a convenient entry point for covering risks in the expanding European Union, captive managers say.

At the end of 2003, there were 205 captives registered in Dublin, compared with 181 at the end of 2002, according to information from the Irish Financial Services Regulatory Authority. The IFSRA was formed in 2003 and took over captive oversight from the Department of Enterprise, Trade and Employment. Dublin's 2002 captive total was unchanged from 2001's tally, which itself was down slightly from 2000.

The hard insurance market is one factor driving the renewed growth in captives, according to Fiona Dunn, international insurance representative for Ireland at the Investment and Development Agency in Dublin. The IDA is a government body that promotes Ireland as a location for in-

Continued on next page

Continued from previous page
ternational businesses.

For some captive owners, such as companies in the pharmaceutical industry, it has been virtually impossible to get coverage for some risks from traditional insurers, driving growth in the self-insurance market in Dublin, according to Eamon O'Brien, managing director of Aon Insurance Managers (Dublin) Ltd.

"And I think people are looking to the future because the insurance market is very cyclical and they have got hammered a couple of times on their level of premium, so they are looking to the future to set up a captive," Mr. O'Brien said.

He noted that the domicile has attracted some large captives in 2003. These are "ones that are being capitalized at 20 million euros and 25 million euros ($24.8 million and $31 million) and more, and they are writing all lines to a large number of countries," he said.

The fact the Dublin captives can write both direct insurance and reinsurance gives captives owners more flexibility than some other domiciles.

Sean Langdon
Investment and Development Agency

The hard market also is prompting some existing captive owners to expand the kind of risk they assume through their facilities.

"We saw last year, and we have seen it in previous years, a continuation of some of the reinsurance captives converting into direct writers," said Tim Byrne, managing director of Willis Management (Dublin) Ltd. "It is kind of a progression—first dipping your toe in the water as a reinsurance captive, and then if you feel more comfortable converting into a direct writer."

The fact that Dublin captives can write both direct insurance and reinsurance gives captive owners more flexibility than some other domiciles, noted Sean Langdon, who is in charge of captives at the IDA.

The fact that captives set up in Ireland can directly insure risks in other European Union countries is a big attraction of the domicile, Ms. Dunn added.

Captive managers in Dublin agree that is an attraction for prospective captive owners, which come from a variety of locations.

"There has been a lot of interest from the United Kingdom, a lot of interest from France, a lot of interest from Spain, a certain amount of interest from Germany, as well," noted Aon's Mr. O'Brien.

During 2004, there also will likely be greater interest among captive owners about expanding into some of the 10 so-called "acceding countries" which will become full members of the European Union in May, according to Mr. Byrne of Willis.

Those countries are Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.

And it is likely that during 2004, captive owners will look to leverage their captive facilities both to write business in more countries and also to write more lines of business within their captives, Mr. Byrne noted.

The captive growth rekindled in 2003 appears to be continuing into 2004.

Mr. O'Brien noted, for example, that Aon had "already put on four new accounts" by February. "And we have a number of other applications waiting to go in. So interest is very high."

There have been no changes in the regulations governing captives in Dublin, though the regulatory body has changed.

The IFSRA, the new regulatory body, pools together expertise across all areas of financial services, according to Frank Brosnan, deputy head of nonlife insurance supervision at the authority.

LARGEST MANAGERS OF DUBLIN CAPTIVES

Ranked by gross premium volume in millions of dollars

Manager	Premium volume 2003	Premium volume 2002	Captives 2003	Captives 2002
Aon Insurance Managers (Dublin) Ltd.	$2,845.0	$1,950.0	93	75
Marsh Management Services (Dublin) Ltd.	520.3	463.0	72	74
Eurco Ltd.	307.6	305.5	3	4
Willis Management (Dublin) Ltd.	90.0	87.0	16	18
JMH Financial Services [1]	6.3	3.5	7	4

1 Formerly FBD International Captive Management Ltd.
Source: *BI* survey

Coming PCC regs expected to attract more business

Niche products, supportive regulators, low solvency mandates draw global clients

By CAROLYN ALDRED

DOUGLAS, Isle of Man—Prompted by several years of a hard insurance market, renewed interest in captives is resulting in premium growth and new formations on the Isle of Man.

A total of 12 new captives were licensed in 2003, while six were closed or transferred, typically following corporate mergers, producing a total of 173 licensed captives at the end of last year, said Glyn Gilbert, manager of nonlife insurance for the Isle of Man's Insurance and Pensions Authority.

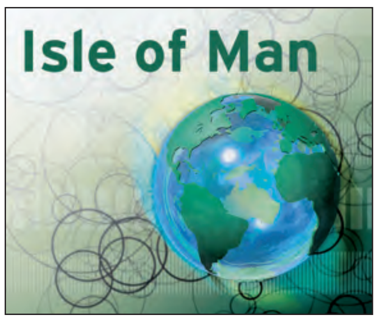
Premium volume in 2002, the most recent year for which statistics were available, increased to £1.2 billion ($1.80 billion) from £1 billion ($1.44 billion) in 2001, and Mr. Gilbert said he expects similar growth for 2003.

Although the United Kingdom remains the island's main market for captive sponsors, new captives were formed by companies based as far away as Hong Kong, South Africa and Russia, he said.

Small and medium-size companies now are facing higher insurance costs and are looking at captive options, said Angus Alexander, managing director of Willis Management (Isle of Man) Ltd.

"There is still plenty of growth in the market," even from large corporations, which formed several of the island's new captives, said Mr. Gilbert.

One growth area in the U.K. market is after-the-event insurance, a product designed to meet the legal costs of personal injury litigation, noted Mr. Gilbert. After-the-event insurance was developed when state-funded Legal Aid was replaced with a conditional no-win, no-fee arrangement for bringing personal injury litigation.



Duncan Donald, managing director of Aon Insurance Managers (Isle of Man) Ltd., agreed that after-the-event insurance was one of several niche areas for captive clients.

While most large companies have probably already got or looked at captives, Mr. Donald said, Aon is "looking more at associations, niche products and new products where captive insurance will be of benefit to owners."

In professional indemnity, an area in which capacity is tight in the traditional market, captives can offer a valuable solution, he said.

Mr. Alexander said he believes captives will be used more on risks for which there is limited capacity or the traditional market does not provide a solution.

Although the Isle of Man is not a member of the European Union and struggles to attract captives of E.U.-based companies outside the United Kingdom, managers on the small island in the Irish Sea do not limit their marketing to neighboring countries.

"We get inquiries from all over the world and recently set up a captive for an Australian company, who found our regulations more flexible than those of Singapore," a traditional domicile for Australian-owned captives, said Mr. Donald.

Among the Isle of Man's advantages are regulators who are very supportive of the captive industry and make time to talk with potential clients, he said.

The Isle of Man has lower solvency and capitalization requirements than many of its European rival domiciles, noted Derek Patience of Marsh Management Services (Isle of Man) Ltd.

"Our solvency requirements give us more advantage than some European domiciles," agreed Mr. Alexander.

Another factor that is expected to help the Isle of Man's captive industry is the long-awaited introduction of protected cell company legislation. PCC regulations received royal assent in January, and the regulations are expected to go before the Tynwald, the island's parliament, this month and take effect in April, Mr. Gilbert confirmed.

"PCC legislation will put us on a par with Guernsey and should attract more business to the Isle of Man," said Mr. Patience. Guernsey, the Isle of Man's main competitor, has permitted PCCs since 1997.

PCC legislation will allow the Isle of Man "to compete with other jurisdictions," said Mr. Alexander.

"We are coming late into the game, but we are learning from the experiences of others," Mr. Gilbert said.

Turks & Caicos sees little impact from IRS actions

By DOUGLAS McLEOD

GRAND TURK, Turks & Caicos Islands—The Turks & Caicos Islands' captive industry saw steady growth last year and is expected to continue expanding slowly in 2004.

The domicile saw a net increase of 16 captives last year, bringing its total to 159 insurers at year's end, according to Albert P. Smith, the islands' superintendent of insurance. The total does not include any of the more than 2,000 credit life insurers licensed in the Turks & Caicos Islands.

As the domicile looks to grow further, medical malpractice captives have been targeted as a potential source of new business, Mr. Smith noted.

Meanwhile, after several years of holding license fees steady, the Turks & Caicos government is considering possible increases, including increases in captive, insurance manager and credit life insurer fees, captive managers report.

Mr. Smith confirmed that fee levels are "under review" but noted that no increases have been decided on yet.

There have been no changes in the domicile's minimum capital and surplus or solvency requirements, he reported.

Turks & Caicos captive industry observers also say they see no impact so far from the U.S. Internal Revenue Service's ongoing scrutiny of certain credit life insurers and other "producer-owned reinsurance companies" formed by auto dealers, retailers, lenders and others under section 501(c)(15) and two other sections of the U.S. tax code.

Those sections grant tax breaks to various types of small insurers, including property/casualty companies generating less than $350,000 annually in net premiums. In 2002, the IRS said it would challenge tax exemptions claimed by PORC owners where it concludes that the offshore companies were used to divert otherwise taxable income from their parents.

Late last year, the IRS won court approval to subpoena Miami-based American Bankers Insurance Group Inc. for the names of clients that sold American Bankers credit insurance products to their own customers and arranged for the business to be reinsured by their own Turks & Caicos-based PORCs. In court filings, the IRS said it believed American Bankers had ceded business to as many as 300 such reinsurers, though an American Bankers spokesman said that the number is far lower.

The tax agency has already successfully challenged exemptions claimed by three American Bankers credit insurance producers that the IRS alleges used Turks & Caicos PORCs to divert $2.8 million in taxable income, according to court filings.

Despite the scrutiny, though, Mr. Smith said there has been no fall-off in the rate of credit life insurer formations in the domicile. "We do not anticipate a decline," he said.

In 2002, the Turks & Caicos government reorganized its financial services regulatory system to follow recommendations in a study of regulation in Caribbean domiciles by accountant KPMG L.L.P.

Among other changes, the government created a Financial Services Commission to oversee banking, insurance and other financial services, separating the function from the Ministry of Finance.

West Coast risks help set record captive growth

By ROBERTO CENICEROS

HONOLULU—Hawaii's captive industry experienced record growth in 2003, adding 21 entities to its list of licensed facilities and bringing its year-end total to 122.

The domicile's previous growth record stood at 17 facilities, formed during 2000, according Craig Watanabe, Hawaii's captive insurance administrator.

Factors driving Hawaii's current captive activity include California's difficult workers compensation market, a desire for terrorism coverage and homebuilders' interest in the domicile.

The insurance market for construction-defect coverage is in a "meltdown," so residential builders are turning to alternative measures, said Michael Murphy, president of Denver-based RiskCap Inc., which operates Honolulu-based RiskCap Hawaii. In 2003, RiskCap helped license three Hawaii-based captives writing construction-defect coverage.

Hawaii managers expect more captives writing the coverage to form there during 2004, they say.

Hawaii has "become a domicile of choice for construction defect" because regulators there have developed the specific expertise necessary to help homebuilders form facilities, Mr. Murphy said.

Additionally, coverage difficulties

for the line are most pronounced in Western states, though "it's spreading all over the county now," Mr. Murphy said.

Some of the builders that have formed Hawaii captives rank among the largest home construction companies in their industry.

But many builders looking to Hawaii are midsize regional entities based in the West, said Jason L. Palmer, branch manager for Willis Management Ltd. in Honolulu.

"Because they are West Coast folks, it makes a little more sense for them to locate out here," Mr. Palmer said.

Hawaii also draws the interest of building product suppliers, which want coverage in case a construction defect is blamed on their goods, said Allison Quinlivan, senior vp for Marsh Management Services Inc. in Honolulu.

Last year stands out for companies looking to form captives solely to write terrorism coverage, Ms. Quinlivan said. Currently, Marsh has two clients—a financial services company and a high-tech entity—in the process of forming facilities that would allow them to recover terrorism losses through the Terrorism Risk Insurance Act of 2002.

Neither of the two clients owns a highly visible target, but both determined they could suffer millions of dollars in terrorist attack losses, Ms. Quinlivan said.

The cost of workers compensation insurance for California risks also draws employers to Hawaii.

Many California employers participating in various industry associations are meeting with Hawaii's managers and regulators to determine whether the domicile might offer a workers comp alternative they can present to their associations, Mr. Palmer said.

Some California companies already have turned to Hawaii to implement a workers comp savings strategy.

About 18 months ago, nationwide retailer Guitar Center Inc. began self-insuring its workers comp risks, said Bruce Ross, executive vp and chief financial officer for the Westlake Village, Calif.-based company.

Guitar Center in December obtained a license for GC Insurance Co. Inc., a Honolulu captive managed by Arthur J. Gallagher Captive Services (Hawaii). Tax advantages derived from accumulating captive reserves offer Guitar Center an opportunity to boost the savings from self-insuring its workers comp coverage, Mr. Ross said.

Mr. Ross said that, after surveying several U.S. captive domiciles, he concluded Vermont and Hawaii were best qualified to meet his company's needs. Hawaii won out, he said, because he would rather travel there once a year.

Hawaii's captive industry also continues to court Japanese companies through a variety of measures.

In 2003, for example, First Risk Management Services opened its doors as a Honolulu captive manager. The new manager is a unit of First Insurance Co. of Hawaii Ltd., which is owned jointly by CNA Financial Corp. of Chicago and Tokio Marine & Fire Insurance Co. Ltd. of Tokyo.

First Risk Management Services already manages one captive, whose owner has been a Tokio Marine & Fire client, said Stephen J. Tabussi, vp of customer solutions for First Risk Management. The connection could bring more captive clients, Mr. Tabussi said.

LARGEST MANAGERS OF HAWAII CAPTIVES

Ranked by gross premium volume in millions of dollars

Manager	Premium volume 2003	Premium volume 2002	Captives 2003	Captives 2002
Marsh Management Services Inc.	$471.0	$383.0	50	43
Becher + Carlson Risk Management Inc.	220.0	183.0	20	17
Aon Insurance Managers (USA) Inc.	135.0	110.0	17	15
Willis Management Ltd.	100.0	92.0	9	8
AIG Insurance Management	57.0[1]	10.0	7	6
Arthur J. Gallagher Captive Services Hawaii	44.5	13.0	5	1
RiskCap Hawaii	12.4	5.0[1]	7	2
Risk Services (Hawaii) Ltd.	6.4	3.9	4	4

[1] From State of Hawaii Department of Commerce and Consumer Affairs, Insurance Division
Source: *BI* survey

State gains as an onshore alternative to Vermont

By JERRY GEISEL

COLUMBIA, S.C.—South Carolina is poised for another banner year after a record number of captive formations in 2003.

Last year, the South Carolina Department of Insurance licensed 37 captives, swelling the state's captive roster at year-end to 63.

Premium volume generated by captives in the state more than doubled, rising to $290 million in 2003, up from $144 million the prior year.

South Carolina's growth—as measured by number of formations last year—was unmatched by any other U.S. domicile, except for Vermont, which added 77 new captives. But Vermont's captive base is 10 times larger and its captive statute has been on the books since 1981, giving Vermont a nearly 20-year lead over the Palmetto State.

And not even Vermont was close to the blistering pace that South Carolina has set since it opened its arms to captives. It took Vermont five years to cross the 60-captive mark, which South Carolina has achieved in three years. South Carolina's growth is even more remarkable given the formidable competition it faces from other domestic domiciles trying to lure captives. Vermont, by contrast, in its early years, lacked any serious competition in the United States as no other state had such an attractive captive statute on its books.

The reasons for South Carolina's near-immediate success as a captive domicile are several, say businesses, captive managers and state officials.

Perhaps the most significant reason is the priority that state officials are giving to captive formation and regulation. Like Vermont, South Carolina has a separate unit within the Department of Insurance whose staff is dedicated to captives.

That gives both prospective and current captive sponsors accessibility to captive regulators that is not found in many other domiciles, they say.

"They were very accessible and easy to work with. It is nice to kick the tires of the people you are going to be working with," said Bill Pickell, president of the American Forest Casualty Co. Risk Retention Co., which was licensed last year to provide general and commercial auto liability coverage to loggers in several northwestern states.

While other domiciles were considered, "South Carolina seemed much more business friendly," added Mr. Pickell, who also is general manager of the Washington Contract Loggers Assn. Inc. in Olympia, Wash.

South Carolina regulators attribute the growth to both their promotion of the state as a captive domicile and flexibility in considering captive applications.

Ernst Csiszar, director of the South Carolina Department of Insurance in Columbia, notes that while some state insurance regulators have an absolute fear of risk retention groups, he does not share that attitude.

In reviewing a captive's application, it doesn't matter whether the entity is authorized under federal or state law, he says. What is important is the quality of its business plan, Mr. Csiszar says, adding that he views RRGs as highly flexible and a way of doing business in the alternative risk market.

"There are no preconceived notions. The regulators will listen to what you say," said Gary Osborne, senior vp in the Montpelier, Vt., office of USA Risk Group, which is South Carolina's largest captive manager with 26 captives at the end of last year.

That regulatory view of RRGs may help to explain why just over 40% of the state's captives are RRGs, a higher proportion than any other major captive domicile.

Captive sponsors also are attracted by the speed at which captive applications are considered, which typically is about a month, but in some situations has been as little as a week.

"They are very efficient in processing applications. The word has gotten out that this is a good place to do business," said Chris Ridge, president of Charleston Captive Management Co. in Charleston.

Growth also is being fueled by South Carolina's location. It stands alone in its position as a major captive domicile in the southeastern United States, giving it a geographic edge over other domiciles for employers in the Southeast.

Indeed, one Alabama-based company specifically chose South Carolina as its captive domicile because of the state's proximity to corporate headquarters, said Ann Wick, regional director-U.S. onshore for AIG Insurance Management Services Inc. in Burlington, Vt.

"South Carolina is a good alternative to Vermont, especially for organizations in southern states," said Nancy Jones, managing director at Aon Insurance Managers (USA) Inc. in Burlington, Vt.

South Carolina's growth as a captive domicile and its potential for future growth is not going unnoticed by the biggest captive managers, including Aon, Marsh Management Services and Willis Management Ltd., all of whom either have or intend to open offices soon in South Carolina.

"South Carolina is well placed as a domicile of choice," said Robert Johnson, senior vp with Marsh Management Services in Charleston.

Captive growth flat in Singapore

By MICHAEL BRADFORD

SINGAPORE—Singapore has settled into a sort of equilibrium as a captive domicile.

The domicile's captive count dipped slightly, to 49 in 2003, two fewer than Singapore had on its rolls the year before. Already in 2004, though, two new captives have set up shop and another has been granted in-principle approval.

Singapore's captive numbers have held steady in recent years, with deregistrations and incorporations nearly balancing the total count at around 50.

The slight dip in the captive population in 2003 was partly due to a continuing trend among Japanese insurers to leave the domicile, with some choosing to locate in other domiciles as a way to avoid high taxes at home. Three of the four companies that were deregistered in 2003 were Japanese companies, though it is unclear whether they all sought reincorporation in other domiciles.

Japanese companies began locating in Singapore in the early 1990s, when Japan put in place regulations requiring offshore companies paying 25% or less in taxes in their domicile to pay additional taxes at home. Singapore's tax was as high as 32% but has since fallen to a current rate of 22%. Captives also can apply for an even lower concessionary rate of 10% on their offshore business.

In an odd twist on tax planning, some Japanese companies have chosen to seek captive domiciles that will charge them higher taxes so they can pay less at home.

Even with the deregistrations, most of the captives that operate in Singapore are owned by Japanese or Australian companies, according to a spokesman for the Monetary Authority of Singapore, the agency with regulatory power over captives. The spokesman said European companies are represented among the current crop of captives, as are businesses in other Asian countries.

Most Singapore captives are single-parent insurers, with some set up as association captives, the spokesman said. They write various property/casualty coverages.

The MAS will consider rent-a-captive operations, according to the spokesman, but there have been few inquiries about forming such insurers.

The spokesman said that Singapore offers captives an attractive domicile that compares favorably with far-flung competitors in places such as Bermuda and Cayman. A regulatory environment that understands the nature of captive operations, a top-notch infrastructure and access to a range of financial and ancillary services ranks the domicile among the world's best, he said.

Captive insurers in Singapore have seen a change in requirements regarding the amount of assets they must hold. Those writing offshore business must maintain assets in an amount not less than their liabilities.

For captives issuing policies on Singapore risks, assets must amount to the highest of $400,000 above the amount of liabilities, 20% of net premium income in the preceding accounting year or 20% of loss reserves at the end of the preceding accounting year.

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 2003 and 2002. 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	2003	2002	CAPITAL & SURPLUS	PREMIUM TO SURPLUS	FEES	TAXES	LAWS	REGULATOR
Arizona	18	4	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	Richard Marshall, 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	Mike Pickens, State Insurance Commissioner, Arkansas Insurance Department, 1200 W. Third St., Little Rock, Ark. 72201-1904; 501-371-2600; fax: 501-371-2629
Bahamas	18	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	248 (*BI* est.)	239 (*BI* 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 (*BI* est.)	1,157 (*BI* 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, $880; Class 2, $1,500; Class 3, $5,000. General and long-term business: $5,000 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	12	16	$200,000 Canadian ($149,309)	None	$500 Canadian ($373) application fee; $2,500 Canadian ($1,866) 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 Insurance, Financial Institutions Commission, 1050 W. Pender St., Suite 1000, Vancouver, B.C. V6E 3S7, Canada; 604-660-2947
British Virgin Islands	307	282	$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	644	600	$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	11	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	3	3	Pure captive, $100,000 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	2003	2002	CAPITAL & SURPLUS	PREMIUM TO SURPLUS	FEES	TAXES	LAWS	REGULATOR
District of Columbia	20	6	$100,000 for pure captive; $200,000 for association captive (stock); $300,000 for agency, rental or sponsored captive	Surplus: $150,000 for pure captive; $300,000 for association (stock), agency, rental or sponsored captive; $500,000 for mutual or reciprocal insurer association captive	$500 application fee; $300 certification fee; $300 annual renewal fee	Direct: 0.4% on first $20 million of net premiums, 0.2% on the next $20 million of premiums and 0.075% thereafter. Reinsurance: 0.225% on the first $20 million of premiums, 0.15% on the next $20 million and 0.025% thereafter	The Captive Insurance Company Act of 2000, D.C. Official Code 31-3901	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	205	181	Minimum share capital of 635,000 euros ($787,400); additional contribution determined by review of business plan	Determined by review of business plan	5,079 euro ($6,298) application fee; 1,270 euro ($1,575) extension fee. Supervisory fee is based on premium volume	2% levy on nonlife premiums; corporate tax of 12.5%	Insurance Act 2000	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; *frank.brosnan@ifsra.ie*
Georgia	16	17	$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; *chris.taylor@mail.oci.ga.us*
Gibraltar	12	14	New licenses: 2 million euros or 3 million euros ($2.5 million to $3.7 million) in respect of liability business. Transitional arrangements for existing licenses	18% of gross annual premiums up to 50 million euros ($63 million) plus 16% of premiums over 50 million euros, or 26% of average claims over prior three years	£1,000 ($1,868) application fee; £2,500 ($4,670) annual license fee	Tax exempt by paying £225 ($420) 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; *info@fsc.gi*
Guam	1	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	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	Artemio B. Ilagan, Director and Insurance Commissioner, 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; *ilagan@mail.gov.gu*
Guernsey	383	382	Minimum is £100,000 ($186,800)	Greater of 18% of net premiums for first £5 million ($9.3 million), 16% thereafter; or 5% of loss reserves	£3,225 ($6,024) application and annual renewal fee	Four options: no tax but annual fee of £600 ($1,121); 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; *www.gfsc.gg*
Hawaii	122	101	Minimum requirements vary by type of captive; additional requirements determined on a case-by-case basis	Varies by case	Application review fees vary between $300 and $1,000, depending on facility type	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; *captiveins@dcca.hawaii.gov*
Hong Kong	2	2	Greater of 5% of net premiums written and net claims outstanding, or $2 million Hong Kong ($256,940)	None	$22,600 Hong Kong ($2,903) authorization fee	Corporate tax is 16%	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; *iamail@oci.gov.hk*
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; *etta_mae_credi@ins.state.il.us*

DOMICILE	2003	2002	CAPITAL & SURPLUS	PREMIUM TO SURPLUS	FEES	TAXES	LAWS	REGULATOR
Isle of Man	173	167	£500,000 ($934,000) for long-term; £150,000 ($280,200) for general; £100,000 ($186,800) for reinsurance; £50,000 ($93,400) for restricted	None	£1,500 ($2,802) application fee; £3,250 ($6,071) annual license renewal fee	Standard tax is 18%. Isle of Man companies operating internationally may elect 1% to 35% taxation under International Business Act. Captives operating under a 1981 act enjoy partial or full exemptions if business is not transacted with Isle of Man residents	Insurance Act 1986; Insurance (Amendment) Acts 1993 and 1995	D.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	15	19	£100,000 ($186,800) or at regulator's discretion	Property/casualty: 17.5% of net premiums; life: 2.5% of long-term business fund	Category A: £1,750 ($3,269) for property/casualty, £3,500 ($6,538) for life. Category B: £3,000 ($5,604) for property/casualty; £6,000 ($11,208) for life	Maximum stamp duty is £2,500 ($4,670). 20% standard rate; exempt captives pay £600 ($1,121) 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*
Labuan	21	21	Single/multiowner captive: 300,000 ringgit ($78,948); rent-a-captive/cell captive: 500,000 ringgit ($131,580)	Single/multiowner captive: 300,000 ringgit; rent-a-captive/cell captive: 500,000 ringgit	6,000 ringgit ($1,578) 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 ($5,263)	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	216 (*BI* est.)	213 (*BI* est.)	1.2 million euros ($1.5 million)	10% for nonlife, 2% for life	1,500 euros ($1,860) for incorporation. Annual license fee of 3,000 euros ($3,720)	Varies. Basic rates: 26% corporate tax	1991 Insurance Law and Grand Ducal Regulations, amended 1994, 2001	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	1	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	Enya Carter, Director of Financial Analysts, Maine Bureau of Insurance, 34 State House Station, Augusta, Maine 04333-0034; 207-624-8496; fax: 207-624-8599; *enya.h.carter@maine.gov*
Malta	1 (*BI* est.)	1	100,000 liri ($34,750)	Solvency margin set in accordance with European Union directives	500 lira ($174) application fee; 500 lira acceptance fee: 1,000 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	11	$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	9	5	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*
Netherlands Antilles	18	16	None	Solvency margin: the higher of 15% of net premiums or 300,000 guilders ($167,610) for nonlife; higher of 4% of net technical reserves or 400,000 guilders ($223,480) for life	6,000 guilders ($3,352) application fee; 3,000 guilder ($1,676) annual license fee	2,500 guilders ($1,397) 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

DOMICILE	2003	2002	CAPITAL & SURPLUS	PREMIUM TO SURPLUS	FEES	TAXES	LAWS	REGULATOR
Nevada	19	7	$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	18	4	$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*
Panama	8	2	$150,000 for nonlife; $250,000 for life	5-to-1	$1,000 application fee; $2,000 annual license fee	None	Law 60, 1996	Ana Lorena Broce, 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	1	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@dbr.state.ri.us*
Singapore	49	51	$400,000 Singapore ($234,640)	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 ($2,933) annual fee	Corporate tax is 22%. Captives may apply for a 10% concessionary tax rate on their offshore business	Insurance Act (Chapter 142), amended Jan. 1, 2004	Hauw Soo Hoon, 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	63	27	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: $500,000 capital/$500,000 surplus	Varies by company	$200 application fee; $300 licensing fee; $500 annual renewal fee	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	Ernst Csiszar, Director-South Carolina Department of Insurance, P.O. Box 100105, Columbia, S.C. 29202; fax: 803-737-6229; *ecsiszar@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*
Switzerland	34	37	Captives writing third-party business: 10 million Swiss francs ($7.9 million); captive reinsurers: 1 million Swiss francs ($787,200) and 20% of premium	Same as capital and surplus	Varies annually by market share; minimum of 2,000 Swiss francs ($1,574)	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*

DOMICILE	2003	2002	CAPITAL & SURPLUS	PREMIUM TO SURPLUS	FEES	TAXES	LAWS	REGULATOR
Turks & Caicos Islands	159**	143**	$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@tciway.tc*
U.S. Virgin Islands	7	12	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	$1,000 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*
Vermont	507	443	$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*
Virginia	0	0	Stock captives: $1 million capital, $3 million surplus. Nonstock: $4 million surplus	None. Minimum gross written premiums: $500,000 for single-parent, $1 million for association captives	$500 nonrefundable application fee	Premium tax of 2.25% for business written in Virginia and out-of-state business not taxed by another state	Chapter 11, Title 38.2, 1980	Jim Ware, State Corporation Commission, Bureau of Insurance, Company Licensing and Regulatory Compliance, Commonwealth of Virginia, P.O. Box 1157, Richmond, Va. 23218; 804-371-9801; fax: 804-371-9511; *jware@scc.state.va.us*

** Excludes credit life insurers

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Comings & Goings-Industry

Mr. Stavish

Mr. Butler

Mr. Falvey

Mr. Grant

Insurers:

Chicago-based CNA Surety Corp. has named **Douglas W. Hinkle** chief underwriting officer. Previously, Mr. Hinkle was a regional director with St. Paul Surety.

Mark Benson has been named senior vp, workers compensation, for ACE Casualty Risk. Mr. Benson, who will be based in Wilmington, Del., previously was director of workers compensation for SAFECO Insurance Group.

Other providers:

Parsippany, N.J.-based GAB Robins Group of Cos. has named **Jun Tsusaka** chairman of global operations. Previously, Mr. Tsusaka was a director of GAB Robins. He will continue as a principal at Brera Capital Partners L.L.C.

Todd A. Bakal has been made partner in Mound Cotton Wollan & Greengrass, a New York-based law firm specializing in insurance, reinsurance and commercial litigation. Previously, Mr. Bakal was an associate.

Hunt Valley, Md.-based RewardsPlus has named **John J. Nail** executive vp of sales and marketing. Before joining the benefits management company, Mr. Nail led a consultant firm.

Pamela Jones, editor and moderator of Groklaw.net, has joined Open Source Risk Management L.L.C. as director of litigation risk research. OSRM, a company that provides risk management technology and consulting for companies using free and open source software, is based in New York.

Healthaxis Inc. has named **John M. Carradine** president and chief operating officer. Mr. Carradine also will continue in his current position as chief financial officer for the Irving, Texas-based company.

Brokers:

Savannah, Ga.-based Palmer & Cay has named **Tim Cunnane** senior vp in the broker's Detroit office. He will be responsible for developing and marketing group captives. Previously, Mr. Cunnane was senior vp at Marsh USA.

Michael Korn has been named senior vp and global property practice leader at Lockton Insurance Brokers Inc. Before joining Kansas City, Mo.-based Lockton, Mr. Korn was a senior vp of property marketing with a consulting firm.

Willis Group Holdings Ltd. has named **Joseph C. Stavish** property risk control engineering practice leader. Before his promotion, Mr. Stavish, who will be based in New York, led the risk solutions property engineering group.

Briarcliff Manor, N.Y.-based USI Holdings Corp. has made three senior-level promotions:

• **Jim M. Butler**, formerly president of USI Northeast, has been named president and chief executive officer of USI Northeast Region.

• **Charles J. Falvey** has been named national benefits practice leader. Previously, Mr. Mr. falvey was president of USI's New York office.

• **Michael Sean Grant**, formerly senior vp of sales and marketing, has been named president of New York health and welfare operations.

Managed care:

Los Angeles-based Health Net Inc. has named **Jeff Folick**, executive vp of regional health plans and specialty companies, to assume the day-to-day responsibilities of Health Net of the Northeast. Mr. Folick will be based in New York.

Reinsurance:

New York-based QBE the Americas has named **Bruce Carlino** senior vp and claims manager. Before his promotion, Mr. Carlino was a vp.

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, 60 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.

Commentary

Slouching into the 21st century

I'm about to out myself in a sense to colleagues in the office and other friends and acquaintances who for some time now have been in on my secret.

Actually, it wasn't really much of a secret; I've been quite open about the fact that I didn't own a cell phone.

I was rather proud—in fact, almost smug—about being what seemed one of the last people in America without one. Now, though, that guy somewhere up in the mountains of Montana is on his own. For about the past week, I've been packing cell.

It's not that I'm a technophobe. All right, I came late to DVDs, and to CDs before that, but our constant shortage of living room shelf space is testament to my wholehearted embrace of those technological leaps.

Rodd Zolkos

A couple of years ago I got a handheld, a gadget I use constantly and find an invaluable tool. But I've been a bit more reluctant to attach myself to the electronic leash. I guess I didn't exactly want to be accessible all the time. Besides, I've listened—unwillingly—to the conversations of folks who fire up the phone as soon as they sit down on the bus. Better yet, I've watched others stroll into traffic, phone to ear and dazed expression on face.

Clearly, this was something more toy than tool, and with addictive possibilities as well. I didn't need that. And have I mentioned that I didn't exactly like the idea of constant accessibility?

I think the accessiphobia is kind of a repetitive stress disorder, the result of numerous little injuries over time. For example, years ago, in my first newspaper job, I was shocked to be called to the phone one evening at a favorite tavern, and even more shocked when the caller was my managing editor with an urgent assignment. As the twig is bent, the tree inclines, right?

Gradually the pressure grew, though. Slowly and almost imperceptibly at first, then with increasing force. Finally, I realized that over the past few years my relationships with many people had gone through three distinct stages with regard to my not having a cell phone: acceptance, amusement and finally, barely disguised hostility.

It had all become some sort of bizarre telecommunications Elisabeth Kubler-Ross scenario, with me going from being one of many to some sort of amusing eccentric to a social misfit daring to flout the norms of civilized society.

So, it's been obvious for a while the end was coming, and when I took the leap one recent Friday afternoon the decision had long since been made. (Besides, I'd buried the copy editor on our staff with whom I'd made a friendly wager about a year ago regarding which of us would be the last to succumb.)

But now that I've taken the step, I'm aware that I face all new problems, not the least of which are the potential risk management implications of cell phone use.

I know the whole issue of whether it's safe to drive and use these things is a matter of some controversy. People can believe what they want, but I think again about the glassy-eyed people I've seen seemingly unable to walk safely while on their phones and figure I'd best try to avoid the drive-and-chat.

But these new phones are packed with all kinds of features, and having read the safety warnings in my instruction manual pretty closely, I don't recall it saying anything about not playing games while driving. Cool!

The safety information also had a section on not using the phone around blasting areas. "Cool again!" screams my inner 8-year-old.

Then there's hands-free calling. The first time I saw that technique was in San Francisco at the peak of the dotcom boom. Seeing so many people walking the streets alone while engaged in animated conversation, it was uncomfortably difficult if not impossible to tell the hipsters from the "characters." Hands-free has become more commonplace since then, but maybe it's still something I'd best avoid.

Another issue is simply how to carry the thing? Those who've seen the great BBC comedy The Office no doubt remember Gareth's cell phone shoulder holster. I'm pretty sure that's the way I want to go.

Such issues aside, though it pains me to admit it, I've already found my phone to be useful on more than one occasion. Apparently, it does have some utility. But I'm still going to fight the impulse to call my wife, Kathy, from the bus simply to tell her I'm on the bus.

Meanwhile, to that guy in Montana, enjoy, my friend—you've earned your victory. Call when you get a phone.

Senior Editor Rodd Zolkos can be reached at rzolkos@businessinsurance.com or at any time on his cell phone.

Medicare: Prescription drugs

Continued from page 4

per participant in 2006, with that amount increasing in succeeding years as health care costs rise.

In its annual report, the telecommunications company said its prescription drug benefit is more valuable than the one that will be offered through Medicare. "Thus, we believe that BellSouth should be eligible for subsidies into the foreseeable future," the report said.

Delphi, a diverse manufacturer, attributes its $500 million reduction in retiree health care obligations to the federal subsidy, noting that its prescription drug plan offers richer benefits than those provided through Medicare and that the premium retirees pay is less than what Medicare will charge. On average, retirees opting for prescription drug coverage through Medicare are expected to pay a monthly premium of $35.

American Airlines, though, attributes the reduction in its retiree health care obligations to a decrease in "per-capita claims costs along with a reduction in the expected rates of participation in the plan."

> **While the financial relief provided by the Medicare prescription drug law is welcome, that relief is modest compared with GM's total retiree health care obligations.**
>
> *Spokesman*
> *General Motors Corp.*

More employers are expected in the weeks ahead to disclose giant reductions in retiree health care obligations.

Yet even with those reductions, many employers still face multibillion-dollar retiree health care obligations. Both U.S. Steel and American Airlines, for example, calculate their post-employment benefit obligations at about $3.2 billion.

And General Motors Corp. says its retiree health care obligations—soon to be officially reported—now exceed $60 billion.

While the prescription drug law is slicing the corporate retiree health care tab, drug costs are only part of many employers' retiree health care liability. The new law, for example, does not provide drug benefits for retirees under age 65, who often are covered in corporate benefit plans.

In addition, employers' obligations to provide coverage for physician bills and hospital stays are unaffected by the addition of a Medicare drug benefit.

While the financial relief provided by the Medicare prescription drug law is welcome, that relief is modest compared with GM's total retiree health care obligations, a GM spokesman said.

IOC seeking contingency coverage for 2004 Games

Organizers facing a tight market in race to win $200 million in limits

By CAROLYN ALDRED

LONDON—The International Olympic Committee is seeking up to $200 million in contingency insurance in case the 2004 Olympic Games in Athens are canceled or abandoned.

The main risks that could lead to a cancellation of the Athens Games are terrorism and earthquake. Delays in the completion of certain Olympic facilities and infrastructure could also be a factor, albeit a remote one.

A contingency policy for the Games, seeking first loss limits of $200 million on a total estimated exposure of about $500 million, was being brokered to underwriters in London last week.

Although capacity in the market is limited, one London underwriting source said that as much as $160 million of capacity already had been lined up for the risk as of last week.

A spokeswoman for the Lausanne, Switzerland-based IOC said last week that no insurance has been bought for cancellation of the August games but confirmed that the IOC "is looking at solutions in the market for managing its risks."

"We have been looking at risk

See **OLYMPICS**/page 43

With the 2004 Olympic Games only months away, the International Olympic Committee is scrambling to secure insurance to protect against cancellation of events at the Athens Olympic Sports Complex.

PHOTO: PA

Attendees at a recent U.K. risk management conference learned how a 2002 fire at a resort in Suffolk, England, tested the facility's business continuity and crisis management plans.

Business Continuity, The Risk Management Expo

Interruption loss offers risk lessons

By SARAH VEYSEY

LONDON—When a British resort operator's business continuity and crisis management plans were tested by a fire, it learned some valuable lessons to better prepare for future risks, an executive says.

A major fire in April 2002 at the Elveden Forest Resort in Suffolk, England, shut down the facility for 15 months, according to Martin Dalby, CEO of Center Parcs (U.K.) Group P.L.C., which owns the resort.

More conference coverage on page 43

The fire and prolonged business interruption cost the company about £80 million ($147.7 million), Mr. Dalby told delegates at Business Continuity, The Risk Management Expo, a conference in London earlier this month. The event was sponsored by Hitachi Data Systems, in association with the Business Continuity Institute.

One important lesson the company learned, Mr. Dalby said, was not to rely entirely on its insurance broker to ensure that its property insurance policies would respond to a loss.

Businesses need to make sure that they have thoroughly read their policies, he noted. "At the end of the day, if it all goes wrong it lands back on you and not the broker," he said.

He also advised delegates to build a closer relationship with their insurers, rather than simply communicating via brokers, to ensure that there is a better flow of information in the event of a claim.

Center Parcs had a well-rehearsed set of business continuity and crisis management plans, said Mr. Dalby, and those proved invaluable at the time of the incident.

In exercising its plans, the resort was able to evacuate 1,000 people from the affected area

See **FIRE**/page 43

Airline investor encouraging shift to new pension plan

By GLORIA GONZALEZ

MONTREAL—Air Canada Inc.'s new equity investor hopes that financial incentives will encourage airline employees to switch from a defined benefit pension plan to a new defined contribution plan.

Hong Kong-based Trinity Time Investments Ltd., which plans to acquire a 31% stake in the financially ailing airline, had earlier proposed moving most of the airline's employees into a defined contribution plan but met stiff opposition from labor unions. Reducing the airline's pension liabilities is key to its plans to reorganize and emerge from bankruptcy protection.

Under a revised proposal offered by Trinity, nonunion employees who switch to the defined contribution plan beginning Jan. 1, 2005, would receive a bonus of 10% of salary, concurrent with an initial public offering of stock in a restructured Air Canada, provided the aggregate amount of the bonus does not exceed 10% of the money raised through the IPO.

"We still strongly believe that the DC system is the best option for Air Canada's long-term viability and for individual employees; that's why we will be giving them a financial incentive to opt for it," said Harold Gordon, a Trinity director in Toronto. "But we also recognize the concerns of longtime Air Canada employees. That's why we've decided to give them the choice."

However, only Air Canada's nonunion employees, who make up about 10% to 15% of the current workforce, will be given the financial incentives to transfer to the defined contribution plan.

The company cannot offer union employees the same deal because union leadership has rejected any efforts to move union members to a defined contribution plan, Mr. Gordon said. Trinity is still hoping to reach an agreement with unions on moving to a defined contribution plan.

Under Air Canada's new defined contribution plan, employees will choose how much they contribute, with the minimum contribution being 1% of salary. Air Canada will match 100% of the contribution up to specified limits, which are based on employees' years of service.

For example, current employees joining the defined contribution plan with up to four years of service would be entitled to a company match on their contributions up to 4% of salary. Air Canada would fully match, up to 5% of salary, contributions of current employees with between five to 15 years of service. The airline would match, up to 6% of pay, contributions of employees with more than 15 years of service.

Employees joining the company after Jan. 1, 2005 would be entitled to a match of up to 4% of pay during their first four years of service, while Air Canada would match, up to 5% of pay, contributions of those with five or more years of service.

Last month, Trinity proposed to move all employees with less than 60 combined years of age and service to a defined contribution plan. The change, which would have affected about 60% of the current Air Canada workforce, sparked outrage from union representatives, who said pension guarantees were a ma-

See **PENSION**/page 43

World Updates

Marsh buys Heath's Australian operations

Heath Lambert Group P.L.C. has sold its Australian brokerage unit, Sydney-based Heath Lambert Australia Pty. Ltd., to New York-based Marsh Inc. The operations include all 16 Heath Lambert offices in Australia, New Zealand and Papua New Guinea and about 360 employees. The acquisition includes retail brokerage operations and an aviation insurance office. Ian Martin, chairman of London-based Heath Lambert, said in a statement that the deal was part of Heath's restructuring announced last year. He added that Heath will continue to serve Australasian clients through its London operation.

Aviation hull rates fall in 2003: Aon

Insurance rates for aviation hull business fell 16% on average during 2003, according to a report by Aon Ltd. in London. Overall aviation losses totaled about $804 million in 2003, compared with about $1.1 billion in 2002, said Aon. Of the 2003 figure, $353 million was paid out for hull losses, $126 million for liability and about $325 million for attritional losses.

Hard market boosts Amlin's results

Lloyd's of London insurer Amlin P.L.C.'s pretax profit rose 117.1%, to £120.3 million ($222.6 million) for 2003. Gross written premiums rose 31% to £937.4 million ($1.73 billion). Amlin, which operates multiline syndicate 2001, said the gains resulted from hard market conditions and other factors.

RSA posts losses for second year

Royal & SunAlliance Insurance Group P.L.C. had a £146 million ($259.9 million) pretax loss in 2003, much improved from a £953 million ($1.70 billion) pretax loss for 2002. London-based RSA said its 2003 loss stemmed, in part, from a £500 million ($890 million) reserve addition for U.S. business. That business resulted in a £651 million ($1.16 billion) underwriting loss for 2003. In 2002, RSA was hit by investment losses and goodwill writeoffs in the United States and Australia, markets it exited last year.

Heath Lambert names large-account director

Mike Ellis has been appointed executive director of the major accounts group of London-based broker **Heath Lambert Group P.L.C.** Mr. Ellis was previously managing director of general operations in the corporate division of Aon Ltd. in London.

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Resumes should be sent to: **Broker48@prodigy.net**

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REQUEST FOR PROPOSALS

NEW YORK CITY HOUSING AUTHORITY

PUBLIC NOTICE - INVITATION FOR BID
PUBLIC OFFICIALS LIABILITY INSURANCE

The New York City Housing Authority ("NYCHA") requests Proposals from qualified INSURANCE CARRIERS for Public Officials Liability Insurance Coverage. Carriers must be licensed in N.Y. State with "A.M. Best" rating of at least "A- X". Coverage is to become effective July 1, 2004.

Proposals shall be made in the format included in the Invitation for Bid package containing instructions, specifications and detailed submission requirements. Packets may be obtained by calling NYCHA's Liability Insurance Broker: Towers Perrin Consultative Placement, One Stamford Plaza, 263 Tresser Boulevard, Stamford, CT 06901 at (203) 363-1962. In order to be eligible, completed bid proposals must be received by 3:00 P.M. on April 30, 2004.

Direct inquiries for additional information to: William M. Mollica, Vice President, at the aforementioned address, telephone or e-mail to: William.Mollica@towers.com.

NYCHA IS NOT SOLICITING QUOTES FROM BROKERS

NEW YORK CITY HOUSING AUTHORITY

Michael R. Bloomberg, Mayor, City of New York
Tino Hernandez, Chairman, NYCHA

HELP WANTED

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SALES

National public auto transportation insurance brokerage seeks a producer to work out of our Los Angeles office. Producer will be responsible for developing new business throughout the west coast and maintaining a small existing book of business. We are seeking a self-starting, motivated individual who is looking for the opportunity to build a long term career. Minimum 5 years Sales/Insurance experience required. Excellent Salary/Commission structure, benefits. Fax resume to TIB Insurance Brokers at 818-246-3949.

LEGAL NOTICE

In the High Court of Justice (Chancery Division) Companies Court No. 1473 of 2004

In the Matter of **London & Scottish Assurance Corporation Limited**
and
In the Matter of **Edinburgh Assurance Company Limited**
and
In the Matter of **The Indemnity Marine Assurance Company Limited**
and
In the Matter of **The British & European Reinsurance Company Limited**
and
In the Matter of **Commercial Union Assurance Company Limited**
and
In the Matter of **General Accident Fire and Life Assurance Corporation Limited**
and
In the Matter of **General Accident Reinsurance Company Limited**
and
In the Matter of **The New Zealand Reinsurance Company (UK) Limited**
and
In the Matter of **The Road Transport & General Insurance Company Limited**
and
In the Matter of **The Ulster Marine Insurance Company Limited**
and
In the Matter of **Scottish Insurance Corporation Limited**
and
In the Matter of **The Yorkshire Insurance Company Limited**
(together "**the Transferors**")
and
In the Matter of **The Ocean Marine Insurance Company Limited**
("**Ocean Marine**")
and
In the Matter of the Financial Services and Markets Act 2000

Notice is hereby given that an application (the "**Application**") for an order sanctioning a general insurance business transfer scheme (the "**Scheme**") under Part VII of the Financial Services and Markets Act 2000 was on 9 March 2004 presented to the High Court by Ocean Marine. The Scheme provides for the transfer to Ocean Marine of the entire general insurance business of the Transferors. The Scheme excludes a limited number of long term policies written by Yorkshire Insurance Company Limited.

Copies of a summary of the Scheme and a report on the terms of the Scheme prepared by an independent expert are available on Aviva's website at **www.aviva.com/businesstransfer**. Copies can also be obtained free of charge from Barlow Lyde & Gilbert (the solicitors acting for the Transferors and Ocean Marine), whose details are given below.

The Application is directed to be heard before the Companies Court Judge at the Royal Courts of Justice, Strand, London WC2A 2LL on 12 May 2004. Any person who believes that he or she would be adversely affected by the carrying out of the Scheme is entitled to be heard (in person or by legal representative) by the High Court at the hearing of the Application. Any person who intends to do so, and any person who dissents from the Scheme but does not intend to appear at the hearing, is requested to notify his or her objections as soon as possible, and in any event before 10 May 2004, to Pollyanna Deane of Barlow Lyde & Gilbert at Beaufort House, 15 St Botolph Street, London EC3A 7NJ or by fax to 00 44 (0)20 7071 9756 or email to **minster@blg.co.uk.**

REQUEST FOR PROPOSALS

NEW YORK CITY HOUSING AUTHORITY

PUBLIC NOTICE - INVITATION FOR BID
PRIMARY/EXCESS GENERAL, AUTOMOBILE, NON-OWNED & HIRED AUTOMOBILE, EMPLOYEE BENEFITS (CLAIMS MADE) LIABILITY INSURANCE

The New York City Housing Authority ("NYCHA") requests Proposals from qualified INSURANCE CARRIERS for Primary/Excess General, Automobile, Non-Owned & Hired Automobile, and Employee Benefits (Claims Made) Liability Insurance Coverage. Carriers must be licensed in N.Y. State with "A.M. Best" rating of at least "A- X". Coverage is to become effective July 1, 2004.

Proposals shall be made in the format included in the Invitation for Bid package containing instructions, specifications and detailed submission requirements. Packets may be obtained by calling NYCHA's Liability Insurance Broker: Towers Perrin Consultative Placement, One Stamford Plaza, 263 Tresser Boulevard, Stamford, CT 06901 at (203) 363-1962. In order to be eligible, completed bid proposals must be received by 3:00 P.M. on April 30, 2004.

Direct inquiries for additional informations to: William M. Mollica, Vice President, at the aforementioned address, telephone or e-mail to: William.Mollica@towers.com.

NYCHA IS NOT SOLICITING QUOTES FROM BROKERS

NEW YORK CITY HOUSING AUTHORITY

Michael R. Bloomberg, Mayor, City of New York
Tino Hernandez, Chairman, NYCHA

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HELP WANTED

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Well-established MGA has opening for experienced EPL underwriter. Minimum 5 years EPL underwriting experience required. Excellent benefit package. New York area. Please send resume and salary requirements to: Business Insurance, Box 3215, 360 N. Michigan Avenue, Chicago, IL 60601 or email **bibox3215@crain.com.**

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Olympics: Race to secure cover

Continued from page 41

management policies for the Games for some time. It is part of an ongoing process," she said.

The IOC noted that it has also "built a reserve fund of about $150 million so far to enable us to survive" financial losses should the Athens Games not be held.

The Athens Organizing Committee, ATHOC, has no plans to buy its own cancellation insurance, a spokesman said.

That follows a pattern established in the 2000 Games, when the Sydney Organizing Committee for the Olympic Games declined to purchase contingency coverage.

Sources in Athens said that the Greek government might be expected to underwrite any losses that ATHOC would incur as a result of the Games cancellation.

London-based Marsh Ltd., which is the broker for both ATHOC and the IOC, would not comment on insurance arrangements, citing "client confidentiality."

"There is enormous political will to make the Games happen," said Toby Stubbs, property reinsurance underwriter for Aspen Re, a unit of London-based Aspen Insurance Ltd. He noted that London underwriters are signing on to the IOC policy despite reduced capacity in the contingency market and the Olympics' higher-than-usual risk of terrorism and earthquake this year.

Mr. Stubbs has instructed a security consultant to visit Athens and assess the security risk management of the venues before deciding whether to commit Aspen Re to the IOC policy.

Underwriters and brokers point out that capacity in the contingency market shrank dramatically after the terrorist attacks of Sept. 11, 2001, which forced many insured events to be canceled, and accelerated the hardening of the property/casualty insurance market. As a result of those losses, many underwriters have pulled out of the contingency loss market in recent years to concentrate on more traditional property/casualty risks.

Meanwhile, Olympics sponsors, broadcasters, hoteliers and many other organizations that stand to lose income should the Athens Games be canceled have already tapped much of the market's limited capacity for contingency risks, according to David Bruce, contingency underwriter for Lloyd's of London syndicate 33, managed by Hiscox Syndicates Ltd.

A major U.S. broadcaster alone could look to buy between $750 million and $1 billion in limits covering its exposure, pointed out Robert Wood, media, sports and leisure underwriter for Zurich London, a unit of Zurich Financial Services Group.

Risk managers looking for contingency coverage for losses they may incur as a result of the cancellation of this year's Olympic Games probably will be paying about 4% to 5% of insured value at the moment for a policy that likely would exclude cancellation caused by the late completion of facilities, said Harvey Hine, a director of London based Miller Insurance Services.

Hiscox's Mr. Bruce said that there is widespread concern in the insurance market over whether construction and infrastructure work in Athens will be fully complete in time for the start of the Games in August.

However, he said he doubted the Games would be canceled due to "unfinished buildings and lack of roofs."

Because of those concerns, however, London market underwriters and brokers say the IOC policy excludes the risk of cancellation due to late completion of facilities.

Underwriters say that terrorism still is considered the main threat to the 2004 Games.

"A prudent underwriter would probably look for an independent analysis of the security risk" before agreeing to write a large line of contingency cover for the Games, said Zurich's Mr. Wood.

Pension: Transfer encouraged

Continued from page 41

jor part of an agreement on cost-saving measures reached between the airline and labor unions last year.

Mr. Gordon said the survival of Air Canada, which was forced to file for bankruptcy protection last year, depends on resolution of the pension dispute.

Under the current defined benefit plan's retirement provisions, an employee's pension is not reduced if the employee retires at age 55 or older with 25 years of service, or some other combination of age and years of service of 80 or more.

The retirement provisions also mean that some employees are eligible to retire with close to full pension benefits as early as age 45. Only a small number of eligible Air Canada employees, though, retire before age 55.

However, in calculating Air Canada's pension liabilities to determine the solvency of its registered plans, all obligations to eligible employees must be included, regardless of whether few actually retire before age 55, according to Trinity.

Under the new defined benefit plan proposal, the minimum age for an unreduced pension would be 60 for employees who retire with 25 years of service or whose age and years of service total at least 80 points.

If an employee retires between the ages of 55 to 59, his or her pension would be reduced by 1% per year from age 60. If an employee retires before age 55, for example, his or her pension would be reduced 5%, plus an actuarial reduction of about 6% to 7% per year from age 55. For example, if an employee retires at age 53, his or her pension would be reduced between 17% to 19%, or 5% plus 12% to 14%.

Employees who do not have 25 years of service or a combined age and years of service totaling 80 points at retirement would have their pensions reduced according to a different formula. If an employee retires at age 60 or older, the actuarial reduction would be about 6% to 7% per year from retirement age, which is calculated as the difference between 80 and the employee's years of service at the date of termination.

Current retirees and employees who retire before Jan. 1, 2005, would not be affected by the changes, according to Trinity. However, all new hires would automatically be enrolled in the new defined contribution plan.

Benefit consultant Aon Canada in Toronto helped Trinity develop the proposal.

Fire: Lessons in risk

Continued from page 41

immediately, and the remainder of the approximately 4,000 people onsite was evacuated within five hours, Mr. Dalby said.

The fire was started by a subcontractor working on a roof. There were no casualties, he said.

But the fire caused the closure of the resort for 15 months while it was restored and rebuilt and this posed certain problems for the company, which operates several other holiday resorts in the United Kingdom, Mr. Dalby said.

Among those problems, he said, was the fact that at the time of the fire, the resort in question had 25,000 guest bookings scheduled and 700 families and groups due to arrive the following day.

The company arranged for those 25,000 guests with future holidays booked at Elvedon Forest to receive vouchers to help them with the expense of relocating their vacation to another Center Parcs resort. The company sought coverage of this expense from its insurers.

"This was a tough negotiation with the insurance company, but in the end they agreed to it," he noted.

The company was also faced with staffing issues during the closure and refurbishment of the site, Mr. Dalby said.

While some of the staff were laid off, others were redeployed in helping with the clean-up and refurbishment effort of the resort, Mr. Dalby explained.

The company negotiated with its insurance company to guarantee a minimum of two weeks' wages for staff being retained while these staffing changes were addressed, he said.

Center Parcs also was faced with the need to financially support some of its suppliers, some of whom relied on the Elveden resort for as much as 80% of their business, Mr. Dalby said.

It was crucial to keep those suppliers in business for when the resort reopened, he explained.

This was one area, however, where Center Parcs was unable to get assistance from its insurance policy, he said.

The resort company paid these suppliers out of its own pockets to keep them afloat until the site reopened in 2003, he said.

Another valuable lesson that the company learned from the fire, Mr. Dalby pointed out, was that while the company's fire protection systems and building design were efficient in preventing loss of life, they were less efficient in protecting assets. He said that building regulations in the United Kingdom only require that life should be protected and not physical assets.

Therefore, he noted, when the site was rebuilt, more rigorous fire prevention standards were applied in the hope that should there be another fire, assets would be better safeguarded.

Business Continuity, The Risk Management Expo

Insurers called influential in forming continuity plans

By SARAH VEYSEY

Nearly one-quarter of U.K. enterprises that have business continuity plans cite their insurers as having influenced the decision to implement the plans, a survey reveals.

The survey was conducted by the Chartered Management Institute, which is based in London and Corby, England. Drawing responses from 461 managers at U.K. businesses, the survey found that 22% of the companies that reported having business continuity plans were prompted to introduce those programs, at least in part, by their insurers.

The survey was published at Business Continuity, The Risk Management Expo, which was held March 9-10 in London.

In presenting the survey results, John Sharp, chief executive of the Worcester, England-based Business Continuity Institute, said that many U.K. managers have recognized that having business continuity plans can help lower their insurance premiums.

Adopting business continuity management programs can help a company to better predict its maximum possible losses, which can help underwriters to more accurately price the risk.

Mr. Sharp also noted that some insurers are beginning to give more favorable rates to companies that have adopted a business continuity standard, Publicly Available Standard 56. "And there are some products out there on the way that link PAS56 to insurance premiums," he added.

Other key drivers of companies' business continuity plans included existing customers, cited by 30% of respondents with such plans, and corporate governance, cited by 24%.

Forty-seven percent of surveyed organizations said they have business continuity plans in place, compared with 46% in 2003 and 45% in 2002.

Of those that have plans, 57% said they rehearse the plans at least once a year, which is the minimum number of rehearsals recommended by the BCI, Mr. Sharp noted.

But 24% of the respondents with plans in place said they do not rehearse their plans at all, while 5% do so every three months, 12% every six months, 7% every two years and 3% every three years, according to the survey.

Respondents also were asked whether the rehearsals had revealed any shortcomings in their plans. Of those that conduct rehearsals, 79% said the exercises had revealed shortcomings that were later addressed, while 11% said rehearsals revealed shortcomings that had not yet been addressed.

One area of "grave concern," according to Mr. Sharp, is a lack of business continuity planning on the part of companies' outsourcing partners.

While 53% of survey respondents reported that they outsource some areas of their business, just 14% of those said they require outsourcing partners to have business continuity plans.

Copies of the survey, "Business Continuity Management," are available online at www.managers.org.uk.

Trial: Witness memory at issue

Continued from page 3

the lawyers for Silverstein referred to the notes made by Ms. Herrmann that were admitted into evidence after she testified.

Judge Mukasey immediately interjected: "You want to stay off the topic of the Beth Ann Herrmann notes...because to the extent there is a problem with the Beth Ann Herrmann notes, those are in part because Beth Ann Herrmann's mind got messed with."

Ms. Herrmann had testified last month that, though she had taken notes, she could recall little of a conversation she had had shortly after the destruction of the WTC concerning the insurance arrangements for the complex. Lawyers for the insurers in the case say the notes confirm that Silverstein's risk manager believed that an insurance policy known as the Wilprop form was the wording that was in place at the time of the attacks. Under that wording, Silverstein would only be able to recover one $3.55 billion limit rather than the $7 billion claim it is pursuing.

At the time of the testimony, the judge had asked Ms. Herrmann whether she had been told by anyone not to have any recollections of the meetings she was involved with. She replied that she had been told to be as honest and truthful as possible (*BI*, Feb. 23).

> **'It's a psychological phenomenon and that was the psychological phenomenon that afflicted Beth Ann Herrmann, not anybody tampering with her.'**
>
> *Herbert Wachtell*
> *Wachtell, Lipton, Rosen & Katz*

Last week, when lawyers for Silverstein challenged the judge's assertion about Ms. Herrmann, he responded that he was not suggesting "subornation," or incitement to commit perjury, but that "spoliation is a different word." Spoliation refers to destroying the value of evidence.

Herbert Wachtell, a partner at Wachtell, Lipton, Rosen & Katz, who is representing Silverstein, said that if Ms. Herrmann's lack of recollection was in question, he would bring in a psychologist to testify that people who take notes cannot recall much of the substance of the subject they are taking notes on because they are "busy taking notes."

"It's a psychological phenomenon and that was the psychological phenomenon that afflicted Beth Ann Herrmann, not anybody tampering with her," Mr. Wachtell said.

The exchange was that latest twist in the coverage trial being heard in federal court in New York. Insurers for the WTC argue that the terrorist attack constitutes one loss under the Wilprop form and that form was in place at the time of the attack. Silverstein argues that insurers of the risk were in the process of the moving to a different form, known as the Travelers form, and under that wording, the destruction of the Twin Towers could be deemed to be two insured events.

The trial continues this week.

On the hill: Outlook for tort reform bills

Continued from page 4

fore the Senate earlier this year. Supporters of the measure—S. 2061, the Healthy Mothers and Healthy Babies Access to Care Act—failed to gather enough support to block a filibuster against the bill, which would have limited the liability of medical professionals involved in childbirth (*BI*, March 1).

Turning to another key concern of tort reform advocates, Sen. Ensign called the current way in which class actions involving defendants and plaintiffs from different states are handled "may be the most outrageous" aspect of the legal system as whole.

A compromise class action reform bill now has 62 supporters—two more than necessary to kill any filibuster. "We're there. We have the votes—we think," he said.

The third major tort issue—reforming the current litigation-based system of compensating victims of asbestos-related disease—has the potential to wreck the economy if it is not resolved, said Sen. Ensign. But "the average person doesn't understand how important this is," he said. The ever-expanding net of liability has already driven about 70 companies into bankruptcy, he said. If the system is not reformed, "it will literally destroy hundreds of thousands of jobs, if not millions," said Sen. Ensign.

A measure that would replace the current system with a national no-fault trust fund for victims of asbestos-related disease passed the Senate Judiciary Committee last summer (*BI*, July 14, 2003). The bill, however, lost the support of insurers and some employer groups because of its potential cost and negotiators have been working for months to make it more palatable to all involved. Senate Majority Leader Bill Frist, R-Tenn., wants to get an asbestos liability reform bill to the Senate floor before the Senate's Easter break.

Sen. Ensign told his audience that the atmosphere on Capitol Hill this election year has grown unusually partisan and "toxic." As result, "this year, not a lot's going to happen," he said.

Aviation: Airlines oppose plan

Continued from page 3

tal legislation, the IUAI added.

The mental damage part of the bodily injury liability also poses insurability problems, the IUAI letter argued. Verifying mental injury is far more complex than verifying physical injury, and its inclusion would widen the pool of potential claimants against airlines to witnesses and people watching television reports.

The ICAO's move to update the Rome Convention gained impetus after the Sept. 11, 2001, terrorist attacks that destroyed the World Trade Center. Other examples of significant ground losses include the 1992 crash of an El Al cargo jet in Amsterdam, Netherlands. Proponents of the update intend to harmonize the currently fragmented system of aviation liability, which varies from nation to nation.

In theory, the update should benefit aircraft owners and manufacturers by capping liability for losses on the ground, said Sean Gates, senior partner at London-based law firm Gates & Partners and adviser to the IUAI. "If this can provide an insurable cap, a limit we can insure to for acts of unlawful interference, it would reduce the danger of the airline industry going out of business, and we think that is a practical thing worth having," he said.

But as the draft stands, liabilities would be imposed on airlines that are not currently insurable, the IUAI said.

Mr. Gates said the European Commission's Brussels, Belgium-based Directorate-General for Energy and Transport, which sets European transportation policy, "takes the view that airlines and passengers should pay for damage on the ground because they have the privilege of flying through European airspace, which ignores the fact that airlines are the principal victims of terrorism."

Keith Rimington, head of insurance placements for British Airways P.L.C. in London, said the airline has similar concerns to those of the IUAI, but British Airways' focus is on ensuring passengers receive compensation. "It is not in anyone's interest to have liability above limits that we can pay," he added.

Rod Margo, a partner with law firm Condon & Forsyth L.L.P. in Los Angeles, which has represented airlines and aviation insurers, echoed the IUAI concerns at the International Air Transport Assn.'s recent airline insurance conference in Munich. "The problem with the Rome Convention is that it imposes potentially large liability regardless of how negligent the airline has been, which could lead to a serious problem (with) capacity in the (insurance) market," he said.

Wolf Muller Rostin, director and legal counsel for Cologne, Germany-based Delvag Luftfahrtversicherungs A.G., speaking at the same conference, warned that if the Rome Convention uses the same limit base for liability as European regulation on minimum insurance levels for passenger liability, it would be "quite a lot of money."

And he stressed that there should be a difference between contractual liability to passengers and third-party liability to people and property on the ground.

Harold Caplan of London-based Airclaims Ltd., which tracks aviation losses, commented: "It's best left to national law. To my knowledge, there never has been an aviation catastrophe in which the Rome Convention can be shown to have been useful. The burden of proof is on those who say we must have a new convention to demonstrate when, where and why."

Barrow: Charges filed

Continued from page 4

the council, said a Zurich spokeswoman, who confirmed that the council's legal costs are covered by insurance.

The spokeswoman concurred that the case was significant as the first time a local authority in the United Kingdom has been charged with corporate manslaughter.

"This case highlights the importance for integrated risk management," said Mr. Cope. "For the last five to six years, we have been telling members that, while 20% of local authorities' risks are insurable, 80% are not, and that is why risk management is so important."

Mr. Cope said he found it unfortunate that it often takes cases like this one to serve as a reminder of the importance of integrated risk management, and he predicted that risk managers across the country would follow the case closely.

"This is something we have been warning our corporate clients about for some time," said David McIntosh, head of the environmental health and safety group at the London-based law firm of Davies Arnold Cooper.

Since the introduction of new police procedures in 1998, any work-related fatality has to be investigated immediately by the CPS. Before then, health- and safety-related fatalities were investigated by the Health and Safety Executive, which referred cases to the CPS only if an HSE inspector found evidence of criminal behavior, Mr. McIntosh explained.

As a result, all health- and safety-related fatalities now are treated as criminal investigations, which can be a harrowing experience for any employee and organization involved in the investigation, Mr. McIntosh said.

He noted that employees may be subject to being fingerprinted, having mug shots taken, providing DNA samples and being interviewed by police, along with receiving a blaze of publicity. "It is a very unnerving experience for both the employees involved and the company or organization at the center of the investigation," Mr. McIntosh said.

And although corporate manslaughter has historically been difficult to prove—leading to only a handful of cases being brought to trial and to calls for reform of the law (*BI*, Dec. 15, 2003)—organizations do not want to have to defend themselves from corporate manslaughter charges, he said.

"That is why a culture of safety management is so important and why health and safety should constantly be on the agenda at top levels of management," Mr. McIntosh said.

Managed care: Strong earnings

Continued from page 3

easing of health care inflation, a result of employers changing their benefit plans to shift more costs to employees. That led to employees going to their doctors less frequently and putting off nonurgent medical procedures, analysts say.

Managed care companies are still anticipating increased medical costs in 2004, but they are lowering their estimates of inflation rates to about 8% to 10%, with most expectations at the lower end of that range. "Medical costs are still going to increase, but they're going to increase at a slower pace," said Stephen Zaharuk, vp and senior analyst for Moody's in New York.

Analysts say the earnings strength in 2003 will not significantly affect 2004 premiums, because 2004 premiums were set months in advance of the calendar year. They do expect premium increases in 2005 to be about two percentage points lower than 2004 increases.

The strong earnings are not expected to result in a decrease in the actual premiums for employers purchasing coverage, though. "Premiums aren't going down; they're just not increasing as fast," Mr. Meyer said. "They're seeing some reduction in terms of the rate of increase in premiums, but premiums are still going up. So there are still challenges, from an employer's standpoint, with respect to the affordability issue."

The full impact of the consolidation of the managed care industry on the pricing environment has yet to be seen. Michael LeConey, an analyst with Gilford Securities in New York, said he believes that, with fewer companies offering health care benefits, employers will have to pay more for these products and receive fewer discounts. "I think this is having a major effect on the pricing," Mr. LeConey said. Rates, he said, "will moderate, but they won't moderate much, because there's just vastly fewer people in the business. I think that brokers and consumers are going to find fewer options."

Other analysts, though, say they expect the merger of Anthem and WellPoint to lead to an increase in competition on the national level, which could slow down the rate of premium increases.

The merger of the two regional powerhouses will allow the new company to provide more coverage for large, multistate employers. This could lead to increased price competition at the national level in 2005, analysts say.

"I think you will see a decrease in pricing, because you will see people become more competitive," said Richard Shaw, a senior financial analyst for A.M. Best Co. in Oldwick, N.J. "I think the competitive environment is going to get much stronger."

Further consolidation of the industry is expected because companies have to be large enough to offer a wide range of products that will allow them to stay competitive and administer the business on a cost-effective basis. "We think there is going to be an increasing disparity in the results between the haves and have-nots," Mr. Meyer said. "It's a business where scale matters."

While more mergers and acquisitions among Blue Cross & Blue Shield companies is uncertain due to regulatory challenges, analysts expect further M&A activity for the non-Blues.

"We should see further activity consistent with what we saw in 2003 among the non-Blues," Mr. Meyer said. "Their ability to do deals has improved."

Mr. Meyer cited Minneapolis-based UnitedHealth Group Inc. as one company that could be active because it has been reporting favorable results and is in a position to market specific acquisitions. UnitedHealth earlier this year acquired Mid-Atlantic Medical Services Inc. of Rockville, Md., a move that significantly increases UnitedHealth's presence in several mid-Atlantic states.

Analysts predict the aim of future acquisitions by large managed care plans will be to achieve strategic advantages in the market rather than to increase membership, which was relatively flat or slightly lower for most of the managed care sector in 2003. Instead, managed care companies will seek other ways to improve enrollment, including the revival of Medicare programs. "This is a way they can add to their membership and grow the business again," Mr. Zaharuk said.

Many managed care plans that contracted with the federal government to provide coverage for Medicare beneficiaries dropped out of markets over the last few years because low government payment rates made the business unprofitable. The passage of the Medicare Modernization Act of 2003, though, will pump more than a $1 billion in extra funding over the next two years into what are now being called Medicare Advantage plans, and analysts expect more managed care companies to return to the Medicare market.

"I think you're going to see people who left the business come back, and people who remained in will try to expand their position," Mr. Shaw said.

Mr. Shaw added, though, that he does not expect managed care companies to jump back into Medicare programs right away, because they need to explore whether they can again make money in the Medicare market.

"This will be a learning experience for managed care companies to see how this law is going to affect them," Mr. Shaw said.

Kemper: Runoff

Continued from page 1

has sufficient economic viability to fulfill its obligations to its constituents.

"We're satisfied there is sufficient economic means to warrant a runoff," he said.

Several observers familiar with Kemper agreed that the plan could benefit policyholders, and noted that it is not unprecedented.

The Home Insurance Co. pursued a runoff plan for several years—and was similarly allowed by New Hampshire regulators to discount reserves—though adverse development of asbestos and other losses finally forced it into liquidation last year. Other, smaller insurers have likewise been allowed to run off their business and have been permitted to discount reserves.

A runoff could also prove more advantageous to policyholders than a prolonged insolvency proceeding, such as the ongoing Pennsylvania liquidation of Reliance Insurance Co., regulatory experts say.

"A rehabilitation is something that no regulator, no policyholder, really wants to see," said Nicholas Williams, a partner with White & Case in New York who acted as counsel to the New Hampshire Insurance Department during the Home runoff. "Rehabilitation slows everything down."

A formal receivership halts claim payments while regulators and guaranty funds assess an insurer's status; ends the insurer's obligation to defend policyholders; and adds large legal and administrative costs, said an industry source familiar with Kemper who did not want to be identified.

Money spent in that process "is wasted. It's gone. It's not there for policyholders or creditors," he said.

An insurer running off its business stands a better chance of efficiently settling liabilities with policyholders and reinsurers than a state insurance department, the source added.

"It's amazing, this change in attitude when a business is dealing with another business and suddenly has to deal with government," he said.

Long Grove, Ill.-based Kemper ceased writing new and renewal business last year in the wake of deteriorating financial results and a series of rating downgrades. Lumbermens and other Kemper units have been running off their business under confidential Illinois department corrective orders since July 2003.

Over the course of last year, Lumbermens sold off several subsidiaries; unwound reinsurance and other transactions with Berkshire Hathaway Inc.; commuted several reinsurance agreements; and sold its renewal rights in eight lines of business to former competitors—including The St. Paul Cos., AXIS Capital Holdings and Hartford Fire Insurance Co.—for a total of $48.2 million, according to its 2003 financial statement, released last week.

Lumbermens also assumed all of the assets and liabilities of its main affiliates, American Manufacturers Mutual Insurance Co. and American Motorists Insurance Co.

As of Dec. 31, though, Lumbermens' risk-based capital had fallen to the "mandatory control level" at which Illinois regulators could seek to place it in receivership. Because it is no longer actively underwriting, however, regulators also have the discretion to allow an insurance department-approved runoff.

At Kemper's request, the Illinois department in December approved five accounting allowances aimed at furthering the company's runoff plan.

The largest of these involved reserve discounting, which statutory accounting generally forbids. Lumbermens in 2002 discounted certain workers compensation and auto no-fault medical reserves. In June 2003, Illinois regulators allowed it to expand discounting to all of its reserves at a 3.5% rate, and in December agreed to let Lumbermens raise the discount rate to 4.2%. The discounting improved Lumbermens' surplus by $610 million at year end, the insurer reported.

The 4.2% discount rate "substantially exceeds" Lumbermens' projected investment yield of 3.1%, though, raising the risk of future surplus deficiencies, its financial statement disclosed. The difference between discounting reserves at 4.2% vs. 3.1% equated to a surplus improvement of $213 million at Dec. 31, the statement says.

Other accounting concessions granted by Illinois regulators included:

- Increasing the interest rate assumption for Lumbermens' defined benefit retirement plans to 7.5% from 6.25%. The change boosted the plans' assumed future investment returns and reduced Lumbermens' current funding obligation by $118 million.
- Allowing the insurer to treat as an admitted asset about $105 million it has prepaid to two companies for claims-handling services.
- Allowing Lumbermens to immediately book $32 million in savings from amendments to its post-retirement benefit plans rather than realizing the benefit over the lifespan of its retirees.
- Eliminating a statutory penalty for overdue reinsurance to reflect $70 million in provisions Lumbermens made last year for uncollectible balances. The change produced a $75 million improvement in the insurer's year-end surplus.

Overall, the accounting allowances boosted Lumbermens' surplus by about $1 billion last year, the insurer reported. The increase more than offset other hits to surplus, including a $365.2 million expense arising from the insurer's commutation of several reinsurance treaties.

Lumbermens' reported year-end surplus of $202.4 million still represented a 71% decline from the $696.8 million reported at the end of 2002.

Whether the runoff plan would work in the long term remains to be seen.

While the plan is feasible now, "that's today's judgment call," Mr. Coutu acknowledged. "Call me up two years from now and if new facts are on the table…I might have a different answer."

Policyholder buy-backs, for example, may significantly reduce Kemper's exposure to adverse loss development, but adverse development is still a risk, he said.

"History tells us there is always a certainty to the uncertainty of reserves over the long pull," he said.

Nevertheless, an attempt at a runoff—even if it succeeds for only four or five years—is better than an immediate rehabilitation or liquidation, he suggested.

"The longer an entity stays functioning outside a legal proceeding, the better the benefit will be to the constituents," including policyholders, claimants and Kemper noteholders, Mr. Coutu said.

San Jose: Marriage

Continued from page 1

predicament, he brought it to the attention of the City Council, which voted 8-1 on March 9 to treat city workers who are in legal same-sex marriages the same as workers in heterosexual marriages.

The change in the benefits policy is regarded as one of the first of its kind—following closely a similar change by Seattle officials—and reflects a growing number of same-sex marriages being performed around the country.

The employee and her partner were married in San Francisco, which has been granting marriage licenses to same-sex couples since February. California's Supreme Court last week ordered a halt to same-sex weddings in San Francisco, though, and said it would decide within months whether the city had the authority to issue marriage licenses in defiance of state law, which defines marriage as a union between a man and a woman. The order does not affect the approximately 3,800 weddings performed at City Hall since Feb. 12.

And it does not affect San Jose's new policy.

"Based on the council's action, we are going to provide benefits to same-sex marriages as close as possible to those that are provided to opposite-sex marriages," said Mark Danaj, San Jose's employee services director. "So we will provide employees in same-sex marriages the opportunity to join the program with similar qualifying events, such as marriage or birth of children that are part of that relationship, even if there isn't a blood connection."

The council also voted to make same-sex spouses eligible for survivor retirement benefits under the city's defined benefit pension plan, as well as post-retirement health benefits, he added. In addition, children of same-sex spouses now are eligible for coverage under San Jose's benefit plan.

San Jose's move follows a similar directive issued by the mayor of Seattle, who on March 8 granted the same rights and benefits to employees in legal same-sex marriages as are guaranteed to employees in legal heterosexual marriages.

While it is unclear what impact the actions by San Jose and Seattle are likely to have on the cost of both cities' employee benefit plans, benefit consultants who specialize in domestic partner benefits say the added expense is likely to be negligible.

While nearly one-quarter of U.S. employers and about half of the Fortune 100 currently offer domestic partner benefits, usually subsidizing them to the same extent as they do benefits for married employees, only about 1% of eligible employees enroll in the plans, according to Ilse de Veer, a principal at Mercer Human Resource Consulting in Norwalk, Conn.

In fact, in San Jose, while 274 employees are enrolled in its domestic partner benefit plan, only 49 are in same-sex relationships, and, of those 49, so far only one has presented a marriage certificate, according to Mr. Danaj.

These employees also still must pay income taxes on any additional benefits they receive from their employers because the 1996 Defense of Marriage Act prohibits employees from receiving those benefits on a tax-free basis, as well as from making their premium contributions on a pretax basis. The federal law defines "spouse" as a "person of the opposite sex" and says "no state is required to recognize a same-sex marriage under the laws of another state."

But administration of partner benefits could be more difficult because of same-sex unions, noted Randall Abbott, a Philadelphia-based senior consultant at Watson Wyatt Worldwide.

In San Jose, for example, the city is negotiating with its two health plans—Blue Shield of California and Kaiser Permanente—on how they will handle administration of benefits for the same-sex spouses of their employees.

The plans "are not recognizing the marriage licenses," said Mr. Danaj. But they are agreeing to modify the city's existing domestic partner coverage provisions to allow employees who enter into same-sex marriages to enroll their new spouses and any dependent children throughout the benefit year.

As a result, the city will have a two-tiered domestic partner benefit program, he said, with enhanced benefits for employees who are legally married.

These two employers' moves, coupled with the recent Massachusetts Supreme Court ruling upholding the legality of same-sex marriages, are bringing to the forefront the complexity of providing benefits to individuals in committed, same-sex relationships, said Andrew Sherman, a senior vp at The Segal Co. in Boston.

"We are advising clients that they need to be prepared for what happened in San Jose," he said. "Their employees will have marriage licenses and fully expect to be eligible to enroll in benefits, for there to be survivor benefits to life insurance policies automatically, that there will be survivor benefits in pension plans, that all rights and privileges granted to employees' spouses will be extended, whether it's tuition remission at a university, relocation benefits or bereavement leave."

In fact, he said a situation similar to that in San Jose recently occurred at one of his Massachusetts clients, which he declined to identify.

"A client that we work with actually had someone who returned from Ontario with a marriage license, and the response they gave was, 'Can you wait until May 17?'" which is when the Massachusetts decision takes effect, Mr. Sherman said.

According to the decision in *Goodbridge vs. Department of Public Health*, the exclusion of same-gender couples from civil marriage is unconstitutional under the equality and liberty provisions of the Massachusetts Constitution. The situation in the state may change, though, as Massachusetts lawmakers have given preliminary approval to a package of resolutions that could lead to a constitutional amendment banning same-sex marriage. A final vote is slated for March 29.

While plans that are regulated by federal rather than state law, such as pension plans and self-insured health plans, could rely on the federal Defense of Marriage Act, Mr. Sherman is urging employer clients to examine how "spouse" is defined in their benefit plan documents.

In response, "we are observing plans considering amending their plan documents to define marriage as a union of one man and one woman," Mr. Sherman said.

On the other hand, "we're seeing many, many other plans and many, many other clients saying 'We're just going to recognize these marriages as they take place,' " he added.

ADVERTISER INDEX

Issue of March 15

Late News

Continued from page 1

provides an unlimited guarantee for losses stemming from terrorism and is funded through a surcharge on premiums.

Chubb unit must pay execs' defense costs

A Chubb Corp. unit must pay the defense costs of former Tyco International Ltd. executives under a directors and officers liability and fiduciary liability program it wrote for the scandal-plagued conglomerate, a state trial court judge ruled. Regardless of its decision to rescind coverage for the executives last year, Federal Insurance Co. has a duty to defend former Tyco Chairman and Chief Executive Officer L. Dennis Kozlowski and other executives, New York Supreme Court Judge Helen E. Freeman ruled.

AFL-CIO urges senators to reject asbestos bill

The nation's largest labor organization is urging senators to oppose legislation that would create a national trust fund to compensate victims of asbestos-related disease. In a letter to senators, William Samuel, legislative director of the AFL-CIO, said that the Fairness in Asbestos Injury Resolution Act in its current form is unacceptable to the labor group. According to Mr. Samuel, the measure, which has passed the Senate Judiciary Committee and is still the subject of negotiation, would not provide adequate compensation for victims of asbestos-related diseases through its proposed trust fund.

Utah comp fund assets belong to policyholders

The assets of Utah's Workers Compensation Fund, the state's market of last resort, are owned by its policyholders and not the state, a Utah district court judge ruled. According to Utah statutes, the WCF is a quasi-public corporation, and the state has attempted to claim ownership of the fund's assets. But in his ruling,

Judge Timothy Hanson of Utah's 3rd District Court agreed with the WCF's claim that it operates essentially as a private mutual insurance company whose assets are owned by its policyholders.

Court says Maine PBM law pre-empted by ERISA

A Maine law that regulates prescription benefit managers is pre-empted by the federal Employee Retirement Income Security Act and violates PBMs' constitutional right to protect trade secrets, a district court has ruled. The law statutorily defines the relationship between a PBM and a client as a fiduciary relationship. In addition, it requires each PBM to disclose to its clients all arrangements it has with drug manufacturers involving remuneration of any kind. The law also obliges a PBM to pass on to clients any volume-discount rebates or benefits it receives from drug companies.

Comp insurers urged to pass on savings

California Insurance Commissioner John Garamendi is urging workers compensation insurers to pass on to employers any savings the insurers enjoy from recent reforms and other factors. As part of that effort, Mr. Garamendi said in a statement,

Mr. Garamendi

he is exploring the creation of a system to identify workers comp insurers that fail to pass on savings. The commissioner's announcement follows the release of recently revised data from the Workers Compensation Insurance Rating Bureau that projects lower-than-expected benefit costs for California workers in 2004.

Briefly noted

The House of Representatives voted to bar most **lawsuits against restaurants**, including fast-food chains, that charge that the restaurants' food contributed to plaintiffs' obesity. Similar legislation has been introduced in the Senate....Chicago-based Aon Corp. has formed a managing general underwriter unit, **Aon Alternative Risk Underwriting**, to offer member-owned group captive services to middle-market businesses. Aon said in a statement that ARU will focus on primary casualty lines, workers compensation and other lines for privately held or public companies that pay between $200,000 and $2 million in premiums....The U.S. Senate rejected a measure that would have reimposed **Superfund taxes** without changing the environmental cleanup program's liability system....**Ford Motor Co.** will resume its partial match of salaried employees' 401(k) plan contributions, starting July 1. Ford will match contributions at a rate of 60 cents per dollar, up to 5% of employees' salary. Ford, amid tough economic conditions, had suspended the match two years ago. The change affects about 45,000 employees.

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Online Poll

[3/8-3/12]

Do you think the Senate's failure to move on medical malpractice liability reform legislation for the second time in a year will hurt the chances of other tort reforms being enacted?

Yes	44.0%
No	12.8%
Don't know/ Don't care	43.2%

BI Stock Index

[3/8-3/12]

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

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

BI Stock Index	2,287.10	-2.59
Dow Jones	10,240.10	-3.35
S&P 500	1,120.57	-3.14

Largest gains

Gainsco Inc.	52.58%
SCPIE Holdings Inc.	24.38%
Vesta Insurance Group Inc.	17.35%
EMC Insurance Group Inc.	17.34%
Unico American Corp.	10.96%

Largest losses

SCOR	-12.08%
AEGON N.V.	-7.59%
AXA-UAP Group	-7.16%
Allmerica Financial Corp.	-6.67%
ING Groep N.V.	-6.08%

Weekly change by market segment

Brokers	16.67%
Insurers/Reinsurers	15.21%
Managed Care Organizations	13.47%

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

ACE: Insurer to stay the course

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are at the helm of three leading companies in the insurance industry: His father, Maurice R. Greenberg, is AIG's chairman and CEO, while brother Jeffrey W. Greenberg is chairman and CEO of New York-based broker Marsh & McLennan Cos. Inc.

"I've always felt there has to be a time, certainly, for a CEO to stay in place," and 10 years "seemed like a reasonable amount of time. It's certainly long by current standards," Mr. Duperreault said at the press conference announcing the succession plan.

"Evan will do a fabulous job," said Mr. Duperreault, who said he plans to remain active as chairman, focusing on external affairs, such as tort reform, and company strategy.

Analysts say the announcement was not a surprise, though it occurred sooner than expected.

In a reference to the 2002 Sarbanes-Oxley Act, John Ward, chairman of the Cincinnati-based Ward Group, said, "It is the age of unbundling of the chairman and CEO role, and I think because Brian will be staying on as chairman, that adds to the fact that it may be just an acceleration of an already established succession plan."

"I don't think people were too surprised—it had been rumored about for a while," said Cliff Gallant, an analyst with Keefe, Bruyette & Woods in New York, who said he views the change as a positive move for ACE.

"Brian is well liked, but Greenberg has a great pedigree coming from the family he does and the experience he's had, and I think ACE is probably a good fit for him, because ACE is one of the more global companies out there today," Mr. Gallant said.

"As the pricing cycle begins to slow here, companies are going to be looking a little bit more as to how they leverage their franchise," he said.

Companies such as AIG, where both Mr. Duperreault and Mr. Greenberg previously worked, have "managed to do that through all points of the cycle, and certainly ACE has a good franchise over in Asia and Europe," said Mr. Gallant. ACE's board of directors "is thinking Evan is the kind of guy who will be able to unlock some of that value."

Jim Amen, a partner with Stamford, Conn.-based Philo Smith & Co., a boutique investment bank that specializes in insurance, said: "Brian Duperreault has created a global insurance enterprise, obviously, taking it from just a pool of capital to one of the major players in the property/casualty area. Now, it's Evan Greenberg's role to continue to expand that and to execute what is in place and move it forward operationally."

The Greenberg family's growing prominence in the industry is intriguing to some observers.

Mr. Ward said that Evan Greenberg's promotion "sets up a Greenberg vs. Greenberg scenario in the marketplace, which will be the basis of a lot of interest."

With its $10.2 billion in net premiums written in 2003, ACE "will be going head to head with AIG. They're not an AIG at this point, but it'll be an interesting competition," Mr. Ward said. AIG's net premium volume in 2003 was $35.2 billion.

ACE stock closed at $42.89 on March 11, the day the announcement was made, down 2.3% from the previous day's close in a down market.