

**CALIFORNIA APPEALS COURT AFFIRMS AWARD DESPITE HIGH COURT DIRECTION / PAGE 3**

**BILL ON PRODUCT SAFETY RAISES CONCERNS ABOUT INCREASED LIABILITY / PAGE 3**

**HEALTH INSURERS SEE REGULATORY ACTIONS AS GROWING RISK / PAGE 3**



## In Brief

### Reinsurers record drop in premiums

Twenty U.S. reinsurers posted an average 94.7% combined ratio for 2007, compared with the 94.9% combined ratio reported by a comparable group in 2006, according to the Reinsurance Assn. of America. Last year's 2007 combined ratio reflects a 65% loss ratio and a 29.7% expense ratio. For 2006, the loss ratio was 67.1% and the expense ratio 27.8%, according to the RAA. The reinsurers wrote \$22.71 billion of net premiums in 2007, down 12.1% from the 2006 group's premiums. Policyholder surplus totaled \$75.86 billion, up 1.8% from 2006.

### Appeals court limits applicant drug tests

An applicant for a job as a part-time library page does not have to submit to drug and alcohol

See **IN BRIEF** page 34



**Eliot Spitzer resigned as governor of New York last week over his alleged use of high-priced prostitutes.**

LANDOV

## Will Dinallo stay as Spitzer goes?

*Regulator says no plans to leave appointed job*

By **DOUGLAS McLEOD**

**NEW YORK**—New York Gov. Eliot Spitzer's sudden resignation is creating uncertainty among some industry observers about the tenure of highly regarded Insurance Superintendent Eric R. Dinallo, though most expect no immediate changes at the state agency.

Mr. Dinallo has no plans to resign, an insurance department spokesman said last week. "We have a good working relationship with (incoming governor) David Paterson, and would assume that he would support the kind of work the department is doing," the spokesman said.

Several regulatory experts and insurance trade group representatives agree that changes are unlikely in the short term.

Martin Minkowitz, a former general counsel for the New York Insurance Department now with Stroock & Stroock & Lavan L.L.P., noted that Mr. Paterson, expected to be sworn in today as Mr. Spitzer's

replacement, will have more pressing problems, among them dealing with the state budget due April 1.

"I would think that nobody starts focusing right away on making significant changes (at the Insurance Department), especially if things are running so well," he said.

Mr. Dinallo "has started certain projects, and I think he will stay and see them to fruition," said Francine L. Semaya, a partner with Cozen O'Connor P.C. in New York. "I suspect things are going to stay the same for awhile."

Nevertheless, some express doubts about the longer term, given Mr. Dinallo's longstanding ties to Mr. Spitzer and questions about whether Mr. Paterson's regulatory priorities match his predecessor's.

"It's too soon to tell what the impact will be," a spokeswoman for the American Insurance Assn. said, noting that the industry's biggest potential loss from Mr. Spitzer's troubles would be Mr. Dinallo's res-

See **FALLOUT** page 33

## U.K. proposals call for more access to Lloyd's

*Market may open to additional brokers, buyers*

By **TONY DOWDING**

**LONDON**—A move to make the first major regulatory changes at Lloyd's of London since the scandals of the early 1980s would widen access to the market but is not expected to lead to major changes in the ways risk managers and brokers deal with the market's insurers.

Currently, all business placed at Lloyd's must be placed through a so-called Lloyd's broker, which is an intermediary that has met Lloyd's regulatory requirements. Under the proposals unveiled earlier this month by the U.K. Treasury, the market would be opened to other regulated brokers in the United Kingdom, and even individual

insurance buyers would be able to access the Lloyd's market directly.

According to the government, the Lloyd's broker rule is out of date because the U.K. Financial Services Authority, which was created in 1997, now regulates all insurance intermediaries.

In its consultative document on the proposals to change the Lloyd's Act 1982, the U.K. Treasury also notes that the law "imposes administrative burdens on (Lloyd's) and administrative and financial burdens on brokers who wish to have access to the Lloyd's market." That law was put in place in an attempt to clean up the market after a series

See **LLOYD'S** page 32

## SPOTLIGHT REINSURANCE OPPORTUNITIES

Retakaful coverage exceeds \$1 billion in Middle East;

booming tourism creates demand for insurance coverage; despite relaxed cession

rules, China Re's share of market may climb; Q&A with head of new Turkish risk manager group; AIG exec calls for uniform reinsurance regulation. **Page 11**



## RRGs welcome ruling on state's authority

*Judge blocks Calif. order barring stop-loss cover*

By **JERRY GEISEL**

**SACRAMENTO, Calif.**—The risk retention group industry is celebrating a ruling that blocks the California Insurance Department from enforcing an order to bar a Montana-chartered RRG from providing medical stop-loss coverage to California policyholders, but the legal battle continues.

The March 7 ruling by U.S. District Court Judge Frank Damrell Jr. in Sacramento came in a suit filed by Auto Dealers Risk Retention Group Inc., which is fighting a cease-and-desist order issued late last year by California Insurance Commissioner Steve Poizner. California insurance regulators maintain that, under state law and the federal Liability Risk Retention Act, RRGs are not authorized to write stop-loss coverage.

The National Risk Retention Assn., an RRG industry trade group, supported the auto dealer group's lawsuit, seeing California's action as far more than a mere skirmish between an RRG and an insurance regulator.

"So much was at stake for the entire RRG industry," said Wendy Fisher, chairman of the government affairs committee of NRRRA, which filed an amicus brief in the suit.

"We needed to send a clear message to California and other states that the state of domicile is the only jurisdiction that has the authority to regulate an RRG," said Ms. Fisher, corporate secretary-regulatory and business affairs in Denver for National Home Insurance Co. (a Risk Retention Group).

"The whole issue of lead-state regulation would be thrown into jeopardy" if California's order were allowed to stand, said Robert Myers Jr., NRRRA general counsel and a partner with Morris, Manning & Martin L.L.P. in Washington.

In his 18-page opinion, issued as a preliminary injunction blocking the California order, Judge Damrell said as a nonchartering state, California had no right to regulate the auto dealers' RRG.

See **RRGs** page 33

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## On the Web

### BI DIRECTORIES

#### Directory of retakful reinsurers debuts

This week, *Business Insurance* introduces a searchable directory of retakful reinsurers, which provide reinsurance according to Islamic law. This directory is now online and available for purchase. Review this and all of *BI*'s directories at [www.BusinessInsurance.com/directories](http://www.BusinessInsurance.com/directories).

### QUESTIONS & ANSWERS

#### See expanded interview with AIG executive

Carles Dangel, vp and senior reinsurance officer at American International Group Inc., discusses collateral requirements for reinsurers in an expanded interview at [www.BusinessInsurance.com/Q&A](http://www.BusinessInsurance.com/Q&A).



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# Punitives OK'd despite high court's direction

## Court in Ford case rules damages award should not be reduced

By JUDY GREENWALD

**SAN DIEGO**—Despite an order by the U.S. Supreme Court to reconsider its decision, a California appellate court last week reaffirmed its \$55 million punitive damages award to a woman who was severely injured in an automobile accident.

The Supreme Court directed the state appellate court in San Diego to reconsider its 2006 decision in *Benetta Buell-Wilson vs. Ford Motor Co.* in light of the high court's own decision last year in *Philip Morris*

*USA vs. Mayola Williams.*

In the *Philip Morris* case, the Supreme Court held that juries can take into account evidence of harm allegedly inflicted by a defendant on people other than the named plaintiffs in determining the "reprehensibility" of the defendant's misconduct (*BI*, Feb. 26, 2007).

But the court also ruled that a jury "may not go further" and use punitive damages to punish a defendant directly for harm to others not named in the suit.

Ms. Buell-Wilson was driving her 1997 Ford Explorer in 2002 when she swerved to avoid an object in the road. The wheels on the passenger side lifted from the road and the Explorer rolled over four-and-a-half times. The roof's pillars and rails

crumpled and the roof crushed down more than 10 inches. Mrs. Wilson was left a paraplegic in "severe and constant pain," according to court papers.

The woman and her husband filed a product liability suit against Ford, and a jury awarded the couple \$109.6 million in damages plus \$246 million in punitive damages. Both the trial court and the appellate court later reduced the award to \$82.6 million, which included the \$55 million in punitive damages, \$4.6 million in economic damages, \$18 million in noneconomic damages and \$5 million for loss of consortium.

In its March 10 decision, the three-judge panel of the state appellate court reinstated the \$82.6 mil-

lion award and said the *Philip Morris* decision "does not compel a reversal or a further reduction of the punitive damages awarded in this case."

Among reasons it concluded its original decision should stand, the appellate court said: "Our previous reduction of the punitive damages award to two times the compensatory award eliminated any danger the jury punished Ford for harm to third parties."

In addition, the court said "there was no evidence or argument at trial that created a significant risk the jury here punished Ford for harm to third parties."

The opinion also said Ford has

See **PUNITIVE** page 30

## Product safety measure sparks litigation fears

### Bill would create database for alleged injuries

By MARK A. HOFMANN

**WASHINGTON**—A Senate bill designed to give the Consumer Product Safety Commission more power could increase the product liability exposures of U.S. businesses, some product liability experts warn.

Strengthening the CPSC worries observers less than provisions that would require the governmental agency to establish an easily accessible database of consumer complaints and allegations of injuries, sickness, death or risk of the same related to consumer products. The CPSC oversees the safety of more than 15,000 consumer products.

In addition, the Consumer Product Safety Commission Reform Act of 2008, which passed the Senate on a 79-13 vote earlier this month, would allow state attorneys general to step in on behalf of residents to enforce product safety laws and would provide whistle-blower protection for employees of manufacturers regarding problems along supply chains.

The measure's supporters, however, claim that the concerns are overblown. By encouraging the manufacture of safer products, product liability litigation will actually decrease, they say.

The House passed its version of the measure in November by a vote of 407-0. The House bill, however, contained neither the database nor whistle-blower provisions, and would not give state attorneys general as much power to pursue product safety cases.

Differences between the measures will be ironed out by a House-Senate conference committee later this year. In the meantime, the White House Office of Management and Budget issued a statement supporting the House bill, although it stopped short of threatening a veto of the Senate measure

should that bill reach the president's desk.

The database provision is particularly troubling, said Victor Schwartz, a product liability expert and partner in the Washington office of Shook, Hardy & Bacon L.L.P.

The publicly available information would allow "consumer groups and others to make reports to the CPSC that are not confidential, that are mere allegations about product defects but get posted on the CPSC Web site," Mr. Schwartz said. "The bottom line is it creates a shopping mall for plaintiffs' attorneys looking for new cases."

"I think the provision in the statute that establishes a public database of reports received by the CPSC of injuries, illness or deaths or risk of injuries, illness or death is likely to result in some greater exposures of American manufacturers and importers to claims of product liability," said Russell Carpenter, a partner in the Washington office of Covington & Burling L.L.P. "The provision provides plaintiffs' liability lawyers with a new source of leads to identify products that do not comply with federal safety standards" that could lead to big damage awards, he said.

With some exceptions, the Senate bill would require the CPSC "basically to put every consumer and other complaint on a Web site no matter how inaccurate and useless it might be," said Chuck Samuels, a partner and head of the CPSC practice group at Mintz, Levin, Cohn, Ferris, Glovsky and Popeo P.C. in Washington and a member of the National Assn. of Manufacturers' CPSC Coalition. "This would literally be thousands of data points every year. Many manufacturers and retailers would end up being unfairly listed," he

See **CPSC** page 34

## Liability risks increase for health insurers

### Retentions increase as more state officials eye business practices

By GLORIA GONZALEZ

Regulatory activity has become a key risk for health insurers as government officials aggressively examine insurers' business practices, ranging from their relationships with health care providers to their rescission policies.

The professional liability market for managed care companies is more competitive than ever and pricing has improved in recent years, but the health insurers still hold a significant portion of the risk via high retentions, high deductibles or health insurer-owned captives.

It is unclear, meanwhile, how professional liability insurance policies will respond to health insurers' growing regulatory exposures.

Major health insurers have been the subject of recent regulatory inquiries or fines and penalties in states that include California and New York.

"The regulatory area happens to be a very active area of risk for many of the health insurers, both big and small," said Frank Castro, Los Angeles-based senior vp, health care practice, for Willis North America.

California regulators issued a record \$3.5 million fine against UnitedHealth Group Inc.'s PacificCare Health Systems Inc. and are seeking up to \$1.3 billion in penalties for alleged violations of state law in handling claims and provider data (*BI*, Feb. 4).

Meanwhile, New York Attorney General Andrew Cuomo said he plans to sue UnitedHealth and several subsidiaries for dramatically under-reimbursing out-of-network medical expenses using data provided by Eden Prairie, Minn.-based Ingenix Inc., a UnitedHealth-



LA OPINION/NEWS.COM

**Los Angeles City Attorney Rocky Delgado sued Health Net Inc., accusing it of canceling insurance policies following substantial claims.**

owned data warehouse (*BI*, Feb. 18).

Last month, Los Angeles City Attorney Rocky Delgado filed a civil action against Health Net Inc. and two subsidiaries for allegedly engaging in fraudulent business practices, namely by rescinding—or canceling policies retroactively—individual coverage after receiving a substantial claim.

"I think this issue of increased regulatory activity is a big one," said Alice Johansson, managing director of the health care division of OneBeacon Professional Partners in Avon, Conn. "We're seeing it across the country. I think that's an area of concern for the organizations."

In previous years, denial of benefits and vicarious liability claims were the dominant source of risk for health insurers. Since 2000, though, the health insurers' risk profile has shifted toward business practice claims, namely disputes between insurers and providers over reimbursement rates.

Health insurers' risk profile has evolved further in the past 18 months as state and local regulators stepped into disputes previously

See **LIABILITY** page 30

# Diabetes care management program sees early success

*Waiving copays for maintenance drugs, 'coaching' participating patients yield gains in several clinical measures*

By KRISTIN GUNDERSON HUNT

A multicity health management program for diabetics that waives copays for maintenance drugs appears to be changing patient behavior, according to interim results released last week.

Launched in October 2005, the Diabetes Ten City Challenge is an employer-sponsored diabetes self-management program. Participating employers offer a health care plan that waives copayments for diabetes medications and supplies if patients work with a pharmacist "coach" to monitor and manage

their condition.

Some of the improvements highlighted in the interim study, which is based on one year of results, include an increase in the percentage of patients enlisting in preventive health services.

Participants receiving flu vaccinations increased from 43% to 61%, eye examinations increased from 60% to 77% and foot examinations increased from 38% to 68%. Patients with nutrition goals rose from 22% to 66%, those with exercise goals increased from 24% to 72% and those with weight management goals increased from 23%

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to 64%. Patients also demonstrated improvements in their mean hemoglobin rates, low-density lipoprotein cholesterol rates and systolic blood pressure rates.

The survey, conducted by the Washington-based American Pharmacists Assn. Foundation, also found that the percentage of patients who perceived their overall diabetes care to be excellent increased from 39% to 87%.

"We're encouraged by the results," said William Ellis, executive director and chief executive officer of the APhA Foundation. The Diabetes Ten City Challenge, which

was established by the foundation, is supported by GlaxoSmithKline Inc.

The interim survey was based on results from 914 patients with diabetes covered by self-insured health plans who received three or more months of pharmacist care. Mr. Ellis said the organization expects to release a full report looking at clinical outcomes and patient satisfaction in the first quarter of 2009.

While the study reflects only a single year, Mr. Ellis said he is hopeful the trends will continue. "I'm very optimistic the final results will continue to be positive," he said.

## IRS clarifies excise tax

*Cover tax applies each time risk is ceded offshore*

By JERRY GEISEL

**WASHINGTON**—The Internal Revenue Service reaffirmed its long-held position that excise taxes on insurance and reinsurance purchased from foreign insurers and reinsurers apply each time a risk is ceded, but also has offered an amnesty period to encourage compliance.

In Revenue Ruling 2008-15, issued March 7, the IRS laid out a series of examples on how the so-called "cascading" effect is applied to the excise tax, which is 4% on insurance and 1% on reinsurance purchased from a foreign insurer on U.S. risks.

In one example, a foreign insurer issues a casualty insurance policy to a U.S. corporation for risks in the United States. The foreign insurer then cedes part of the risk to a foreign reinsurer. In this case, a 4% excise tax would be assessed on premiums paid by the U.S. corporation to the foreign insurer and the 1% excise tax would be imposed on premiums ceded by the foreign insurer to the foreign reinsurer.

In another example, a foreign company reinsures policies issued by a U.S. insurer on risks in the United States. The foreign reinsurer then reinsures part of the risk with a second foreign reinsurer. In that case, reinsurance premiums paid by the domestic insurer to the foreign reinsurer are subject to the 1% excise

tax, and premiums paid by that foreign reinsurer to the second reinsurer also are subject to the 1% tax.

In its analysis, the IRS said the tax code requires this cascading effect. "Section 4371 of the code imposes a tax on each policy of insurance, indemnity bond, annuity contract or policy of reinsurance issued by any foreign insurer or reinsurer," the IRS explained.

Reacting to the IRS guidance, Richard Irvine, a partner with PricewaterhouseCoopers in Bermuda, said the excise tax is imposed "every time there is a transaction of insurance or reinsurance."

While the tax rate is simple, determining the amount owed could be challenging. "How will the information flow work, particularly if a U.S. risk is sliced and diced in co-mingled excess-of-loss treaties...lots of administrative problems," said Tom Jones, a partner with McDermott, Will & Emery L.L.P. in Chicago.

The Washington-based Reinsurance Assn. of America plans a conference call with members this week about the IRS ruling, said RAA Senior Vp Joseph Sieverling.

To encourage future compliance, though, the IRS said it will not examine if the taxes have been paid previously as long as insurers and reinsurers fill out IRS Form 720 and commit to paying the taxes on premiums paid or received on or after Oct. 1.

## Errors & Omissions

- A story in the March 3 issue, "Cat Bond Deals Increase in '07: Study," incorrectly identified GC Securities, the investment banking arm of reinsurance intermediary Guy Carpenter & Co. L.L.C.

- Two stories in the March 10 issue, "Returns on Medical Consulting Services Worth Cost: Employers" and "Promoting Medical Consulting Programs Raises Utilization Rates Significantly," misstated the job title of Evan Falchuk. He is president and chief operating officer of Best Doctors Inc. in Boston.

- Due to incorrect information supplied to *Business Insurance*, three

charts in the March 3 issue, which rank the largest captives managers worldwide and the largest captive managers in Vermont and the Cayman Islands, overstated the number of captives administered by certain managers. The revised charts are available online at [www.BusinessInsurance.com/directories](http://www.BusinessInsurance.com/directories).

- An item in the March 10 issue, "Bond Insurers Playing Good Bank/Bad Bank," incorrectly identified Assured Guaranty Ltd. as the only financial guarantor with a stable AAA rating. Financial Security Assurance Inc. also holds such a rating.

## Michigan becomes captive domicile

*State to charge fees—rather than taxes—linked to premium volume*

By JERRY GEISEL

**LANSING, Mich.**—Michigan is the newest U.S. captive domicile.

Michigan Gov. Jennifer Granholm last week signed legislation allowing the formation of captive insurance companies in the state. The law takes effect immediately.

Unlike many other states' captive laws, the Michigan measure does not impose premium taxes but instead charges captive parents fees linked to premium volume. Those annual fees will range from \$5,000 for captives with premiums of less than \$5 million to \$100,000 for captives with premium volume of at least \$75 million.

Under the law, the minimum capital and surplus requirement for a single-parent captive is \$150,000, while the amount rises to \$400,000 for an association captive organized as a stock company or limited-liability company. Association captives organized as mutual insurers will need \$750,000 in capital and sur-



GOVERNORS OFFICE  
**Gov. Jennifer Granholm has signed a law that allows companies to set up captive insurers in Michigan.**

plus, while the capital and surplus requirement for a sponsored captive providing coverage through protected cells ranges from \$150,000 to \$500,000, with the amount

depending on several variables, including the number of cells in the captive.

The law also allows employers to form branch captives, which typically are used by companies with offshore captives that want to fund employee benefit risks. Federal rules do not allow the use of offshore captives to fund employee benefit plans offered to employees in the United States.

Michigan becomes the 10th state since 2000 to have enacted captive legislation, with Missouri—which approved its measure last year—being the next most recent state to do so.

Whether Michigan develops into a major captive domicile will greatly depend on regulators' attitude and treatment over the long term.

States with aggressive promotion efforts have seen their captive rosters swell in recent years, while captive rosters have shrunk in states where captive regulators' interest in promoting the captive industry waned over the years.

## Captive group outlines best practices

*CICA guidelines offer advice on strategy, governance and compliance*

By DAVE LENCKUS

**SCOTTSDALE, Ariz.**—Risk managers who are developing captive insurance programs can structure them in line with a new set of best practices guidelines.

A group of captive owners and managers designed the guidelines on business alignment between a captive and its owner, corporate governance and regulatory compliance, and more than a dozen regulators provided input for the project.

The guidelines, contained in the 13-page booklet "Captive Best Practices Guidelines" were unveiled at the 2008 Captive Insurance Cos. Assn. International Conference, held in Scottsdale, Ariz.,

March 5-7.

The CICA board also reviewed and approved the guidelines, which are "guide-

posts, not a checklist," said consultant Karin J. Landry, who moderated the session during which the guidelines were introduced.

The groups that worked on the project determined that they could not design a stringent set of best practices, because "it became clear that everyone had a different view of how to run a captive in their

company's best interest," said Ms. Landry, a managing partner at Spring Consulting Group L.L.C. in Boston.

In aligning a captive with its parent company's or owners' goals, the guidelines suggest developing "a clear mission/vision statement." A critical component of that statement would be an analysis of the owner's potential future risks, a loss prevention plan that addresses them and "a strategy to manage negative and positive changes" to keep the captive aligned with its parent's plan.

Ms. Landry noted that 25% to 30% of companies occasionally review this area to ensure their cap-

See **GUIDELINES** page 30

**CICA COVERAGE CONTINUES:** Captives lack full control of reinsurance costs. Page 31.

Other stories can be found at [www.BusinessInsurance.com/conferenceextra](http://www.BusinessInsurance.com/conferenceextra).



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## Commentary

# Strategic risk analysis shows array of concerns

Like it or not, we live in a world of risk. Good and bad things happen all the time, all over the globe and sometimes on a grand scale.

When we think of “risk,” most of us tend to focus on the downside. With that in mind, consider the findings of Ernst & Young’s recent report, *Strategic Business Risk Insurance: 2008*. E&Y looked at insurance, among other global business sectors, and polled analysts on the most important strategic risks that industries face this year.

For the insurance industry and starting with the greatest risk, categories considered the 10 biggest strategic risks are: climate change, demographic shifts in core markets, catastrophic events, emerging markets, regulatory intervention, channel distribution, integration of technology with operations and strategy, securities markets, legal risk, and geopolitical or macroeconomic shocks. As one can see, not all these risks are intrinsic to property/casualty insurance; some reside in the domain of life/health companies. For more discussion of these topics, read *BI Industry Focus* Editor Rodd Zolkos’ blog, *Claims & Occurrences*, at [www.Industry-Focus.com](http://www.Industry-Focus.com).

Climate change was the top risk. Really? This finding surprised E&Y, too. The notion of climate change remains controversial, despite pronouncements by the Intergovernmental Panel on Climate Change. As with risk, most people associate “climate change” with global warming. But the factors that may be causing increases in atmospheric temperatures are likely to lead to weather extremes, meaning periods of intense cooling too.

If climate change is the most important strategic risk facing insurers, to me that presupposes a direct connection between what’s happening in the environment and occurrences that insurers cover. Some argue that rising temperatures increase both the frequency and intensity of windstorms, citing 2004 and 2005 as examples. Well, it is true that there was an unusually high number of severe hurricanes in those years, but it’s also true that 2006 and 2007 saw almost no major hurricanes make landfall in North America. As a result, many insurers posted record returns.

I’m not going to argue that climate change is not occurring. A point that seems all but lost in the debate, though, is that weather records do not date back very far. Compared with geologic time on Earth, a century might as well as be a nanosecond. That is not much data on which to base accurate projec-



**REGIS COCCIA**

*Editor Regis Coccia’s commentary appears periodically. He can be reached at: [rcoccia@businessinsurance.com](mailto:rcoccia@businessinsurance.com)*

tions, even for an industry with sophisticated modeling and actuarial expertise.

Consider the possibility that climate change actually is causing more natural catastrophes. That would certainly be cause for concern—and not just for insurers. Ernst & Young’s broader report on the other industry sectors identified 10 strategic risks for global businesses generally. Among them at No. 9 was “radical greening,” E&Y’s term for increasing environmental concerns, which the firm noted “could be the result of a wide

**The big question is what do we do about these strategic risks? Ignoring them sure won’t make them go away.**

range of pressures—from the voluntary world of corporate social responsibility—to hard regulatory and economic necessity.” Regulatory and compliance risk was the No. 1 strategic risk for businesses in general and, admittedly, could have a huge short-term impact.

The big question is what do we do about these strategic risks? Ignoring them sure won’t make them go away.

### *Worthy award winners*

Speaking of managing risk, *Business Insurance* is delighted to announce the Risk Manager of the Year and members of the Risk Management Honor Roll for 2008: Scott Beckman of Advocate Health Care in Oak Brook, Ill., is the 31st person named RMOY. Jeffrey Driver of Stanford University Medical Center in Palo Alto, Calif., and Mark Meyerhoff of Boeing Co. in Chicago have been named members of the Honor Roll. In-depth profiles of these outstanding risk managers will appear in the April 28 issue.

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# Business Insurance OPINIONS

## Reform legacy intact despite Spitzer's fall

WILL ELIOT SPITZER be remembered by the risk management and insurance community as a hypocrite who publicly crusaded against corporate corruption while privately patronizing a prostitution ring, or will he be recalled for his role in reforming industry practices?

Given that U.S. history has many examples of disgraced political figures who subsequently rose to even higher elected office, we think it is too soon to pass final judgment on Mr. Spitzer, 48, who resigned last week as New York governor and said his next steps would be "outside of politics."

Having said that, his achievements as New York attorney general in uncovering deceptive, illegal insurance industry practices, which cost corporate insurance buyers dearly, have no equal.

It was Mr. Spitzer who uncovered bid-rigging and client-steering practices. How much that cost buyers will never be fully known, but the fact that Marsh & McLennan Cos. Inc. paid \$850 million to settle bid-rigging charges indicates how serious the problem was.

Just as important, it was Mr. Spitzer's pressure that forced the major brokers—at least for a while—to abandon contingent commissions that, at minimum, are a conflict of interest and, at worst, lead to out and out corruption.

He also butted heads with American International Group Inc. over its financial statements, and his pressure led to a massive restatement and a new commitment by the world's largest insurance organization to report its results honestly, allowing investors to make better-informed decisions.

In his brief resignation comments, Mr. Spitzer, perhaps understanding the tragedy of his actions, said: "I look at my time as governor with a sense of what might have been."

In the insurance realm, though, his accomplishments were real. His actions set the industry on the road to greater transparency and we hope that change proves lasting.

*It is too soon to pass final judgment on Mr. Spitzer.*

## Product safety database needs careful vetting

THERE'S A LOT TO LIKE about congressional efforts to bolster the Consumer Product Safety Commission.

Both the House and Senate have passed bills to provide more money and power to the agency. That's good news for consumers and manufacturers alike. Greater oversight makes it less likely that defective and harmful products will reach the market. And safer products mean fewer product liability suits.

But as we report on page 3, there's one provision of the Senate bill that could be troublesome. That's the creation of an accessible database of complaints about products that cause injury, illness or death or that someone believes may pose a risk of injury, illness or death.

We're all in favor of dissemination of information that promotes health and safety. The catch is that the Senate bill does not require that information to be vetted before it's posted. Instead, the bill simply says the CPSC should remove incorrect information.

The House bill contains no such provision, and if the database provision should survive a House-Senate conference committee called to iron out differences between the two bills, we think that it must be turned around. Information should be vetted before it is posted, not afterwards.

To allow inaccurate product-safety information to be posted on a federal Web site will do nothing to promote anything but unnecessary and ultimately unsuccessful litigation. Public safety demands accurate information about defective products. Posting defective information undercuts that basic requirement.



## Letters

### Fair rates essential to providers' survival

TO THE EDITOR: In response to Attorney General Cuomo's probe of the insurance companies ("Payment Rate Probe Raises Concerns About Health Care Cost Hikes," *BI*, Feb. 18), it seems the insurance companies always say it's the doctors' fees that are too high and we are looking to add to our income.

The (usual, customary, reasonable prices) for these companies are way too low, lower than what the state UCRs are and lower than Medicare's rate. A provider cannot survive in

practice with these rates. I say survive because we can't meet payroll for our offices; we can't pay our increasing malpractice insurance; we can't pay our rent hikes; we can't pay our utility hikes.

We as providers are moving out of New York. We need to set a fair rate that is the same for all insurance and it should not be determined by an insurance-owned subsidiary.

**Dr. Giovanni Marciano  
Physicians P.C.  
Woodhaven, N.Y.**

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## Online Poll at [www.businessinsurance.com](http://www.businessinsurance.com)

Should employers consider personal information posted on internet social networking sites when vetting potential employees?



**NEXT WEEK'S POLL:** Do you think the changes that Eliot Spitzer forced on the insurance industry will be long-lasting?

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## Retakaful cover tops \$1 billion in Middle East

*Limited number of multinational companies provide reinsurance in rapidly developing region*

By **MICHAEL BRADFORD**

The Middle East's retakaful market is expanding in step with the region's seemingly unstoppable growth fueled by high energy prices, a bustling tourism scene and nonstop construction, experts say.

The market offering retakaful—reinsurance that conforms with Islamic law, called Shariah—has grown rapidly in recent years, from around \$300 million in premiums in 2004 to double that amount two years later, according to London-based A.M. Best Europe Ltd., a unit

of Oldwick, N.J.-based A.M. Best Co. Inc.

Market sources say retakaful premiums are near \$1 billion and will continue to climb as demand for reinsurance increases from takaful insurers that find themselves busier than ever.

"Growth in the insurance business has been very positive, and the same holds true for retakaful companies," said Gautam Datta, general manager with Solidarity Islamic Insurance & Assurance Co., a Manama, Bahrain-based takaful insurer.

As additional retakaful capacity is

invested in the Middle East, direct-writing Shariah-compliant takaful companies will shift business away from conventional reinsurers, sources point out.

Takaful companies are required to buy coverage from Shariah-compliant retakaful underwriters unless those companies have insufficient capacity. Because the Middle East's retakaful market is still developing, large takaful insurers have no choice but to turn to the conventional market to reinsure their business.

"There are more than 80 takaful

companies looking for a retakaful company to take their business," said Abdul Rahman Mohammed Al Baker, executive director of financial institutions supervision at the Central Bank of Bahrain. "This market is growing significantly, but the number of players is very small," he said of retakaful underwriters.

Solidarity buys about 85% of its reinsurance from conventional companies. But it is increasing the amount of retakaful coverage it purchases as the marketplace develops,

See **RETAKAFUL** next page

# SPOTLIGHT

A LISTING OF COMPANIES THAT WRITE RETAKAFUL, OR ISLAMIC REINSURANCE  
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Q&A WITH AIG EXECUTIVE ON NEED FOR UNIFORMITY IN GLOBAL REINSURANCE REGULATION  
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# Retakaful: Market grows with help from European reinsurance groups

CONTINUED FROM PREVIOUS PAGE

Mr. Datta said.

Solidarity and other takaful companies saw their retakaful options broaden when Hannover Re Group subsidiary Hannover ReTakaful B.S.C. was capitalized in Manama with about \$135 million and opened in time for the January 2007 renewal season. Market sources say it and Takaful Re Ltd., a Dubai-based operation formed by Arab Insurance Group and other financial services businesses, are two of the region's major sources of retakaful coverage.

Hannover Re and Takaful Re are

"fully-fledged" retakaful operations, meaning they are capitalized and managed as stand-alone operations rather than branches of their parents. Other insurance and reinsurance groups based in Europe and elsewhere have set up what are called "retakaful windows," which are branches of parent companies that write Middle East coverage.

"A lot of the new capacity is from multinational players," said Abdallah Kubursi, regional vp with AIG MEMSA Insurance Co. Ltd. in Dubai. "There is an emergence of international reinsurance players tapping into the retakaful market."

Local investment also is playing a

**'Retakaful companies are going to have to scale up and start providing the niche services they do not have.'**

Gautam Datta, Solidarity Islamic Insurance & Assurance Co.

role in the expanding marketplace, said Mr. Kubursi, citing as an example the July 2006 formation of Al

Fajer Retakaful Insurance Co. in Kuwait. The company was funded with more than \$170 million by Global Investment House KSCC, a Safat, Kuwait-based investment firm.

At the time, Global said it aimed to exploit the lack of competition to reinsure business written in accordance with Islamic principles.

Shariah-compliant insurers also are expected to benefit from changes in Saudi Arabia, experts say. That country recently enacted insurance regulations and laws that will for the first time allow insurers to register there and prohibit those that are not registered from cover-

ing Saudi Arabia-based risks. Much of the coverage written for Saudi Arabian policyholders typically has been provided by insurers based in Bahrain.

"With the recent changes in the legal framework, I would expect significant changes in Saudi Arabia," said Carlos Wong-Fupuy, London-based managing senior financial analyst with A.M. Best Europe Ltd. Much of the business now written from Bahrain may end up in the Saudi market, he said.

Mahomed Akoob, chief executive officer of Hannover ReTakaful, said about 13 licenses have been issued to takaful companies in Saudi Arabia and about 17 other license applications have been filed. "An extraordinarily strong increase in the takaful industry is expected in Saudi Arabia," he said.

Mr. Akoob said the Middle East's takaful and retakaful markets will continue to expand partly because there is plenty of room for growth in a part of the world where insurance penetration is low.

Shariah-compliant products are changing the way companies and individuals view insurance, Mr. Akoob said. The region's culture in which families tend to support each other in hard times has made dependence on insurance less vital for individuals, he said.

Sources point out that as the region's wealth spreads throughout the population, there is more awareness that takaful products are needed to protect assets.

As the demand from takaful underwriters grows, retakaful companies are going to have to step up their game by proving their worth to rating agencies and becoming full-fledged service providers, Mr. Datta said.

"In our case, a reinsurer must be AAA-rated by Standard & Poor's," said Mr. Datta. "That takes away all of them but Takaful Re and Hannover Re."

"Retakaful companies are going to have to scale up and start providing the niche services they do not have," Mr. Datta said. As a direct insurer, Solidarity needs reinsurers to keep it informed of important market and rating issues, developments in specialty coverage lines and provide other services, he said.

The continuing expansion of the retakaful market hinges on the success of takaful insurers and, takaful, in turn, needs a healthy reinsurance market if the direct writers are to thrive, sources say.

It is important that the takaful market reflect a position of long-term sustainability, said Mr. Akoob. "In other words, it has to move in the right direction and build itself into an industry with robust fundamentals such as good corporate governance, financial strength and sound underwriting principles," he said.

Takaful companies will need retakaful support to accomplish that, he said. "It is a matter of fact that there is no insurance market, globally, that is able to flourish and sustain itself on a long-term basis in the absence of the security of reinsurance. And takaful is no exception."



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Company/Address	Phone/Web site	Gross contributions	Net claims incurred	Employees	Principal officers
<b>Abu Dhabi National Takaful Co. P.S.C.</b> P.O. Box 35335, Abu Dhabi, United Arab Emirates	971-2-410-7700 <a href="http://www.takaful.ae">www.takaful.ae</a>	\$20,153,302 <sup>1</sup>	\$9,872,570 <sup>1</sup>	71	Oussama A. Kaissi, general manager
<b>Al Fajer Retakaful Insurance Co.</b> c/o Global Investment House, Souk Al Safat Building, Second Floor, P.O. Box 28807, Safat, 13149 Kuwait	965-80-4242 <a href="http://www.globalinv.net">www.globalinv.net</a>	N/A	N/A	N/A	Sameer Al-Gharaballi, managing director
<b>Asean Retakaful International (L) Ltd.</b> Level 14, Block 4, Financial Park Complex, Jalan Merdeka, Labuan, 87000 F.T. Malaysia	60-87-451-301 <a href="http://www.aseanretakaful.com">www.aseanretakaful.com</a>	\$16,680,459 <sup>2</sup>	\$4,570,021 <sup>2</sup>	20	Izzuddin Tajudin, CEO
<b>Beit EaadatEttamine Tounsi Saoudi (B.E.S.T. Re)</b> P.O. Box 484, Tunis Cedex, Tunisia	216-71-860-355 <a href="http://www.best-re.com">www.best-re.com</a>	\$116,232,048 <sup>1</sup>	\$59,473,109 <sup>1</sup>	78	Ferid Benbouzid, CEO/managing director
<b>Hannover ReTakaful B.S.C. (c), Bahrain</b> Al Zamil Tower, 17th Floor, Government Ave., Manama Center 305, Manama, Bahrain	973-17-21-4766	N/A	N/A	N/A	Mahomed Akoob, managing director
<b>Takaful Re Ltd.</b> Dubai International Financial Centre, Gate District Precinct Building 3, Level 4, Office 403, Dubai, United Arab Emirates	971-4-3600-535 <a href="http://www.takaful-re.ae">www.takaful-re.ae</a>	\$15,049,000 <sup>1</sup>	\$2,646,000 <sup>1</sup>	N/A	Chakib Abouzaid, CEO
<b>Tokio Marine Retakaful Pte. Ltd.</b> Fuji Xerox Towers, 80 Anson Road, Suite 15-02, 079907 Singapore	65-6324-7530	N/A	N/A	8	Colin Pakshong, CEO

<sup>1</sup> Fiscal year ending 12/31/06. <sup>2</sup> Fiscal year ending 6/30/07. N/A=Not available

Source: BI research

Researched by Kevin Edison

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## Questions & Answers



Risk management in Turkey is experiencing growing pains. Most large Turkish companies delegate risk management duties to someone with other financial responsibilities, making a true risk professional hard to find. Times are changing, though, and one of the best indicators that risk management's profile is rising is the creation of a new association. Tamer Saka, chief risk officer at Haci Omer Sabanci Holding A.S. in Istanbul, is spearheading the development of the Turkish Enterprise Risk Management Assn. and says it should be operational soon. Mr. Saka spoke with Business Insurance Europe Senior Reporter Michael Bradford about TERMA.

# Turkish risk management group aims to build a platform for buyers

**Q: How long before Turkey has its risk management association in place?**

We think it will be less than a month. We have to register it with the government and get the association approved. We do not see any reason why they would not approve it.

**Q: Will the association become a member of the Federation of European Risk Management Assns.?**

We are planning for that. After we finalize the process in Turkey, we will apply to FERMA's board to get their approval. The approval will take a little bit of time, but we are optimistic that the results will be OK.

**Q: Will TERMA's members be limited to risk managers?**

In Turkey, we are in the early stages of improving risk management. So far, there are not many risk managers in Turkey. We will accept members from the finance and operational sides as it is hard to find real risk managers to be a part of the association. But we will be very careful about the selection process. We want to have people who have experience in risk management, a good knowledge of insurance and the desire to become real risk managers in the future. We will have 15 to 20 people to start with, from some of the biggest companies in Turkey. There will be no brokers or insurance company members.

**Q: What are you trying to accomplish by forming the association?**

We are trying to create a plat-

form for insurance buyers. Insurance companies and brokers have their platforms, insurance buyers do not. I think this platform will give us a chance to position ourselves in the insurance market.

**Q: What will TERMA offer its members?**

The first thing we intend to do is develop guidelines for working with brokers in terms of fees, transparency and other issues. The Turkish market is not familiar with this process and we think this will give us a chance to increase our voice.

**Q: How often will TERMA meet?**

Every three months we are planning small seminars and a breakfast. We will hold a conference every year.

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# Infrastructure projects draw foreign insurers to Middle East

Western underwriters entering region compete with companies offering coverage that complies with religious law

By MICHAEL BRADFORD

Commercial insurers in the Middle East are staking out their turf in a marketplace that is a blend of modern insurance practices and underwriting that conforms to the region's religious law.

Insurers—whether they are global players trying to gain a toehold in the region or local takaful companies that operate according to Islamic law, or Shariah—are competing for business in a market

where rates are softening, talent to handle a mushrooming volume of business is hard to come by and risk management is a fledgling discipline, experts say.

Outside their offices in many cities, insurers can see the infrastructure development driven by rising energy prices and booming tourism that has punctuated the skyline with construction cranes, giving underwriters plenty of business to fight over.

In such an evolving marketplace,

the pace of change is not likely to slow anytime soon, experts in the Middle East predict.

While local insurers dominate the region's insurance market, foreign insurers are moving in to provide additional capacity that is needed to meet the insurance demands that accompany a booming economy.

### Focus on expertise

"The number of foreign companies is small and they focus on their

areas of expertise," said Paul Jewell, senior regional vp with AIG MEMSA Insurance Co. Ltd. in Dubai, United Arab Emirates. Foreign companies fill the need for coverage, such as directors and officers liability, that is coming into vogue in the Middle East but rarely written by local insurers, he said.

The number of foreign players is growing as the governments of nations in the Gulf Cooperation Council have piled up huge surpluses and are spending that money to

develop their infrastructure, said Mr. Jewell. Those projects are attracting the interest of insurers from other parts of the world that want to further diversify their books of business, he said.

Large global insurers have provided coverage indirectly for the region even before setting up operations in the Middle East. Local companies do not have sufficient capacity to underwrite all the coverage policyholders need, and routinely have handed much of it off to global underwriters.

"Many of them do not retain a significant portion of the risk," Carlos Wong-Fupuy, managing senior analyst with A.M. Best Europe Ltd. in London, said of the local market. "They make most of their profits from commissions or investment returns."

**'During our reinsurance renewal, it was evident how competitive the market is in pricing. It is the same in the direct market.'**

Gautam Datta, Solidarity Islamic Insurance & Assurance Co.

In recent years, insurers from Europe, Bermuda and the United States have arrived to vie for a slice of the Middle East's insurance pie. As the competition has risen, insurance prices have fallen, dropping in tandem with global coverage costs, sources say.

"The market is becoming softer and softer," said Gautam Datta, general manager with Solidarity Islamic Insurance & Assurance Co., a Manama, Bahrain-based takaful insurer. "During our reinsurance renewal, it was evident how competitive the market is in pricing. It is the same in the direct market."

Prices fell during recent renewals on primary property/casualty risks by 10% to 15%, he said.

But as insurance prices have fallen, rising energy costs have created larger exposures, sources say. The spike in those costs is driving up valuations on construction projects and widening the business interruption exposure faced by energy companies, they say.

Those exposures have not yet translated into significantly higher insurance costs, Mr. Datta said. Falling premiums are being offset by a rising volume of business for insurers writing construction and energy risks, he said.

As the insurance market has grown, insurers have searched to recruit the best talent for their operations—an issue that has posed a challenge, said Abdallah Kubursi, regional vp with AIG MEMSA Insurance.

Mr. Jewell said attracting talent to the region is not a simple answer to



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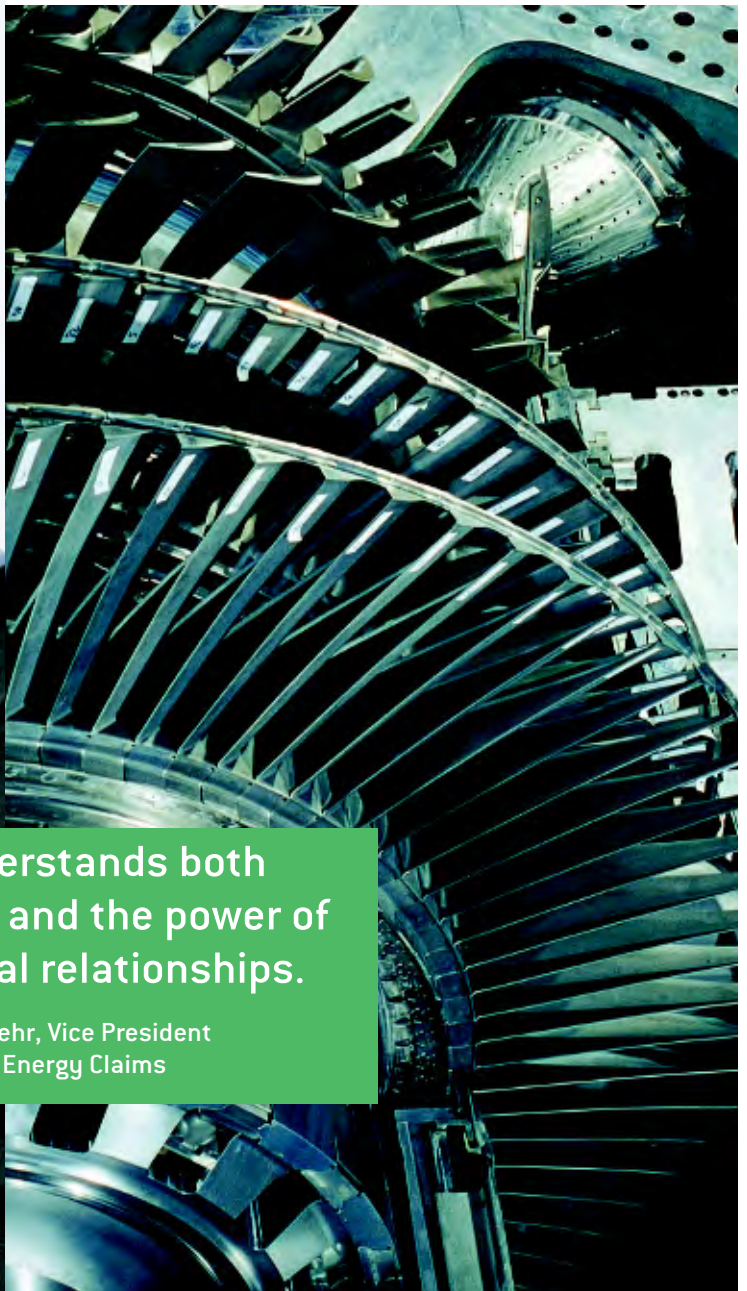
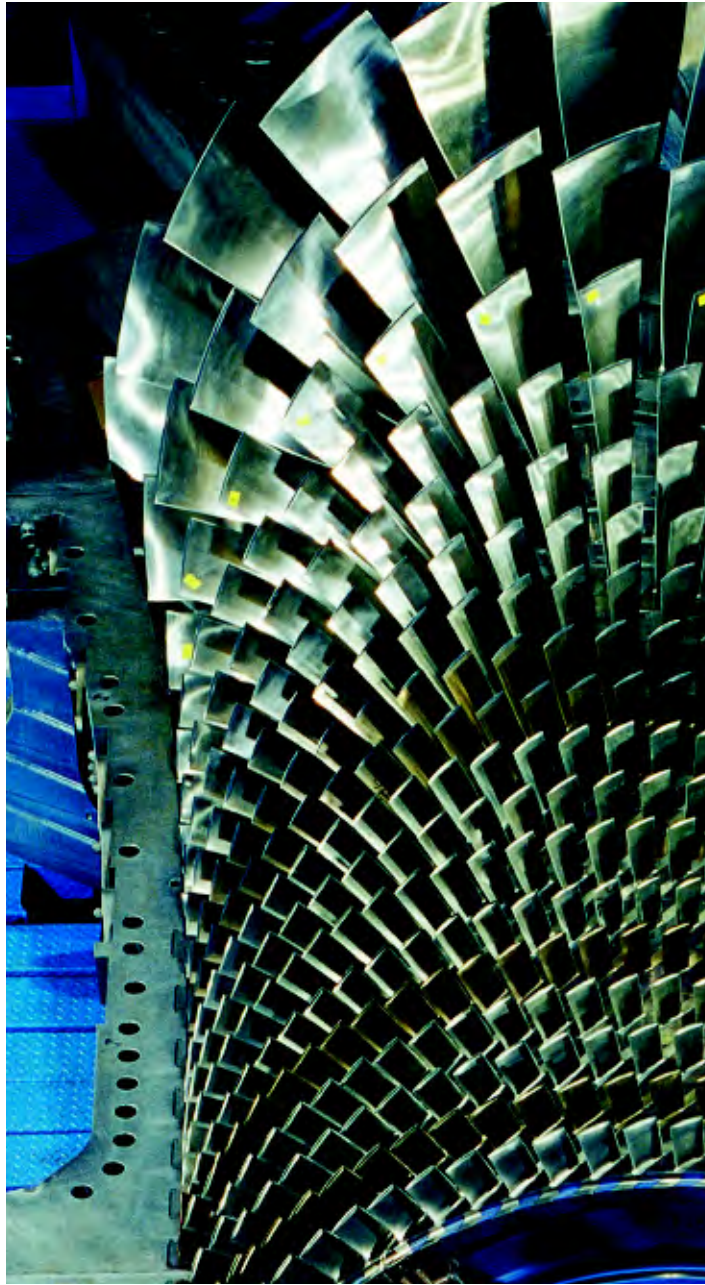
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# Insurers vie for low risk business as leisure industry booms

## Low natural cat risk lures underwriters to Mideast region

By MICHAEL BRADFORD

The boom in Middle East tourism has created opportunities for insurers eager to cover exposures related to the millions of people visiting the region.

More than \$1 trillion has been committed to leisure projects across the region, according to "The Middle East Leisure Landscape 2020," a recently completed study by Global Futures & Foresight, a London-based research firm. Such a massive investment, much of it in world-class facilities, shows up in construction projects, infrastructure development, theme parks, resorts and other facilities, the study says.

"It obviously helps us a great deal," said Paul Jewell, senior regional vp with AIG MEMSA Insurance Co. Ltd. in Dubai, United Arab Emirates. Not only are there more

hotels and shopping malls for tourists, there are more planes flying visitors to the region, which creates demand for aviation insurance, he said. Ports and railways also are being improved.

"It literally spirals," Mr. Jewell said of the growing tourism market. The development, coupled with the growth in energy projects financed by high oil prices, is fueling the Middle East economy and challenging insurers to provide more services, he said.

### Tourism gold rush

Dubai is leading the way in the tourism gold rush. A country with novelties such as an indoor ski slope and a skyline marked by some of the world's most distinctive hotel designs has \$381.4 billion worth of projects under way or planned, according to the Global Futures study. Saudi Arabia is spending \$184.4 billion on leisure facilities and Abu Dhabi is investing \$131.3 billion, the study calculates.

"There are a lot tourism projects under way all over the kingdom,"

said Abdul Rahman Mohammed Al Baker, Bahrain's executive director of financial institutions supervision, referring to his country's growing tourism market. "All of this generates new business for insurance companies," he said.

Tourism risks are attractive to the region's insurers partly because they do not face a particularly threatening roster of natural catastrophe exposures, sources say.

"The Middle East does not have too much exposure to natural hazards," said Mahomed Akoob, chief executive officer of Hannover ReTakaful B.S.C. in Manama, Bahrain. "There is an earthquake risk to an extent and there was a cyclone in Oman, so the risk is definitely present in the region. But not to the extent that it is in Southeast Asia or along the eastern seaboard of the United States, by comparison."

Apart from Iran, where tremors are more likely, countries in the region face a moderate earthquake risk, market experts note.

The only other natural catastro-



REUTERS

Children play at Ski Dubai at the Mall of the Emirates in Dubai, United Arab Emirates. Rapid growth in the leisure industry in the Middle East has caught the interest of insurers in the region looking to expand.

phic risk that insurers mention is flooding and wind damage, a risk heightened by the damage caused by Cyclone Gonu in Oman last year.

Flood insurance generally is included in property policies at no charge, but damage from Gonu was severe enough to prompt some to wonder whether that is still a wise practice, said Gautam Datta, general manager with Solidarity Islamic Insurance & Assurance Co, a Manama, Bahrain-based takaful insurer.

"Reinsurers made a point to bring it up," Mr. Datta said of the flooding in Oman. Charging a premium for that coverage, as well as the earthquake risk, is being debated among reinsurers and insurers, but probably will not be implemented soon, he said.

Sources say the Middle East's hospitality market can get all the insurance it needs.

"There is plenty of insurance available," said Carlos Wong-Fupuy, managing senior financial analyst with A.M. Best Europe Ltd. in London, a unit of Oldwick, N.J.-based A.M. Best Co. Inc. "Historically for the largest risks, it has been transferred to the international markets. That is not going to change for a while," he said.

Operating in a politically sensitive part of the world means

tourism-related businesses generally carry political risk insurance, market sources say. War risk coverage, however, is typically excluded from coverage.

Because Middle Eastern culture does not lend itself to the same type of litigiousness as in the West, hotels and leisure-related businesses may find their liability insurance is not as costly as in the United States and Europe.

"It is a large exposure for insurance companies and insureds," said Mr. Akoob. "Hotels and the like have to ensure that they are protected. Having said that, it is not, in my view, a highly litigious society and the prices, relatively speaking, are not as high as in the United States, for example."

Liability limits, though, tend to be comparable with those purchased by hotels and other tourist-related facilities in other parts of the world, according to Mr. Jewell. Leisure operations know that there is always a chance they could face claims because many visitors are coming from places where litigation is common and well-understood, he said.

Hotels in the Middle East generally carry liability limits of \$25 million to \$50 million, which is comparable to coverage amounts written elsewhere, Mr. Jewell said.

## Insurers: Middle East boom draws interest from outsiders

CONTINUED FROM PAGE 18

the dearth of insurance expertise in the Middle East. "Trying to persuade people to move to this area is not easy," he said.

Aside from insurance professionals, risk managers also are scarce in the region.

"That is one big hole in the region," Mr. Datta said. Large operations generally have risk management professionals on board, but most other businesses do not, he said.

"It is a fledgling industry here," said Mr. Jewell. The risk management function, such as it is, is commonly handed to someone with

financial responsibilities, he said. "The chief financial officer often combines a multitude of jobs."

That could change as Gulf Cooperation Council nations adopt regulations that fall in line with international standards for corporate governance and operations, he said.

"Modernization and changes in key regulations could have a major impact...on internal procedures, control of company expenses and capital management," Mr. Wong-Fupuy said.

"They are very hungry to gain knowledge and experience" regarding risk management, said Mr. Jewell. "They just have not developed it in-house yet."

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# China reinsurance market stays soft as competition heats up

*Influx of foreign reinsurers signals interest in rapidly growing economy, but risk management still at development stage*

By **TONY DOWDING**

The Chinese reinsurance market has grown in the past couple of years, with a handful of foreign reinsurers winning approval to operate in China and the removal of the 15% compulsory cession by domestic insurers to the state-run reinsurer China Reinsurance (Group) Co.

Even so, China Re still dominates the market and accounts for more than three-quarters of the reinsurance premium written in China, which was \$2.7 billion in 2006, according to the "Annual Report of the China Insurance Market 2006" published by the China Insurance Regulatory Commission.

Eliminating the compulsory cession and the arrival of new entrants—including Munich Reinsurance Co., Swiss Reinsurance Co., General Reinsurance Co. and, most

**China has 'tremendous natural catastrophe exposure particularly with regard to megacities and megalopolises.'**

Ulrich Trumpp, Munich Reinsurance Co.

recently, SCOR S.E. and Lloyd's of London—led to a certain fragmentation in the market, said Kevin Bogardus, general representative for Benfield Group Ltd.'s Shanghai General Representative Office and general manager for greater China.

But even with the removal of the compulsory cession in 2006, China Re began to pick up voluntary cessions, said Mr. Bogardus.

"From the information we were seeing at the last renewal in January 2008, China Re's share is probably going up again," Mr. Bogardus said. "China Re has increased its capital and has a growing appetite to be seen as a market leader, particularly for proportional business."

The insurance market in China has been soft for some time.

Simon Lam, Swiss Re's Beijing-based director and head of property and casualty, China, said intense competition has resulted in significant insurance rate declines since 2000.

"The pressure is further exacerbated by the slow pace of development in the understanding and appreciation of the need for proper risk premium for natural catastrophe exposure," Mr. Lam said. "Despite vigorous efforts by some insurers/reinsurers and CIRC, rates are still believed to be some 50% below global average, particularly in the area of commercial/industrial risks. The regulator is aware of price inadequacy and has been working to improve risk rating in the market."

Despite that, the Jan. 1 reinsurance renewals "hint at continuous softening of rates in property per

risk and property catastrophe in the China market, with declines of around 10% to 20% observed. On the other hand, rates for property pro rata are tending to remain relatively stable. In loss-hit areas, casualty rates are stable or seeing up to 10% increases," Mr. Lam said.

Jose Ribeiro, London-based director, international markets and business development, for Lloyd's, said CIRC has encouraged insurance companies to price risk according to minimum rating level guidelines on major projects.

"However, the recent renewal of primary policies in the first month of 2008 has seen a further drop of around 10% on these levels and a further widening of coverage," Mr. Ribeiro said. However, recent snow and freezing-related claims in China could lead to a temporary hardening of rates, he said.

Ulrich Trumpp, Munich, Germany-based chief executive, Greater China and Southeast Asia at Munich Re, said prices are softening because companies have tried to increase their market share.

"The risk of cash flow underwriting across all lines of business is apparent and dangerous. (The) balance of the business in terms of premium liability is deteriorating to an extent that primary insurers are doomed to grow by all means—this is a typical market symptom of an emerging market," Mr. Trumpp said.

"There is tremendous natural catastrophe exposure particularly with regard to megacities and megalopolises. Demand for insurance is growing as economic development

proceeds, but the concept of insurance is still underdeveloped," Mr. Trumpp said.

Lawrence Liao, managing director and head of Hong Kong operations at Guy Carpenter & Co. L.L.C., said the market has shown signs of softening in various lines of business, including commercial insurance.

"Due to its huge potential, the China insurance industry attracts substantial new capital, which leads

See **CHINA** next page

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# China: Reinsurance market remains soft as competition increases

CONTINUED FROM PREVIOUS PAGE

to an increased supply and therefore stronger competition. However, the competition is somewhat offset by high economic growth and low insurance penetration," Mr. Liao said.

"I don't think China has ever experienced a hard market," Mr. Bogardus said. "First of all, the insurance market is not very old, but there is a continued and growing interest in the Chinese reinsurance market. As a result of the overcapacity, there has been a downward pressure on reinsurance pricing and on the original pricing. It is

hard to say which comes first: the original pricing forcing the buyers of reinsurance to demand cheaper reinsurance, or cheaper reinsurance allowing the buyers to compete. It is currently a very competitive market."

Although the prevailing market condition remains very competitive, CIRC has strengthened regulations and supervision of risk management, business conduct, operations and solvency margins, all of which have helped tighten market discipline, said Polly Ho, Hong Kong-based assistant general manager and in charge of mainland Chinese market business at China Inter-

**'I don't think China has ever experienced a hard market.'**

Kevin Bogardus, Benfield Group Ltd.

national Reinsurance Co. Ltd.

"Investment channels for insurance premiums and funds have also been further widened, and it enables insurance companies to enlarge their asset size as well as to strengthen capital adequacy and

solvency. Moreover, with a number of major People's Republic of China insurance market players having been listed in mainland (China) or Hong Kong stock markets, more emphasis will be put on return on equity and shareholder values," Ms. Ho, said.

In the large industrial and commercial insurance sector, the role of risk management is still in early stages of development, though it is applied in many foreign-invested enterprises, Mr. Lam said.

"Also on the bright side is the fact that major state-owned enterprises are getting more interested in the importance of risk management,

although the pace is not in full alignment with the speed at which their business is growing. Listed state-owned enterprises generally show more interest in this topic. There remains, though, the issue of risk management being practiced in silos, rather than on a holistic basis—which reflects the way risk management is currently understood in China," Mr. Lam said.

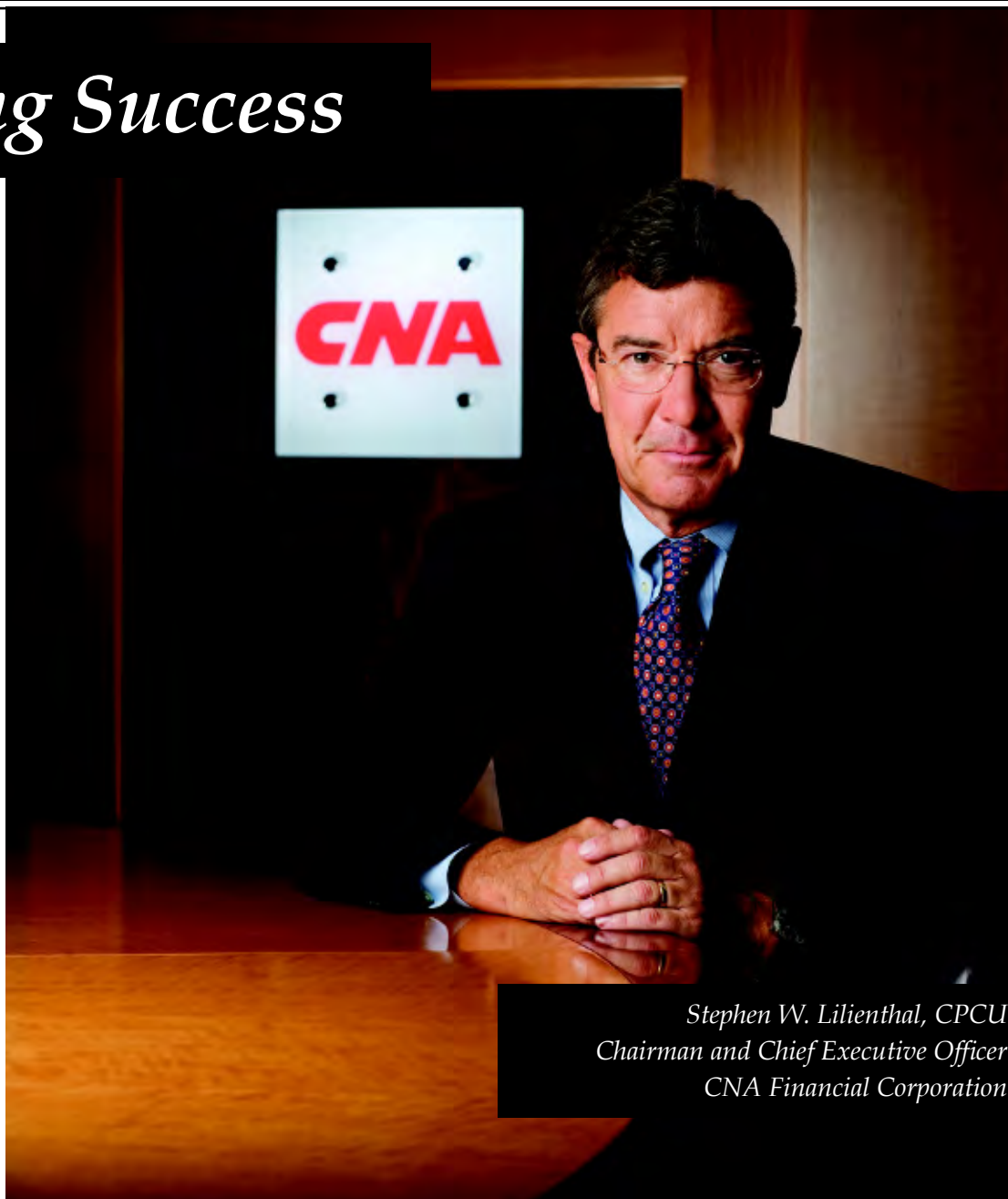
The role of chief risk officer remains a rarity in Chinese companies, he said.

"But this is not unexpected, as one of the major challenges is in the availability of expertise and a proper understanding of the role of risk management," he said. "The road from understanding to implementation is likely to be a relatively long one. A positive development in this respect is the increasing influence from the capital markets on major state-owned enterprises, especially those listed. We expect this will create additional momentum for the further development of a risk management culture."

While China is encouraging insurance development and pushing ahead with reforms to ensure a strong insurance market, it will take time, Ms. Ho said.

"As an emerging market, insurers and reinsurers engaged in the Chinese insurance market face the challenges of a changing market landscape, a lack of databases, and a yet-to-be proven business model, as well as difficulties in getting experienced, talented staff," she said.

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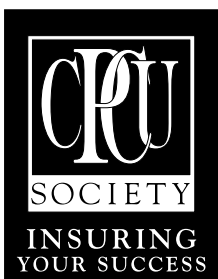
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## Questions & Answers



# There should be only one set of reinsurance standards

**Q: How does AIG view the approach proposed by New York and other jurisdictions for phased collateral requirements and principles-based regulation?**

AIG supports and applauds the efforts of New York, Florida and the National Assn. of Insurance Commissioners to move toward principles-based regulation of reinsurance. Much more should be done, and on a faster basis, on both sides of the Atlantic, though. We'd like an equivalent set of standards to be applied and we support elimination of "favored nation" or other status

in international regulation. We encourage dialogue among regulators worldwide, particularly in both the United States and the European Union.

**Q: What standards should European and U.S. regulators apply to reinsurance entities?**

We'd like to see a standard set of solvency measurement tools and solvency benchmarks that all sovereign bodies can agree to implement. Much work on solvency measurement has been done by regulatory groups, rating agencies and

The complete Q&A with AIG's Charles Dangelo at [www.BusinessInsurance.com](http://www.BusinessInsurance.com)

other bodies over the last few years, and the global insurance and reinsurance business has changed. But there's never been a better time to sit down and agree on a common framework of tools.

We'd encourage mutual recognition of qualifying bodies, where various regulatory bodies would mutually recognize the work of other

jurisdictions. These would be a good core set of principles.

We appreciate that there have been differences. Now more than ever, reinsurance and insurance are truly global businesses, with truly global customers.

Ultimately, in the long run, we don't think anybody has anything to gain by having barriers and regulatory differences that stand in the way of free trade. We certainly acknowledge that insurance and reinsurance are businesses that people want to have regulated, but a common set of standards should be applied to all.

*Differences over collateral requirements for reinsurers have fueled debate between companies and regulators in the United States and Europe. Is this a healthy situation for the global business of reinsurance? American International Group Inc., the world's biggest insurance organization as well as the largest buyer of reinsurance, weighed in recently on that issue. Charles Dangelo, vp and senior reinsurance officer at New York-based AIG, told Business Insurance that a level playing field is in everyone's interest.*

**Q: What is AIG's position on the debate over collateral requirements for foreign reinsurers?**

It's AIG's position that the reinsurance collateral issue should be considered in the context of worldwide oversight standards, not as a stand-alone issue. We support free markets and we're supporters of efforts to create a level playing field. From a reinsurance perspective, if collateral should be required, it should be determined by principles-based assessments, such as reinsurers' financial position, credit quality and diversity of their portfolios, not necessarily where they're licensed or located. This is consistent with the way AIG itself assesses our reinsurers.

**Q: How does AIG evaluate reinsurers with which it does business?**

AIG has a dedicated reinsurance credit department that reports to me and to our chief credit officer. We do detailed evaluations of every reinsurer. We look at their financial condition, operating results, risk characteristics, diversity, management and claims-paying history. Based on those criteria, we determine how much business and what types of business we want to do and whether collateral is required. Of course, in some jurisdictions we are required to seek collateral from reinsurers.

**Q: In the absence of regulatory requirements, does AIG require its reinsurers to post collateral?**

Based on the financial capabilities of a reinsurer, we can accept a certain amount of risk. But if a reinsurer wants to write a line of business or duration beyond what we've assessed, we'll require collateral. How much collateral depends on these factors and our own assessment.



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**START DATE:** Jan. 1

**BEFORE THE PROMOTION:** Senior vp for life, health and corporate benefits division of Wright & Percy.

**REASON FOR THE CHANGE:** I was looking for more challenges.

**VITAL STATISTICS:** I received a B.S. from Louisiana State University in 1976. I've worked for Wright & Percy for 14 years developing and managing the employee benefits division. Before that, I was at Bynum, Grace & Joffrion, now Brown & Brown, where I managed employee benefits. And before that, I was an independent agent.

**GOALS FOR NEW POSITION:** I want to create a new sales



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**FIRST TIME IN THE JOB MARKET:** My first job was mowing grass.

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**OUTSIDE THE INDUSTRY, A DREAM JOB:** I'd like to be a fishing guide.

## Comings & Goings

### BROKERS:

Lockton Cos. L.L.C. has named **Mark Harris** senior vp and producer in its Chicago operation. Previously, he was a senior vp for Marsh Inc.'s national producer group.

Also at Lockton, **Nancy Faville** has been named senior vp of the employee benefits practice in San Francisco. Most recently, she was senior vp for Aon Consulting.

San Francisco-based **Woodruff-Sawyer & Co.** has promoted **Charlie Rosson** to chief executive officer. Previously, he was a senior vp and employee benefits practice leader.

IMA Financial Group Inc. has named **Bob Reiter** president of IMA Inc. Before his promotion, he was president of IMA of Colorado Inc. and will continue to serve in that capacity on an interim basis. He will be based in Denver.

Richmond, Va.-based **Hilb Rogal & Hobbs Co.** has named **Robert L. Snyder** as senior vp and central region health care practice leader. Previously, he was director of risk consulting in the health care division of Myron F.



Mr. Snyder

Steves & Co.

Willis Group Holdings Ltd. has named **Rob Perry** executive director of its Willis Asia political risk and trade credit division in Singapore. Before his promotion, he was a team leader in the political risk practice in London.

### INSURERS:

Lexington Insurance Co. has appointed **Steve England** president of Landmark Insurance Co. in Atlanta. Previously, he was a regional vp.

New York-based **American International Group Inc.** has elected five executives to new corporate officer positions.

● **Mark T. Willis** has been named senior vp, Domestic General Insurance. He previously was a vp, Domestic General Insurance, and will continue as executive vp of AIG's domestic brokerage group.

● **Alexander R. Baugh** was named vp, Foreign General Insurance. He will continue in his current role as managing director of AIG UK Ltd. and regional president of Foreign General's UK/Ireland division.

● **Richard H. Booth** has been elected vp in addition to his current roles as chairman of HSB Group Inc., and the senior executive in charge of the Deliver the Firm initiative, AIG's strategy to enhance the delivery of products and services to



Mr. England

Continued on next page

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customers.

● **Robert S. Schimek** has been elected vp, Domestic General Insurance. He also continues to serve as senior vp and chief financial officer of the domestic brokerage group.

● **Teri L. Watson** has been elected vp, rating agency relations. She was previously managing director, ratings agencies.



Ms. Doyle

Wausau, Wis.-based Wausau Insurance Cos. has promoted two executives. **Susan Doyle** has been appointed president and chief operating officer. Before her promotion, she was executive vp for field operations.

**Michael Parker** was appointed executive vp-field operations. Before his promotion, he was senior vp and division manager-central division.



Mr. Parker

**Bob Erb** has joined Liberty International Underwriters in New York as executive general adjuster, energy and construction claims. Before joining LIU, he was an independent adjuster with Vericclaim Inc.

**REINSURANCE:**

Guy Carpenter & Co. L.L.C. has named **Nick Frankland, Andrew Marcell** and **Ryan Ogaard** to the New York-based company's executive committee. Mr. Frankland is CEO of European operations and is responsible for brokerage operations in continental Europe and the United Kingdom. Mr. Marcell is the global head of business development. Mr. Ogaard is global leader of Guy Carpenter's Instrat unit.



Mr. Frankland



Mr. Marcell

Benfield Group Ltd. has named **Michael D. Schnur** executive vp and co-head of Benfield Inc.'s client development group. Most recently, he was an executive vp at Guy Carpenter.



Mr. Ogaard

**MANAGED CARE:**

Indianapolis-based WellPoint Inc. has named **Brian A. Sassi** president and CEO of the company's consumer business unit. He formerly was president of Blue Cross of California and replaces Joan Herman, who retired. Mr. Sassi will be based in Thousand Oaks, Calif.

Replacing him as president of



Mr. Sassi

Blue Cross of California in Woodland Hills is **Leslie Margolin**, who also will be general manager. Formerly, she was senior vp for health plan and hospital operations for Kaiser Permanente.

**OTHER PROVIDERS:**

Aon Consulting Worldwide has named **Jill George** senior vp in the talent solutions division of the Human Capital practice in New York. Before joining Aon Consulting, she was an independent consultant.

In a move to broaden its insurance practice, Saul Ewing L.L.P. has added **M. Paige Berry** as a partner in its Princeton, N.J., office. Previously, she was a partner with Reed Smith L.L.P.

Philadelphia-based FutureScripts L.L.C. has promoted **Paul N. Urick** to senior vp. Previously, he was vp of pharmacy



Mr. Urick

for Zurich North America.

Dublin, Ohio-based Frank Gates Cos./Attenta has named **Michael R. Elia** CFO. Previously, he was senior vp and CFO at FastenTech Inc.

Towers Perrin has named **Guy Hengesbaugh** managing principal of its Bermuda reinsurance operation. Previously, he was president and CEO of Forterra Guarantee Ltd.

services.

Jansen & Hastings, a managing general agency, has appointed **Bob Brian** senior vp in the San Francisco office. Most recently, he was regional underwriting manager

**ASSOCIATIONS:**

**Ellen D. Melchionni** has been named president of the Albany, N.Y.-based New York Insurance Assn. Inc., succeeding Bernard N. Bourdeau. Previously, she was vp. NYIA is a trade association of more than 70 auto, home and business insurers in New York.



Ms. Christian

**Chris Christian**, vp and senior broker of U.S. Risk Insurance Group Inc. in Nashville, Tenn., has been elected to the board of trustees of the Minneapolis-based Professional Liability Underwriting Society.

Kevin Kelso,

executive vp of Farmers Group Inc., has been named vice chairman of the board for the Tampa, Fla.-based Institute for Business & Home Safety, the property loss reduction trade association of the property/casualty insurance industry.

**TO SUBMIT ITEMS**

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



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This month's column on actuarial questions in the benefits field is written by William J. Miner, an actuary with Watson Wyatt Worldwide in Chicago.

## Business Insurance PERSPECTIVE

### Ask a Benefit Actuary

# Client relations set actuaries apart

By William J. Miner

**Q: Are pension actuarial services a commodity?**

This question comes from the chief

financial officer of a large U.S.-based corporation. The corporation has grown through acquisition and has multiple pension actuaries. The CFO is considering consolidating services with a single actuary.

The CFO believes that pension actuarial services are a commodity—that is, there is little differentiation in the services that his organization receives from various current actuaries.

He believes there is no difference in the numbers he receives from one actuary to the next. Each actuary provides the same funding limitations, annual expense, annual financial statement disclosure information, government filings in approximately the same time frames and at roughly the same cost. Consequently, he believes the work should be awarded to the lowest-cost service provider.

The premise that all pension actuarial services are the same does not stand up to careful scrutiny, particularly when the impact of recent changes in pension law and accounting are considered. While the reports and government forms prepared by each actuary are the same, the content of the advice given by the actuary before preparing the reports often is dramatically different.

An actuary differentiates himself through the relationship he has with the client. From the relationship, the actuary learns and knows what is important to the client organization. And this knowledge forms the basis for advice the actuary gives.

A simple example helps illustrate this concept. For some organizations, it is imperative that they avoid sending a notice to plan participants that discloses the pension plan is underfunded. This is required if a pension plan falls below certain funding thresholds. These organizations typically do not want to deal with the employee relations issues that an underfunding disclosure to participants would create. This priority typically requires company contributions in excess of the minimum required by law.

But some of the same organizations do not want to contribute more to the pension plan than is absolutely necessary; organizations with highly leveraged balance sheets often have this as a priority. An actuary who knows his client's priorities will provide advice consistent with these competing priorities.

Through projections of a plan's funded status, the actuary will forecast the impact of today's funding decisions on underfunding notices and funding requirements over the next few years. An actuary who does not know the client is not capable of providing the same advice.

So what priorities are important to a plan sponsor? Beyond minimizing cash contributions and avoiding

notices to participants, the priorities for most plan sponsors include:

- Maximizing tax-deductible contributions;
- Minimizing pension expense recorded on the income statement;
- Minimizing Pension Benefit Guaranty Corp. variable rate premiums;
- Avoiding a notice to the PBGC that pension plans are underfunded;
- Meeting loan covenants regarding the level of pension funding;
- And avoiding accumulated other comprehensive income.

The methods and techniques to forecast the impact of today's decisions on these priorities are well-known among actuaries. Many current actuaries can, with knowledge of their client, forecast circumstances resulting from today's actions that will negatively impact a client's priorities in the future.

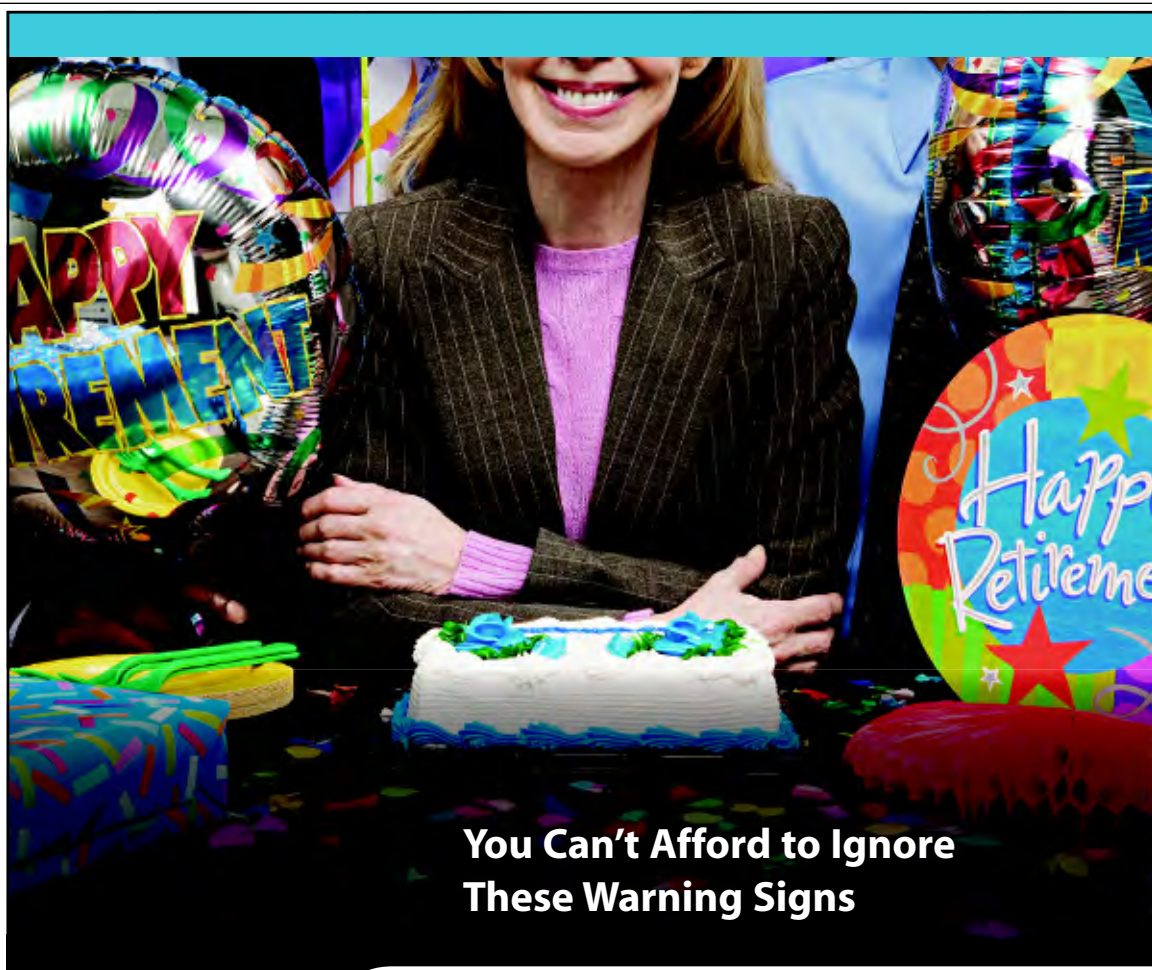
But the world of pension financial management is changing dramatically. The changes implemented by the Pension Protection Act and Statement of Financial Accounting Standard No. 158 have changed the rules for pension financial management as dramatically as the Employee Retirement Income Security Act changed them in 1976.

What do these changes mean to the purchasers of pension actuarial services? First, the priorities of many purchasers of actuarial services will be changing. In addition to the priorities noted above, some plan sponsors also will have the following priorities:

- Continuing ability to pay lump-sum benefits. For plan sponsors that pay lump sums, plan funding must meet certain thresholds under the PPA in order for a plan to pay the full value of a pension as a lump sum (other than small amounts). If plan funding falls below these thresholds, the ability to pay lump sums is restricted or eliminated.
- Avoiding "at-risk" status. Under the PPA, a plan is deemed at risk if it falls below certain funding thresholds. This subjects the plan sponsor to more rapid funding requirements, and to potential employee relations issues from sponsoring a pension plan tagged as "at-risk."

Second, the triggers for adverse outcomes relative to its priorities became more complex under the PPA. For example, a plan sponsor for its 2007 plan year needs to provide notice to the PBGC if all plans in the controlled group are at more than \$50 million underfunded. Under PPA, a notice is required if any plan is less than 80% funded.

CONTINUED ON NEXT PAGE



## You Can't Afford to Ignore These Warning Signs

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## Business Insurance PERSPECTIVE



Samuel H. Fleet is president and chief executive officer of AmWINS Group Benefits of Warwick, R.I., which specializes in benefit design and administration.

# Follow the money to choose best plan

*Claims data shows best ways to design health care coverage*

By Samuel H. Fleet

As many businesses try to balance the escalating cost of health insurance and their desire to provide a benefit package that helps them attract and retain top employees, employers need to weigh their medical plan options carefully. Employers need to consider the choices that will help their employees the most, without busting their budgets.

To find a solution, follow the money.

First, look at the actual medical claim experience of U.S. companies. Our statistics show that 8% of covered members will have no claims at all in a year, 61% will have claims of less than \$1,000 and 85% will have claims of less than \$5,000. In fact, 97% percent of the typical workforce will never exceed \$25,000 in claims a year.

Then, compare the choices that have emerged as alternatives with traditional plans. Would employees

be better off with a consumer-driven health plan, a minimedical plan or a limited medical plan?

**Consumer-driven plans:** Under these plans, consumers are responsible for their medical costs up to some preset amount, at which

point umbrella coverage kicks in to take care of catastrophic care. The theory is that this encourages consumers to shop carefully and make medical care choices that will lead to lower costs. But in practice, a low-wage earner is on the hook for

a very large expense—often \$5,000—at the same time he is paying his share of premium costs for coverage he is unlikely to ever use. The money trail here provides cer-

See **DESIGN** next page

CONTINUED FROM PREVIOUS PAGE

For this purpose, the plan assets are reduced by the credit balance (the amount by which past contributions have exceeded the minimum funding requirements).

The reduction of assets by the credit balance will place in opposition the priorities for minimizing funding requirements and avoiding a notice to the PBGC.

Similarly, other PPA changes will place in opposition the priority for minimizing funding requirements with continuity of benefit payments and avoiding an at-risk status.

The bottom line for plan sponsors is that the changes in the law and the complexity of the new provisions will make it more likely that two actuaries will give a plan sponsor different advice on how to balance the sponsor's competing priorities over the next several years. Sponsors with complex situations will need the best actuarial advice they can find.

In this context, pension actuarial services should not be viewed as a commodity.

Plan sponsors will require an actuary who understands their priorities, backed by the resources of a firm that provides the tools and training to enable the actuary to understand the new law and perform the calculations to offer advice best suited for the plan sponsor's situation.

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# Design: Look to past health claims to inform choice of future coverage

CONTINUED FROM PREVIOUS PAGE

tainty for the consumer, but the certainty is that there will be high upfront costs.

**Minimedical (fixed indemnity) plans:** These plans—the fad of the moment for those looking for a fast solution—promise simplicity but often deliver disappointment. They provide a flat dollar amount toward medical services. For example, outpatient services may be covered at \$250; hospital admission, at \$500 a day, etc. But since charges in the medical world typically far exceed these amounts, the employee finds an unpleasant surprise whenever seeking medical care. The

only certainty offered by this approach is that a set dollar amount will be paid, but the employee bears the brunt of whatever is left on the bill.

**Limited medical (expense incurred) plans:** These offer the coverage that is most similar to what employees are used to: features such as deductibles and copays, with out-of-pocket costs set at a percentage of charges (such as 10% or 20%). The difference is that the annual benefit is capped at an amount that holds down the cost of insurance for both the employer and the employee, such as \$10,000 or \$50,000. Remember the statistics we started with: 97% of employees

will never need more than \$25,000 in coverage in a year. The end result of choosing limited medical as an option: For smaller premiums, companies can provide coverage that—for 97% of employees—will look and feel just like the best insurance coverage offered in traditional plans.

Limited medical plans stand out as the best deal for both employers and employees. Of course, nothing in the medical insurance world is ever as simple as the comparison above. Limited medical plans come in a variety of “flavors,” including fixed indemnity, expense incurred and so on. But once the details are settled, busi-

nesses looking for the best coverage for their employees should keep their focus on several aspects to select a provider.

The most important criteria to examine are ease of use and employee education. In companies with low-wage workers, many employees may have had little health insurance experience before, and others may be used to a different level of benefits. In both cases, it is important to make sure employees understand what is covered and what is not.

Companies also should be sure that their insurance provider has an experienced customer service organization, including an effective

enrollment operation. Keeping both businesses and employees happy requires a third-party administration operation that has a proven track record of success.

In today's competitive world, following the money is a necessity for every company. Where can costs be cut? Where will investments pay off? Health benefits are the type of investment that makes a difference in attracting and retaining employees who make a business successful. But to make the right health care choices, companies need to look beneath the surface at the real dollar impact of different types of plans, avoid fads and make smart decisions.

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Phone: 404/233.1370; Fax: 404/261.1371; email: [BeneSys\\_Pres@wittkieffer.com](mailto:BeneSys_Pres@wittkieffer.com). Email communication is preferred.

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK  
IN RE PETITION OF DAN YORAM SCHWARZMANN,  
AS ADMINISTRATOR OF  
**FOLKSAM INTERNATIONAL INSURANCE  
COMPANY (UK) LIMITED.**  
DEBTOR IN A FOREIGN PROCEEDING  
CASE NO. 02-14070 (PCB)

**NOTICE IS HEREBY GIVEN** THAT ON MARCH 6, 2008, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. §304 ORIGINALLY ENTERED IN THIS CASE ON SEPTEMBER 9, 2002. THE ORDER SHALL REMAIN IN EFFECT PENDING A HEARING SCHEDULED TO BE HELD ON SEPTEMBER 16, 2008 AT 11:00 A.M. (THE "RETURN DATE") BEFORE THE HONORABLE PRUDENCE CARTER BEATTY, UNITED STATES BANKRUPTCY JUDGE, IN THE UNITED STATES BANKRUPTCY COURT LOCATED AT ONE BOWLING GREEN, NEW YORK, NEW YORK. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING THE CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE PRUDENCE CARTER BEATTY AND SERVED ON COUNSEL FOR THE PETITIONER LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE PETITIONER.

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK  
IN RE PETITION OF ROLF ÅBJÖRNSSON,  
AS OFFICIAL RECEIVER OF  
**ÅTERFORSÄKRING AB LUAP.**  
DEBTOR IN A FOREIGN PROCEEDING  
CASE NO. 03-10945 (PCB)

**NOTICE IS HEREBY GIVEN** THAT ON MARCH 6, 2008, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. §304 ORIGINALLY ENTERED IN THIS CASE ON FEBRUARY 19, 2003. THE ORDER SHALL REMAIN IN EFFECT PENDING A HEARING SCHEDULED TO BE HELD ON SEPTEMBER 16, 2008 AT 11:00 A.M. (THE "RETURN DATE") BEFORE THE HONORABLE PRUDENCE CARTER BEATTY, UNITED STATES BANKRUPTCY JUDGE, IN THE UNITED STATES BANKRUPTCY COURT LOCATED AT ONE BOWLING GREEN, NEW YORK, NEW YORK. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING THE CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE PRUDENCE CARTER BEATTY AND SERVED ON COUNSEL FOR THE OFFICIAL RECEIVER LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE OFFICIAL RECEIVER.

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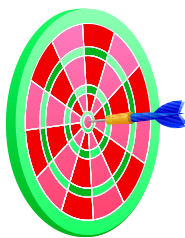
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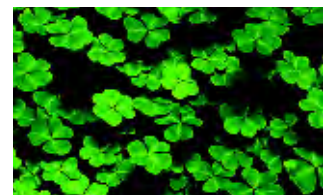
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# International NEWS

## U.K. employer liable over worker's suicide

By SARAH VEYSEY

**LONDON**—The House of Lords, the United Kingdom's highest court, has ruled that the widow of a man who committed suicide six years after a workplace accident should be compensated by her husband's former employer.

In a landmark ruling, the Law Lords said that Luton, England-based IBC Vehicles Ltd. owed a duty of care to Thomas Corr, who suffered a serious head injury while employed by the company and killed himself six years later.

Mr. Corr was hit on the head by a metal panel as a result of defective machinery while working for IBC in 1996. He later underwent reconstructive surgery, remained disfigured, suffered unsteadiness and severe headaches, and had difficulty sleeping, according to the case.

Mr. Corr experienced flashbacks to his accident and suffered from

nightmares. He also began drinking more alcohol and became bad-tempered, the court was told. He committed suicide in 2002.

In 2005, Mr. Corr's widow sued his former employer in the high court for the pain, suffering and loss caused by the workplace accident and subsequent suicide.

IBC Vehicles admitted liability for the accident but denied liability for Mr. Corr's suicide.

The court found that IBC could not be held accountable for Mr. Corr's suicide and awarded his widow damages only for the accident. That decision subsequently was overturned by the Court of Appeal.

IBC then appealed to the House of Lords, which last month upheld the appeal court decision to award damages related to the suicide.

*Corr vs. IBC Vehicles Ltd, 2006.; 2008 UKHL 13*

## Marine liability insurer targets stowaway risk

By MICHAEL BRADFORD

The soaring cost of stowaways to more than \$20 million per year marketwide is prompting the U.K. Protection & Indemnity Club and Japanese ship operator Nippon Yusen Kabushiki Kaisha to look for ways to reduce the number of illegal passengers.

Representatives from the London-based insurer and members of NYK senior management met recently to discuss the growing stowaway problem and discuss how best to control it. NYK said it wants to raise awareness of the problem among its shore-based

workers and terminal operators in China and implement preventive measures.

The U.K. club said in a statement that the mutual insurer last year paid claims amounting to more than \$2 million in 120 stowaway cases.

Over the period 1998 through 2007, stowaways in South Africa produced the highest number of U.K. club stowaway claims, with 190. Those cases cost the insurer \$1.68 million. There were 128 cases from the United States and Canada over that period, costing more than \$2 million, according to the insurer.

## Satellite insurance rates to rise after large losses hit market

*Insurers say claims outstripped premiums for most recent year*

By STACY SHAPIRO

Satellite launch insurance rates are climbing this year following the \$256 million loss of a satellite for which the effective life expectancy has dropped to two years from 15 years following a launch in December.

The potential for a partial loss of another satellite insured for \$107.4 million also has increased the resolve of underwriters to raise launch rates by 10% to 20% this year.

Brokers and underwriters say satellite launch insurance rates, which include coverage for launch plus one year in orbit, will increase to 13% to 14% of insured value this year from an average of 10% to 11% last year.

Whether the rate rise is a blip or a trend is yet to be seen, say space insurance brokers and underwriters. The space insurance market is quiet at the moment as many insurance programs are already in place for this year's satellite launches and others are waiting to see what kind of premium rates will be offered, they say.

"There has been a gradual softening of satellite launch insurance rates for the past three or four years with some brief periods of hardening after various losses," said one London space broker. "There is talk of hardening rates and firming rates, and I think it is a bit of firming of rates with some fine-tuning. But if there is another loss, then rates will definitely harden for a while."

"It is very quiet at the moment," said one European space insurance underwriter. "I think that nobody wants to be the first into the market following the last loss....But they are gambling because if there is another loss now, then waiting was the wrong decision. If there is no other loss, then perhaps waiting is the right one."

"Rates have already gone up," added another underwriter. "There hasn't been anything bound yet,



REUTERS

Satellite launch insurance rates rose 10% to 12% this year, with another increase expected next year. Experts say another loss could put the industry over the edge.

but that is what underwriters are quoting and what they want."

The space insurance market turned frosty following the December launch of the RASCOM-QAF1 pan-African communications satellite operated by Regional African Satellite Communication Organization and built by European space systems manufacturer Thales Alenia Space in Cannes, France, a unit of Paris-based Thales Group. The satellite, which was insured under coverage arranged by Thales Alenia Space as part of a turnkey contract with the operator, was to provide telecommunications services over Africa for 15 years.

Following a successful launch, however, the satellite became marooned in geosynchronous transfer orbit because of a helium leak in its fuel tank pressurization system. After four weeks, Thales Alenia was able to lift the satellite to its proper geostationary orbit, but the extra fuel used and the leak meant that the satellite will last only two years, the company said.

### Total loss

Underwriters confirm that the RASCOM-QAF1, insured for \$256 million for a launch plus one year in orbit through broker Willis Inspace—a unit of London-based Willis Group Holdings Ltd.—has been declared a "constructive total loss" as a result of the satellite's

shortened lifetime.

The loss takes the satellite launch insurance market into the red for 2007, said the European underwriter, "and I think this will have an effect on insurance rates."

Space analysts at Ascend Worldwide Ltd. in London calculate that for year-end 2007, satellite launch insurance losses totaled \$754 million while gross premiums totaled only \$654 million. Losses include the \$180 million JCSAT-11 satellite that failed last September following a launch on a Proton Breeze M rocket; and the Jan. 30, 2007, explosion of a Sea Launch rocket carrying the \$200 million SES New Skies NSS-8 satellite that was built, owned and insured by Chicago-based Boeing Co.

Another potential loss that could push the space insurance market over the edge is the Express-AM22 telecommunications satellite operated by the Russian Satellite Communications Co. Designed to cover the Middle East, the satellite's primary and backup stabilizing gyroscopes have failed. The satellite is insured in the Russian insurance market for \$107.4 million, but \$95 million is reinsured in the global space insurance market, underwriters confirmed. The coverage was placed by broker Willis Inspace. Underwriters have been notified of the problem, but no claim has been submitted as of yet, they say.

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## Liability: Health insurers face more regulatory risks

CONTINUED FROM PAGE 3

handled by private litigation.

"I think there are definitely similarities between (litigation and regulatory risks) and they do tend to play off one another," said David Olson, vp, investor relations, for Woodland Hills, Calif.-based Health Net, which reported in its 10-K that it would vigorously defend itself in unresolved rescission cases.

Health insurers' risk profile also is evolving due to other issues in the market, including the consumer-driven health care movement, growth in the Medicare sector and data security breaches (see related story).

Despite the growing regulatory risk, the insurance market for managed care companies is generally favorable given more capacity from new insurers.

"Pricing is definitely under pressure because there is a record amount of competition in the space at the moment," said Susan Angelo, vp and managed care product line manager for AIG Healthcare, a unit of Lexington Insurance Co., in Boston.

Humana Inc. funds its general and professional liability risks through a Vermont-domiciled captive, but buys excess coverage in the commercial markets, said Carolyn Snow, director, insurance and risk management for the Louisville, Ky.-based insurer. "There is some more capacity in the market and some rate improvements in the excess layers," she said.

### Retaining risk

Health insurers still retain a substantial portion of their risk through high retentions or deductibles, a trend that started more than five years ago when the market was hard and there were a limited number of players.

"They have the financial strength, particularly the large publicly traded ones, to retain a large amount of risk and they do," said Tristan Gabriel, the Chicago-based vp of the managed care division of ACE Medical Risks, a unit of

ACE USA.

While Health Net is comfortable with various forms of insurance that are available, new players entering the professional liability market have had a "minor" effect at best, Mr. Olson said.

In its 10-K filing, Health Net said its errors and omissions liability insurance deductible was set at a level that results in it essentially self-insuring the risk. The only E&O coverage it would receive is for E&O claims that substantially exceed its average claim values and otherwise qualify for insurance.

In a separate filing, Health Net said a \$9.4 million arbitration award reached last month in a rescission case would be paid with cash on hand.

### Policy exclusions

An unresolved issue is whether insurance policies will respond to regulatory claims. The risk traditionally has been excluded from professional liability policies, but insurers in the past 12 to 18 months have been willing to negotiate the exclusions out of E&O policies, providing more coverage for regulatory claims, Mr. Castro said.

"Competition is not only driving rate decline, but it is driving terms and conditions," he said.

It is too early to tell how the government investigations will affect claims because of the time lag between the practices and government actions, alleged criminal nature of the actions, and the uninsurability of fines and penalties, Mr. Gabriel said.

Insurers focusing on managed care risks said they have seen an improved focus on enterprise risk management and the development of sophisticated audit and regulatory compliance programs.

"I would say that (health care) organizations, particularly midsize and large organizations, have gotten much more sophisticated in their risk management approach," Ms. Johansson said. "What happens now is that since retentions have gone up so significantly, they have a lot of skin in the game."

## Industry trends change health insurer risks

The risk profile of health insurers is evolving to include new exposures created by trends in the health care industry, insurance experts say.

The consumer-driven health care movement, for example, is designed to spur increased engagement and efficient decision-making by consumers, but it also could create risk for health insurers if consumers do not understand how the plans operate, insurers say.

The shift from health maintenance organization plans to CDHPs, though, should make traditional managed care companies more attractive to the insurance markets because managed care companies no longer are directing care, said Carolyn Snow, director, insurance and risk management for Louisville, Ky.-based Humana Inc. "I think it makes us a more

desirable risk."

The 2004 expansion of the Medicare program created a tremendous growth opportunity for health insurers but also produced a substantial exposure, particularly with regard to the marketing of Medicare Advantage products, which government officials have taken steps to restrain.

### Provider coverage

"We've begun to see claims activity in this area, but there's more visibility about it," said Alice Johansson, managing director of the health care division of OneBeacon Professional Partners, an Avon, Conn.-based specialty insurer that covers health care providers. "Our insureds are worried more about it and we as underwriters are worried more about it."

Health insurers also are buying

network risk and privacy liability coverage in response to the growing risk of data breaches, insurance experts say.

"I think a lot of organizations are working hard to be on top of that, but it's certainly an area we're watching as electronic health records become more popular and more information is exchanged electronically," Ms. Johansson said.

Consolidation in the industry, meanwhile, could potentially affect the risk profile of the health insurers, due primarily to the integration of merging companies and their claims systems, said Tristan Gabriel, Chicago-based vp of the managed care division of ACE Medical Risk, a unit of ACE USA. "As they get big, what you're worried about is are they too big," Mr. Gabriel said.

—By Gloria Gonzalez

## Guidelines: Emphasize business alignment

CONTINUED FROM PAGE 4

tives remain aligned with their parent companies' goals.

Among other points in this area, the guidelines suggest ongoing education for captive board members and risk managers.

In the area of corporate governance, the guidelines promote "fairness, accountability, transparency and discipline."

CICA industry group member Skip Nelson of Houston-based Shell Oil Co. emphasized, among other points, that captives should evaluate potential conflicts of interest posed by board members.

"That doesn't mean you have to do anything about it. It depends on the materiality" of the conflict, Mr. Nelson said.

An example is a board member who also serves on the boards of other captive owners, he said.

"Would he further the interest of other captives over ours? I don't think so," Mr. Nelson said.

"It's disclosure that's important, and then you weigh the consequences."

Mr. Nelson also emphasized the importance of a records retention policy that would provide the captive proof of its fronting and reinsurance policies and other documents, including e-mail, that would be useful during litigation.

He noted that Shell captive employees have a laminated card that guides them on which documents to retain.

A strong records retention policy, which should include a system for easily finding where specific records are stored, "can really be an important tool," Mr. Nelson said.

Regulatory compliance best practices go beyond captives meeting regulators' solvency and financial strength requirements and include regulators' expectations of captive managers.

All regulators felt that captive managers' first responsibility was to be regulators' on-the-ground

resources, Spring's Ms. Landry said.

To that end, the South Carolina Insurance Department is preparing a bulletin that will outline its expectations of captive managers, said Jeffery K. Kehler, program manager, alternative risk transfer services for the department in Columbus, S.C.

"We don't ever do that" in state statutes and regulations, Mr. Kehler said.

In their feedback on drafts of the bulletin, a major concern for captive managers was stability, Mr. Kehler said. They did not want the rules established in the bulletin open to a different interpretation under a new insurance commissioner. So they have urged the department "to make sure you get the wording right" at this point, he said.

The best practices booklet is available for free to CICA members and for \$25 to others. It can be ordered through the organization's Web site: [www.cicaworld.com](http://www.cicaworld.com).

## Punitive: Damages award stands despite high court's request for review

CONTINUED FROM PAGE 3

forfeited its right to raise this issue for a number of reasons, including that it should have raised the issue earlier.

Ford attorney Theodore J. Boutros Jr., of Gibson, Dunn & Crutcher L.L.P. in Los Angeles, said, "We think the court made multiple errors" in its decision and that the case raises important issues concerning punitive damages jurisprudence, product liability law and due process. Ford plans to appeal the case to the California Supreme Court.

"I think the court may not have adequately considered the deterrent

effect of the large compensatory award in this case and the considerations raised in our brief about the effects of allowing huge punitive damages awards of this kind spread across the country in the cumulative," said Donald M. Falk, an attorney with Mayer Brown L.L.P. in Palo Alto, Calif., who filed an amicus brief in the case supporting Ford on behalf of the Product Liability Advisory Council.

The \$18 million compensatory award in the case has an "enormous deterrent effect itself," Mr. Falk said, noting this is an issue the U.S. Supreme Court may take up in the Exxon Valdez case.

However, Ms. Buell-Wilson's

attorney, Jerome B. Falk Jr., of Howard, Rice, Nemerovski, Canady, Falk & Rabkin in San Francisco, said, "I was pleased they did such an excellent job. It's a very scholarly and very meticulous opinion."

### Second situation

Victor Schwartz, general counsel for the American Tort Reform Assn. in Washington, noted that the Oregon Supreme Court in January also reinstated the punitive damages award against Phillip Morris in the Williams case.

"So here you have a second situation where the Supreme Court has remanded a decision to a lower court, certainly suggesting that the

verdict should be reduced...(and) the California court found some ways to reaffirm what it did already," said Mr. Schwartz.

However, Robert S. Peck, of the Washington-based Center for Constitutional Litigation, who represented Ms. Williams in the Phillip Morris litigation, said the court's order to return the case to the state court "is not an indication that there's anything wrong with the decision.

"It's simply a mandate to the last court to review the decision to look at this intervening decision and see whether or not there's any reason for the court to revisit what it had previously ruled," Mr. Peck said.

"The Supreme Court has signaled a direction it is moving on punitive damages but it has not articulated clear rules for the trial courts and the trial lawyer to follow" and this case demonstrates that problem, said Linda L. Listrom, an attorney with Jenner & Block L.L.P. in Chicago, who is not involved in the case.

*Benetta Buell-Wilson, et al., plaintiffs and respondents, vs. Ford Motor Co. et al., defendants and appellants, opinion on remand from the U.S. Supreme Court, Court of Appeal, Fourth Appellate District, Division One, State of California, D045154, D045579*

# Reinsurer offers captive owners tips on cutting coverage costs

By **DAVE LENCKUS**

**SCOTTSDALE, Ariz.**—Captive insurers do not have full control over their reinsurance costs, but they can take several measures to manage them, according to a reinsurance executive.

"There are no magical solutions for managing reinsurance costs," said Michael Petrocik, chief actuarial officer-specialty markets at Munich Reinsurance America Inc. in Princeton, N.J.

In addition, many cost drivers are beyond captive insurers' control, Mr. Petrocik said during a session at the 2008 Captive Insurance Cos. Assn. International Conference, held in Scottsdale, Ariz., March 5-7.

But, other costs are not, he said, asserting that the true cost of reinsurance is not the premium but the difference between the premium and the cost of retaining the losses.

When considering costs that way, captive owners should examine whatever causes inordinate reinsurance costs, he said.

For example, in a group captive, some members' operations may differ considerably from the operations of the main body of members and drive up the captive's reinsurance costs, Mr. Petrocik. Captive owners should evaluate whether they could reduce their reinsurance costs by covering those unusual risks separately or moving them to a separate captive, he said.

Similarly, he said, the owner of a pure captive could evaluate whether it could outsource a function that drives up its captive's reinsurance costs.

Mr. Petrocik said he was not suggesting that captive owners change their operations based solely on

their captive insurers' reinsurance costs. "But don't be blind to these issues," he said.

For the remaining risks that captive owners retain and finance through their facilities, reinsurers' loss control departments can assess and recommend measures designed to reduce losses and related litigation costs, Mr. Petrocik said.

In preparing a policy application, producing high quality data "absolutely results in fairer reinsurance costs," he said.

"Good data gets you past" a lot of the estimates that reinsurers otherwise would have to develop to cal-

culate a rate, he said.

For example, closed and open claims statistics "can be valuable," he said. The longer that claims are open, the higher the incurred-but-not-reported claim estimates and projected losses the reinsurer will calculate.

Another cost-savings move would be to increase the specific and aggregate attachment points of the captive's reinsurance, because inflation in low layers of coverage increases far more quickly than does the claim inflation rate, Mr. Petrocik said.

He explained that as inflation

drives up the cost of claims, it also pushes more of those claim costs into the captive's excess reinsurance layers. As a result, the amount of retained loss for the captive is not increasing significantly, if at all. But, on a percentage basis, the amount of claims hitting the excess layer is significantly greater, thus driving up reinsurance costs.

"Keeping your attachment point fixed, you have less and less control of your reinsurance costs," Mr. Petrocik said.

Moving the attachment point up would not only reduce reinsurance costs but also could allow the cap-

tive to purchase greater excess limits, which would be valuable for covering catastrophic losses, he said.

Mr. Petrocik also advised captive owners to periodically review their reinsurance contracts.

"Many contracts are not written specifically for you. Even when it is, there may be clauses patched together from other sources," he said.

He advised conducting that review with an attorney to determine whether the reinsurance that the captive has purchased is appropriate for the risks it is reinsuring.



www.kirchoff.de

## CICA event draws 500

**SCOTTSDALE, Ariz.**—The 2008 International Captive Insurance Companies Assn. Conference, held in Scottsdale, Ariz., March 5-7, drew 500 attendees. Attendance was slightly higher than at the 2007 conference.

It featured 15 educational sessions and forums for captive owners and service providers. Panel discussion topics ranged from best practices to effective and cost-efficient reinsurance programs to regulatory issues.

The next international conference is scheduled at the Hyatt Grand Champions Resort, Villas & Spa in Indian Wells, Calif., March 8-10, 2009.

More information on CICA is available by calling the organization at 952-928-4655 or by visiting its Web site at [www.cicaworld.com](http://www.cicaworld.com).

—By Dave Lenckus

**somewhat different**

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# Lloyd's: Direct access for buyers proposed

CONTINUED FROM PAGE 1

of financial scandals.

It also points out that Lloyd's faces competition from insurance markets in the United States, Bermuda and Dublin, and "the requirement to use a Lloyd's intermediary may obscure where there is extra cost in the placement chain—and, conversely, where costs reflect real value added." A more open system, the Treasury notes, could help reduce costs and ensure that the value of the services brokers provide for Lloyd's business is recognized.

A Lloyd's spokeswoman said the market welcomed the proposals. "They represent an important package of measures that will help Lloyd's comply with modern standards of corporate governance and develop our business without the constraints of outdated statutory restrictions," she said in a statement.

Treasury representatives could not be reached for comment.

While the changes would allow any regulated intermediary to place business at Lloyd's, the market "would be able to make bylaws governing the conditions on which underwriting agents may deal with insureds and with intermediaries other than Lloyd's brokers," in order to ensure quality, the document states.

In addition, Lloyd's is expected to have requirements for intermediaries similar to some current rules for Lloyd's brokers. These include being regulated by the FSA—or an equivalent regulatory body for foreign brokers—as well as having a terms-of-business agreement signed with a managing agent, which will be able to determine what brokers it does business with.

An intermediary would also need to be able to transact and settle business through the Lloyd's electronic policy signing bureau Xchanging



LOYD'S

**Proposed regulatory changes at Lloyd's of London would ease access to the Lloyd's market, which is now restricted to so-called Lloyd's brokers.**

Ins-sure Services.

Other reforms proposed by the Treasury include repealing rules barring ownership associations between managing agents and brokers (see related story) and relaxing various requirements for Lloyd's Council members.

U.S. retail brokers did not expect the proposals, if enacted, to significantly change their dealings with Lloyd's underwriters for now (see related story).

Few Lloyd's brokers and managing agents were willing to comment on the proposals.

But Mike Lamborn, managing director of the broking division of London-based Heath Lambert Group, said he expects that existing Lloyd's brokers "would be wondering why they went through all the time and expense that it has taken to become a Lloyd's broker."

In addition, he noted that "the traditional big wholesale brokers who predominantly place into Lloyd's will be wondering what that means for them, if Lloyd's is now not such an exclusive club and it's not such a difficult place to gain

entry. That could shift how some of the business is placed into Lloyd's."

"Lloyd's are clearly trying to get the distribution more directly out of Lloyd's and work more like insurance companies in their distribution across the U.K. and globally. It is all part of that freeing up of access and getting distribution out of Lloyd's in a much more easy and user-friendly way," said Mr. Lamborn.

Several market observers said they didn't expect significant change from allowing insurance buyers to directly access Lloyd's.

John Hurrell, chief executive of the London-based Assn. of Insurance & Risk Managers, said that large insurance buyers "have always been able to directly access company market insurers such as Zurich, so being able to directly access Lloyd's companies doesn't represent a big shift."

"If you want to get the market knowledge and direction to various markets then you need to go through a broker," Mr. Lamborn said. There may be some companies that "will enjoy having a direct access and will make use of it, as they do already with other insurers. However, I would have thought that on the whole this will have a fairly small effect," he said.

A spokesman for one managing agent said that the idea of a risk manager getting direct access to Lloyd's "sounds fine in principle, but Lloyd's is a subscription market—how could a risk manager realistically place a risk without a broker?"

A senior executive at another Lloyd's managing agent said: "It is difficult to see how it would work without broker input, but having said that, brokers have to add value."

"A large part of the market still depends on personal relationships and knowing who to see. Particularly for more difficult risks, it would be difficult to place, and for those that need negotiation, that is where the broker has a role. It would be less easy for risk managers and underwriters to deal directly with each other," the executive said.

The government is seeking comments on proposed reforms by May 30.

The consultative document is available at [www.hm-treasury.gov.uk/consultations\\_and\\_legislation/lloyds-act/consult\\_lloyds\\_act.cfm](http://www.hm-treasury.gov.uk/consultations_and_legislation/lloyds-act/consult_lloyds_act.cfm).

## U.S. brokers don't see end to using Lloyd's brokers

By SALLY ROBERTS

U.S. brokers say they don't expect to fundamentally change the way they place business into Lloyd's of London if the U.K. government expands access to that market.

Currently, only so-called Lloyd's brokers can place business with Lloyd's managing agents, but the U.K. government has proposed eliminating that requirement, allowing other brokers to access the market directly.

Retail brokers in the United States that don't own Lloyd's brokers—those that have met certain Lloyd's requirements—typically access the Lloyd's market through direct relationships with outside Lloyd's brokers or they use a domestic wholesaler, which in turn accesses a Lloyd's broker to tap the market.

Ken Crerar, president of the Washington-based Council of Insurance Agents & Brokers, said, "I don't think (the expansion proposal) is going to change the dynamic dramatically about how U.S. brokers access the market."

While there may be some large U.S. brokers "where it does make sense and where they haven't already, that may access the market in their own way. I think in general, though, where a Lloyd's broker is providing real value and real insight into the market and what the appetite is and how the market is moving, insurance brokers here are going to continue to value that."

"I don't think it's the end of the Lloyd's broker at all. And I don't think we'll see a huge spike of activity at the market because they've eliminated" the Lloyd's broker rule, Mr. Crerar said.

Bruce Guthart, chief operating officer of HUB International Ltd. in New York, said, "We're very comfortable with our Lloyd's broker relationships."

"With as large as we are, and with as much business as we place in London, it's hard to imagine we would be able to establish the critical mass—even at our size—where we could always identify the best placement for our clients without using someone who has a regular daily relationship and even larger volume than us in London, i.e. a Lloyd's broker."

"We find the key to our placements for our clients that need to get to Lloyd's is finding the right Lloyd's broker and the right relationship for the right line of coverage," Mr. Guthart said.

"My immediate reaction is

(the change) will not open any floodgates" of U.S. brokers accessing the Lloyd's market directly, said Craig Nelson, executive vp of Van Gilder Insurance Corp. in Denver.

"I just don't see that happening. The way the system works right now, the London-based accredited Lloyd's brokers provide tremendous value in the marketplace when we need to go to Lloyd's to get a deal done," he said.

"The Lloyd's market itself is very relationship-oriented," Mr. Nelson said. "One of the reasons why the system works so well right now is that these London-based brokers are in the market there every day and have personal relationships with the (underwriters)... So for most U.S. brokers that are not in the Lloyd's market every day, I would suspect they are not

**'If North American brokers think they're going to bypass a Lloyd's broker to access those syndicates, it is not going to happen.'**

Anthony T. Strianese,  
Decus Insurance Brokers Ltd.

going to enjoy the same depth of relationships that brokers who are there every day do."

Indeed, Lloyd's is "very much a different culture. It's a bit of a different way to do business, but the one thing that remains constant...is it's about the relationships and the people," said Anthony T. Strianese, chief executive officer of Decus Insurance Brokers Ltd., Brown & Brown Inc.'s new London-based wholesale operation.

"If North American brokers think they're going to bypass a Lloyd's broker to access those syndicates, it is not going to happen, regardless of what the reforms enable them to do," he said. "There are so many different vehicles that we're learning as we enter into that marketplace."

"To try and do it from North America, it's not going to be effective or efficient," he said, noting that Decus is going to employ only London-based brokers.

A spokesman for the Kansas City, Mo.-based National Assn. of Professional Surplus Lines Offices Ltd. said that at this point it is unsure how the reforms will affect its membership. "We still believe people will use our members for the experience and expertise they provide."

## Divestment rule up for repeal

**LONDON**—As part of its reform proposals for Lloyd's of London, the U.K. government has called for repealing the so-called divestment rules of the Lloyd's Act 1982, which banned associations between brokers and managing agents.

The rules were put in place after a series of scandals in the early 1980s involving conflicts of interest on the part of individuals who had financial stakes in both brokers and managing agents.

Regulation by the FSA, which began in 1997, has made those rules unnecessary, the government says in its consultative document.

"The FSA imposes a number of obligations on firms...(including) a requirement for firms to manage conflicts of interest fairly," the document states.

The repeal of the divestment rules should be accompanied by the introduction of a disclosure

mechanism for managing agents that would make transactions more transparent and allow Lloyd's to monitor such deals, the document notes.

Mike Lamborn, managing director of the broking division of London-based Heath Lambert Group, said that integration "seems to be a fashionable trend in the market at the moment."

"Look at what is happening outside of Lloyd's at the moment, with insurers buying brokers, and brokers setting up (managing general agents) and underwriting authorities internally."

"There seems to be so much capital about that the ability to set up as an underwriter and gain capital either via an insurance company or another medium, is relatively easy at the moment. But you wonder what the real end benefit is in the current marketplace," he said.

—Tony Dowding

## Fallout: Future of N.Y. regulator uncertain

CONTINUED FROM PAGE 1

ignation. "That's what we're worried about."

Mr. Dinallo may stay on during a transition period, but may then leave to allow Mr. Paterson to make his own appointment, predicted a former regulator who asked not to be named.

Mr. Spitzer, who attacked antitrust and other abuses in the

reduction in work comp rates last year.

Helping him in that effort was Mr. Dinallo, who before his appointment as insurance superintendent had been one of Mr. Spitzer's chief deputies in the attorney general's office and later general counsel for Willis Group Holdings Ltd.

Mr. Dinallo, widely regarded as an active and effective regulator, has recently taken a lead in trying to deal with the credit derivative woes threatening bond insurers' financial strength ratings. Along with workers comp reform, he has also pushed a variety of regulatory initiatives, among them proposals to require property insurers to set aside catastrophe reserves and to ease collateral requirements for non-U.S. reinsurers.

Mr. Spitzer also named him to head the state's Commission to Modernize the Regulation of Financial Services, which aims to make New York a more competitive domicile for financial companies.

The effect of Mr. Spitzer's resignation on these efforts—if any—remains unclear, and depends partly on Mr. Paterson's view of the issues, observers say.

The financial services commission's work is not likely to slow down, some say. "Given the critical importance of that sector to the state's economy and (New York City's) economy, we would not

expect it to be significantly sidetracked," said Ken Pokalsky, senior director of government affairs for the Business Council of New York State Inc. The council's president, Kenneth Adams, is a member of the financial services commission.

Mr. Spitzer's departure may actually help with any financial services commission recommendations, because Mr. Paterson, a less polarizing figure, may have an easier time moving reforms through the Legislature, said another source familiar with the commission who requested anonymity.

Mr. Paterson's track record on insurance issues generally is limited, though, and "at this point it's too early to tell what direction he'll move," said a spokesman for the Property Casualty Insurers Assn. of America in Des Plaines, Ill.

The new governor is pragmatic, though, and "we are not anticipating him coming in and making major changes, particularly with him coming into office under these circumstances," the PCI spokesman said.

Amid the turmoil of Mr. Spitzer's resignation, Mr. Dinallo testified last Wednesday before the U.S. House Committee on Financial Services about the insurance department's efforts to deal with bond insurers' problems.

"We have a job to do and we are going to keep doing it," the department's spokesman said when asked about the effect of Mr. Spitzer's resignation.

If Mr. Dinallo remains as superintendent, there would be some precedent: Insurance commissioners in Connecticut and Arkansas stayed in their posts for several years after the midterm resignations of Gov. John Rowland of Connecticut in 2004 and Gov. Jim Guy Tucker of Arkansas in 1996.



BLOOMBERG NEWS/LANDOV

**New York Insurance Superintendent Eric Dinallo, despite the turmoil of Eliot Spitzer's resignation, testified before a House committee last week.**

insurance industry as New York attorney general, resigned as governor last week after he was identified as a patron of an expensive prostitution ring.

The combative governor's 14 months in office featured a rocky relationship with the state Legislature, but also some successes, including a reform of workers compensation laws that led to a 20.5%

## Spitzer's investigations caused huge changes

By DOUGLAS McLEOD

**NEW YORK**—Eliot Spitzer loomed large in the insurance industry for only four years, but it seemed longer than that.

As New York's attorney general, he launched a series of investigations that resulted not only in billions of dollars of settlements but also changed the way insurers and brokers do business and altered the structures of the companies themselves.

His confrontation with the industry began in early 2004 with a flurry of subpoenas to brokers and insurers over their contingent compensation agreements. The thunderclap came in October 2004, with a lawsuit charging Marsh & McLennan Cos. Inc. with rigging bids on excess casualty placements and steering business to insurers paying it the highest contingent commissions.

Marsh and other top brokers quickly agreed to stop accepting contingents, and Marsh soon bowed to another of Mr. Spitzer's demands by forcing out its chief executive officer, Jeffrey W. Greenberg. By February 2005, Marsh had settled with Mr. Spitzer, agreeing to pay \$850 million in restitution and penalties.

Broadening investigations by Mr. Spitzer and other state attorneys general came to encompass not only client steering charges against other brokers but allegations of bid rigging and misuse of finite insurance covers against several insurers.

The following two years saw a parade of brokers and insurers agreeing to seven- and eight-figure settlements, from Aon Corp. and Willis Group Holdings Ltd. to ACE Ltd. and Zurich Financial Services



BLOOMBERG NEWS/LANDOV

**In October 2004, then-Attorney General Eliot Spitzer began bringing charges against major insurance brokerages over their alleged abuse of contingent commissions.**

Group. They also saw at least 18 former brokerage and insurance company executives plead guilty to criminal charges.

Mr. Spitzer's biggest quarry, though, was American International Group Inc. and its then-CEO, Maurice R. Greenberg. Mr. Greenberg resigned in March 2005 after federal securities regulators and Mr. Spitzer's office subpoenaed the insurer over a 2000 reinsurance deal with General Re Corp. Two months later, Mr. Spitzer filed a civil fraud suit charging AIG, Mr. Greenberg and former AIG Chief Financial Officer Howard I. Smith with using the Gen Re deal and other transactions to falsify AIG's financial statements.

See **SPITZER** next page

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## RRGs: Ruling backs principle of lead-state regulation

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While California regulators may have believed that Montana should not have licensed the RRG, that belief was irrelevant, the judge ruled.

"The structure and purpose of the LRRR seemingly do not allow such 'second-guessing' by a nonchartering state. Rather, the LRRR provides that only the chartering state may regulate the formation and operation of an RRG," Judge Damrell wrote.

Additionally, if California regulators believed the RRG was writing coverage that it had no legal right to provide, they should have taken that argument to a "state or federal court of competent jurisdiction," rather than unilaterally issuing a cease-and-desist order, Judge Damrell wrote.

In light of the federal law's "broad purpose" to sharply limit regulation of RRGs by nonchartering states, "the court finds there are serious questions raised regarding the commissioner's authority to issue the cease-and-desist order,"

### GROWTH IN RRGs

Year <sup>1</sup>	number of RRGs
2004	186
2005	216
2006	238
2007	252
2008 <sup>2</sup>	255

<sup>1</sup> At year-end

<sup>2</sup> as of March 2008

Source: Risk Retention Reporter

the judge wrote.

RRG advocates hailed the ruling, which replaced an earlier temporary restraining order against the California Insurance Department, as strongly reinforcing the foundation of the Liability Risk Retention Act: allowing RRGs that have met the licensing requirements of one state to provide coverage to policyholders in any state with minimal interference from nonchartering state regulators.

"The opinion clearly reflects the judge's acceptance of the principle of lead-state regulation," Mr.

Myers said.

If each state had the right to determine what an RRG could or could not underwrite, it would be impossible for RRGs to operate in multiple states, Ms. Fisher said. That would defeat Congress' intent in enacting LRRR, which was to give businesses and professionals a cost-effective way to set up RRGs quickly, she said.

RRGs are group captives that can write only commercial casualty coverage other than workers compensation for their policyholder-owners.

While hailing the ruling, RRG advocates noted that the litigation continues. Indeed, Judge Damrell has yet to rule whether LRRR does or does not allow RRGs to provide medical stop-loss coverage.

### California weighs options

In fact, California regulators say they look forward to arguing that the coverage is not allowed.

"The CDI continues to believe the plaintiff's program is not liability insurance as that term is defined in the federal Liability Risk Reten-

tion Act and, therefore, does not qualify for protection under the act," a California Insurance Department spokesman said.

"CDI, having just received the written decision, is reviewing its options for proceeding and looks forward to presenting the merits of the case before the court," the spokesman said.

"The ball is in" the hands of California insurance regulators as to the next legal step they take, said Aaron Kaslow, a partner with Muldoon Murphy & Aguggia L.L.P. in Washington, which represents the auto dealers' RRG.

Clifford Sweet, president of Auto Dealers Risk Retention Group in San Diego, said the program is a cost-effective way for California auto dealers to obtain stop-loss insurance who would otherwise find it too costly to provide health care benefits to their employees.

By the end of this year, Mr. Sweet said he expects the RRG, which the Montana Department of Insurance licensed in April 2007, to generate premium volume of about \$5 million.

# News In Brief

CONTINUED FROM PAGE 1

testing if there is no reason to be suspicious of their misuse, the 9th U.S. Circuit Court of Appeals has ruled. But the ruling does not put a bar on such a policy being necessarily applied to other city positions, according to the court's opinion in *Janet Lynn Lanier vs. City of Woodburn*. The court said the city's drug-test rule, which applies to all applicants, was unconstitutional in this case because "we discern no substantial risk to public safety posed by (plaintiff's) prospective position as a part-time library page."

## Berkshire sells stake in White Mountains

White Mountains Insurance Group Ltd. will transfer two runoff businesses and \$751 million in cash to Berkshire Hathaway Inc. in exchange for White Mountains shares owned by Berkshire. Under terms of the deal, Berkshire will exchange its 16.3% stake in White Mountains for the cash and a White Mountains subsidiary that houses Commercial Casualty Insurance Co. and International American Group Inc. The two companies had combined gross assets of \$435 million and adjusted shareholders equity of \$58 million as of Dec. 31, 2007.

## Comp insurers face declining rates: S&P

Workers compensation insurers are likely to face falling rates this year, according to Standard & Poor's Corp. S&P says in a report that rates have been declining, which is significantly reducing the margins of workers comp insurers. The declining prices have not led to weak insurer performance so far because of state reforms that have contained loss costs and led to better earnings. It notes, though, that workers comp insurers' ratings could begin to face "negative pressure" late in the year.

## Marsh launches wind-linked cover

Companies that suffer no property damage as a result of hurricane-force winds but still take a financial hit can now recover losses under a new insurance product from Marsh Inc. Called WindX-SI, the coverage—

up to \$25 million from a lead underwriter—is triggered when winds exceed a defined velocity in a given area and the insured business sustains a related financial loss—property or otherwise. Business interruption coverage typically requires an underlying property loss. WindX-SI was developed by Marsh with Risk Management Solutions Inc. and WeatherFlow Inc., which operates wind-monitoring stations.

## Scruggs pleads guilty to conspiracy charge

Richard Scruggs, one of the nation's most prominent plaintiffs attorneys, has pleaded guilty to a conspiracy charge related to an attempt to bribe a Mississippi state judge. The March 14 guilty plea came during a pretrial hearing in Oxford, Miss. Mr. Scruggs and others had been charged with attempting to bribe a Lafayette County, Miss., judge to rule in their favor in a dispute with another law firm over legal fees stemming from a lawsuit settling homeowners' insurance claims related to Hurricane Katrina.

## Montpelier Re makes executive changes

Montpelier Re Holdings Ltd. appointed Christopher L. Harris as chief executive officer, effective July 1. Mr. Harris joined Bermuda-based Montpelier Re in 2002 as chief actuary. He was named chief underwriting and risk officer in 2006, and president in January. Mr. Harris succeeds Anthony Taylor, who will assume the role of executive chairman until December 2009. The reinsurer last week also named company executives David Sinnott as chief underwriting officer, Timothy Aman as chief risk officer and Michael S. Paquette as its chief financial officer and executive vp.

## Noted

Jet engine manufacturer United Technologies Corp. has received tentative approval from the Labor Department to fund **benefit risks through its Vermont captive**. United Technologies wants to use its 12-year-old Vermont captive, United Technologies Insurance (Vermont) Inc., to reinsure group term life insurance, accidental death and dismemberment, and long-term disability policies....**XL Insurance** named John Glancy as chief underwriting officer. Mr. Glancy, formerly chief operating officer of XL Insurance's global professional operations unit, joined the global insurance arm of XL Capital Ltd. in 2003.

# CPSC: Product safety bill sparks litigation fears

CONTINUED FROM PAGE 3

said. "No matter how it comes out, the fact is, even if the House bill became law, you still would have greatly increased enforcement and litigation," he said. "There'll be more recalls, more violations of regulations because there will be many more regulations and the attorneys general provision in either bill certainly will create more investigations and litigation."

"If the goal of the bill is to have the oversight to avoid product failures, that's what we're trying to do—avoid liability and avoid any insurance implications," said Laura Foggan, a partner at Wiley Rein L.L.P. in Washington who represents insurance companies.

Consumer advocates hold that the measure will actually decrease product liability exposure over the long run because it will force the manufacture of safer products.

Business fears are a "red herring," said Rachel Weintraub, director of product safety and senior counsel at the Washington-based Consumer Federation of America. "It gives CPSC more tools to enforce regulations and gives them more regulation to enforce. Ultimately, we're hoping that his bill will result in safer products, which

lead to less need for litigation," she said.

"I think the Senate bill is a very strong consumer protection measure that should make for fewer dangerous products and therefore fewer product liability lawsuits," said Pamela Gilbert, a partner in the Washington law firm Cuneo Gilbert & LaDuca L.L.P. and former CPSC executive director.

"The proposed databank will be key to preventing injuries from dangerous products," she said. "There will be a lot of complaints out there that are not about products that are defective. But I believe that consumers and lawyers are smart enough to know the difference." The increased CPSC funding in the bill would not result in "any additional basis for liability," said Andrew Popper, a law professor at American University's Washington School of Law in Washington. "I think it does what it does—it provides the commission with critical funding and gives it some basis to go forward in a more positive way."

"If people are critical of this, it's just one way to use a public forum to criticize consumer rights advocates otherwise known as plaintiffs' lawyers," Mr. Popper said. The bill "does not increase in any meaningful way the liability of U.S. manufacturers."

# Spitzer: Investigations caused huge changes

CONTINUED FROM PREVIOUS PAGE

That investigation led last month to the conviction of former Gen Re CEO Ronald E. Ferguson and four other Gen Re and AIG officers on federal conspiracy and fraud charges.

AIG restated five years of its financial results in 2005 and settled with Mr. Spitzer and the SEC for \$1.64 billion in early 2006.

The probes that Mr. Spitzer set in motion brought sweeping changes to the industry. Contingent commissions are no longer a routine fact of life for the largest brokers; those settling with state attorneys general agreed to business reforms, including greater disclosure of their compensation to clients.

Finite insurance products, while still used, are far less common and

are far more scrupulously underwritten than they were.

And, while the major brokers' wholesale units were not targets of the inquiries, they became casualties: Marsh, Aon and Willis all sold off their wholesale units in the wake of the probes, concerned about the possible conflict of sending client business to the subsidiaries.

Even now, after Mr. Spitzer's resignation as New York governor, some of the cases he started live on.

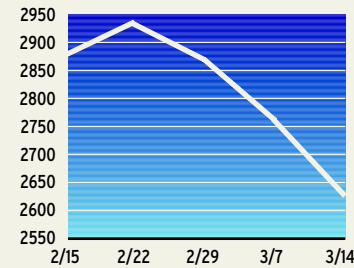
A New York judge last month convicted two former Marsh executives of criminal antitrust violations, and six more ex-Marsh officials are awaiting trial. And while AIG has long since settled, Mr. Spitzer's civil charges against Mr. Greenberg and Mr. Smith are still pending.

## Stock Index

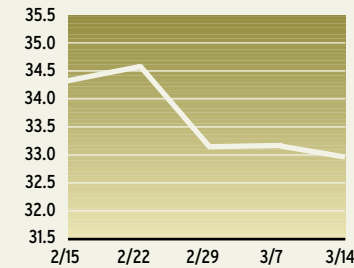
[3/10 - 3/14]

Up-to-the-minute data for all 82 companies that comprise the BI Stock Index can be found at [www.IndustryFocus.com](http://www.IndustryFocus.com).

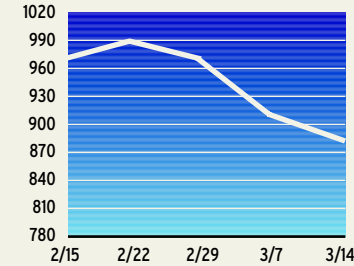
### BI STOCK INDEX



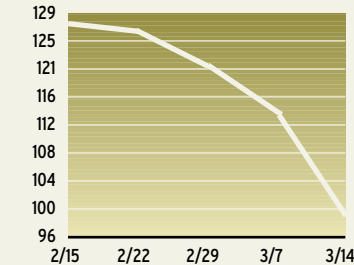
### BI BROKERS INDEX



### BI INSURER/REINSURERS INDEX



### BI MANAGED CARE ORGANIZATIONS INDEX



Percentage change of BI Stock Index vs. key indicators

<b>BI STOCK INDEX</b>	2636.78	↓ -4.47%
<b>DOW JONES</b>	11951.09	↑ 0.48%
<b>S&amp;P 500</b>	1288.14	↓ -0.40%

### LARGEST GAINS

Gainsco Inc.	11.44%
EMC Insurance Group Inc.	5.42%
ING Group N.V.	3.70%
UNICO American Corp.	3.26%
SCOR S.A.	2.86%

### LARGEST LOSSES

Ambac Financial Group	-34.53%
Humana Inc.	-30.76%
WellPoint Health Networks	-29.84%
Health Net Inc.	-18.20%
UnitedHealth Group Inc.	-17.74%

Source: Financial Content Inc. <http://financialcontent.com>



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Contributing: Jeff Casale,  
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## Vatican gives new meaning to absolute pollution exclusion

The Roman Catholic Church has identified a new risk to salvation that the insurance industry has long told policyholders would be more difficult to insure than passing through the eye of a needle.

A Vatican official earlier this month identified pollution as a new area of sinful behavior that rises to the level of mortal sin—a transgression for which an offender faces eternal damnation if not absolved before death.

In a story in the Vatican's March 9 edition of its daily newspaper,

L'Osservatore Romano, Monsignor Gianfranco Girotti also

listed genetic manipulation and drug use as new areas of serious sin that could bar the sinner's road to heaven.

The monsignor heads the Vatican's Apostolic Penitentiary,

which is not a prison but a tribunal that considers matters of conscience and absolution of sins.

While insurance policies have not damned buyers to hell for contaminating the environment, some buyers might not agree.

Insurers never have covered intentional acts of pollution, but they did cover unintended pollution.

Beginning in the 1970s, insurers began restricting coverage for even unintended pollution incidents to only those that occurred quickly.

In the mid-1980s, insurers introduced an absolute pollution exclusion in general liability policies.

# Business Insurance END PAGE



## Axe maker frets over 'Guitar Hero' patent claim

More than two years and millions of sold copies later, Gibson Guitar Corp. is having creative differences with the publisher of the "Guitar Hero" video game.

Gibson, which lends its brand name and guitar designs to the popular game, claims that the publisher of "Guitar Hero," Activision Inc., is violating a 10-year patent Gibson owns for a technology to simulate musical performance, according to reports. In the game, would-be virtuosos play along to rock songs using a guitar-shaped controller.

However, Santa Monica, Calif.-based Activision contends Gibson's claim isn't true and reportedly has filed a lawsuit in federal court to have a judge settle the dispute.

Nashville-based Gibson—who is a partner in the game, as certain controllers are shaped like Gibson models—maintains that Activision has taken advantage of Gibson's patented technology without properly compensating the company.

In its suit, Activision argues that Gibson has forfeited its rights by failing to raise the patent issue earlier.

"Guitar Hero" reportedly has sold more than 16 million copies worldwide and has produced more than \$1 billion in retail sales since it was released in late 2005.

REUTERS  
The publisher of the popular 'Guitar Hero' video game is locked in a patent dispute with Gibson Guitar Corp., which is a partner in the game. 'Guitar Hero' uses controllers inspired by well-known Gibson guitar models.



Rupert Murdoch, left, may own the Fox Business Channel, but Worldwide Directory Services owns the Internet domain name [www.foxbusinessnetwork.com](http://www.foxbusinessnetwork.com).

REUTERS

## Web site owner outfoxes titan in fight over domain name

Rupert Murdoch may own a huge media empire, but a man who says his nickname is the British Fox is the one that owns rights to domain name [foxbusinessnetwork.com](http://foxbusinessnetwork.com), the World Intellectual Property Organization ruled.

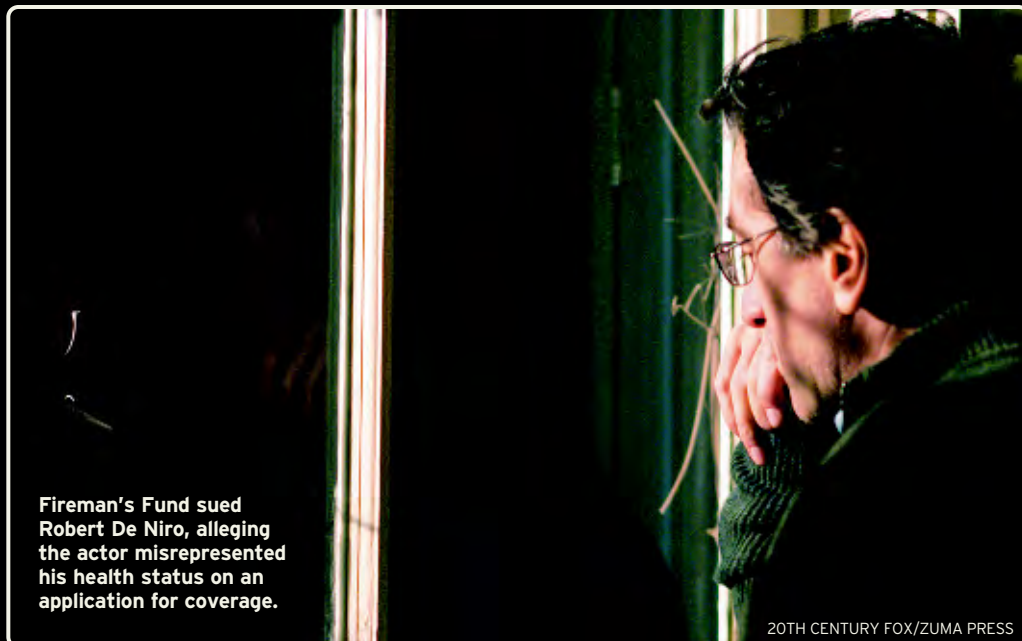
A panel of the Geneva-based WIPO ruled March 7 that the owner of the name is Sebring, Fla.-based Worldwide Directory Services Inc., which resells domain names and offers Internet advertising and marketing services.

Its president, Derek G. Hodges, who claimed his nickname of the British Fox was the inspiration for the Fox Business Network, registered the domain on the same day that Mr. Murdoch, chief executive officer of News Corp., announced the launch of the Fox Business Channel, according to the ruling.

A key element in the dispute was Fox News Network L.L.C.'s contention that Mr. Hodges offered to sell the domain to the cable TV network for \$50,000.

Mr. Hodges said he had used the name since 2002 and approached Fox only "to discuss strategies to avoid confusion or infringement." He said that as part of that conversation, he stated that it cost him \$50,000 to develop the business network, according to the decision.

Ruling in Mr. Hodges' favor, the panel said while his "hasty" name registration "is suspicious," there is "sparse but plausible" evidence of his prior use of the name.



Fireman's Fund sued Robert De Niro, alleging the actor misrepresented his health status on an application for coverage.

20TH CENTURY FOX/ZUMA PRESS

## Raging Bull knocks out insurer's coverage suit

Robert De Niro fought two battles over prostate cancer, one with an insurer that sued him, and he reportedly has won both.

According to media reports, Los Angeles Superior Court Judge Rolf M. Treu tossed out the \$1.8 million lawsuit filed by the Fireman's Fund Insurance Co., which insured the 20th Century Fox film "Hide and Seek" that starred Mr. De Niro.

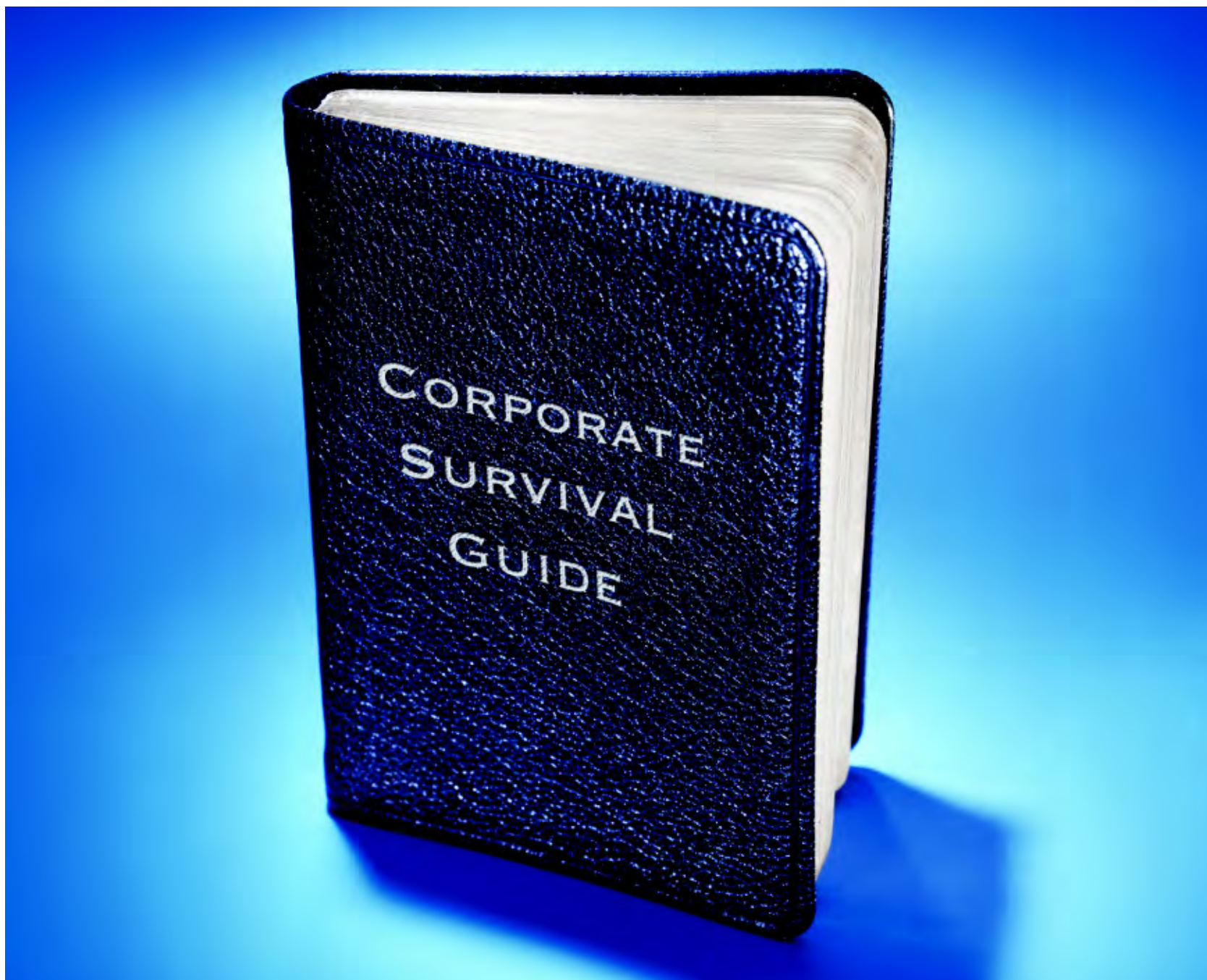
The Novato, Calif.-based insurer claimed that the actor misrepresented his health for the movie role when he wrote that he had never been diagnosed with or treated for prostate cancer.

Mr. De Niro was diagnosed with prostate

cancer on Oct. 15, 2003, two days after he signed the medical certificate, according to court documents.

His diagnosis and treatment delayed the movie production for four months, according to press reports. Fireman's Fund paid 20th Century Fox \$1.8 million to cover the cost of the delay. The movie was released in 2005.

"This ruling vindicates what we've said all along," Mr. De Niro's attorney, Robyn Crowther, told the press. "We are pleased that the court has found that Fireman's Fund can't sue Mr. De Niro for getting cancer."



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## COVER FOCUS



## REINSURANCE TECHNOLOGY

### Power tools

Cat models have developed into an essential tool for reinsurers and ceding companies while evolving in response to lessons learned from events like Hurricane Katrina. **Page 8**

### An explosion of data

Technology is becoming an increasingly important part of the reinsurance environment for both reinsurers and insurers. **Page 12**

### Fully equipped to assist

Intermediaries are increasingly bringing IT tools to bear in helping their clients understand their risks and make reinsurance purchasing decisions. **Page 14**

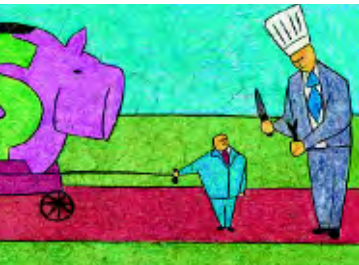
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### M&As, full speed ahead

The trend toward agent and broker consolidation is likely to continue, with private equity remaining a key factor. **Page 20**

### Documenting success

Skywire Software's Karin Jessop and Jill Davidson explain how insurance companies can find business opportunities in their documents. **Page 22**



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Julie Rochman of the Institute for Business & Home Safety talks about plans to boost commercial lines-related activities. **Page 5**

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## Deluge of solutions for Sunshine State

**H**urricane season is still a few months off, but in Florida, another important season, the legislative season, began earlier this month as the 2008 sessions of the Florida House and Senate convened.

The two seasons have an obvious connection. As Floridians continue to deal with hurricane exposures, property insurance will remain a focus of considerable discussion by Florida legislators this year.

Indeed, Senate President Ken Pruitt earlier this year appointed a Senate Select Committee on Property Insurance Accountability, intended to “take testimony, under oath, from property and casualty insurance company executives about their pricing practices and increased profits associated with escalating rates.”

How would you, as an insurance company executive, like to give testimony before a committee with that mandate—think they’d welcome talking about pricing to the risk? I think Roger Clemens and Brian McNamee probably felt giddy by comparison at the prospect of discussing baseball’s steroids scandal with a congressional committee.

Despite the tone of the mandate, however—as well that of some posts by Florida bloggers following insurance executives’ testimony before the committee last month—reports are that the conversations were generally civil.

In the House, No. 2 on a list of legislative priorities for the 2008 session drafted by Speaker Marco Rubio is “Bringing Relief and Reforms to our Unaffordable and Unsustainable Insurance System.”

Among the measures Mr. Rubio is encouraging his fellow House members to act upon this session is a plan offered by state Chief Financial Officer Alex Sink to roll back the state’s catastrophe fund.

Current bond market conditions could make it impossible for Florida to meet the fund’s current hurricane reinsurance commitment, some fear. Meanwhile, a softening property catastrophe reinsurance market makes this appear a good time for the state to try to lay off some of its exposure to private reinsurers. Sounds like a good idea all around.

Mr. Rubio is also encouraging a continued emphasis on state programs to provide incentives to attract private insurers to the Florida market, as well as expanding the MySafeFloridaHome program, which encourages home-

owners to undertake risk mitigation projects. He’s encouraging the House to approve a zero-interest loan program for home risk mitigation. Sound like more good ideas.

Another recent good idea in Florida, I think, came from outside the state, from the Des Plaines, Ill.-based Property Casualty Insurers Assn. of America. The PCI last month revealed results of an independent poll it commissioned to “gain insight into Floridians’ concerns about the state’s current property insurance climate and to assess their opinions about several alternative approaches to stabilizing the property insurance market.”

The poll of 800 likely Florida voters, conducted in January by pollster Neil Newhouse, partner and co-founder of survey research company Public Opinion Strategies, found property insurance the No. 2 priority among those polled, ranked just behind property taxes and ahead of education, health care costs, crime and jobs.

### **HOW WOULD YOU, as an insurance company executive, like to give testimony before a committee with that mandate?**

According to the poll, 91% of Floridians agree that the state should help focus on reducing losses through risk mitigation, such as controls over types of construction, building materials and where homes are built. And 75% feel long-term stabilization of insurance rates is more important than immediate rate relief.

Significantly, David A. Sampson, PCI president and CEO, traveled to Florida to reveal the findings, meeting in Tallahassee with local business leaders and the news media to discuss the results and the path to long-term solutions in the Florida market.

The issue is obviously a difficult one for all involved, and it’s good to see the industry taking leadership in the debate. It will take that kind of leadership, along with true leadership from Florida officials, to reach a solution that’s to everyone’s benefit.



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# Zurich takes on risk for green projects

**ZURICH**—The Switzerland-based Zurich Financial Services Group has begun providing political risk insurance for carbon credit projects.

The insurer said its move to offer the coverage for “green” projects in emerging markets reflects its recently launched global climate initiative focusing on risks associated with climate change.

Zurich noted that under the international Kyoto Protocol greenhouse gas reduction treaty, certain projects are eligible for carbon credits based on their level of greenhouse gas reduction.

Estimated at \$60 billion, the carbon credit market has doubled in the past two years, Zurich said, with the Kyoto Protocol providing a vehicle for monetizing the environmental benefits of reducing greenhouse gas emissions.

The new Zurich policy is



intended to help protect against the risk of host government actions that might prevent investors from receiving the benefits associated with emissions credits.

Zurich noted that as a member of the Berne Union, an international union of credit and investment insurers, it often co-insures and

reinsures with fellow BU members that are export credit agencies and multilateral institutions.

Zurich’s recently launched climate initiative has a three-pillar approach including an internal climate office embedded in Zurich’s underwriting infrastructure and charged with driving an

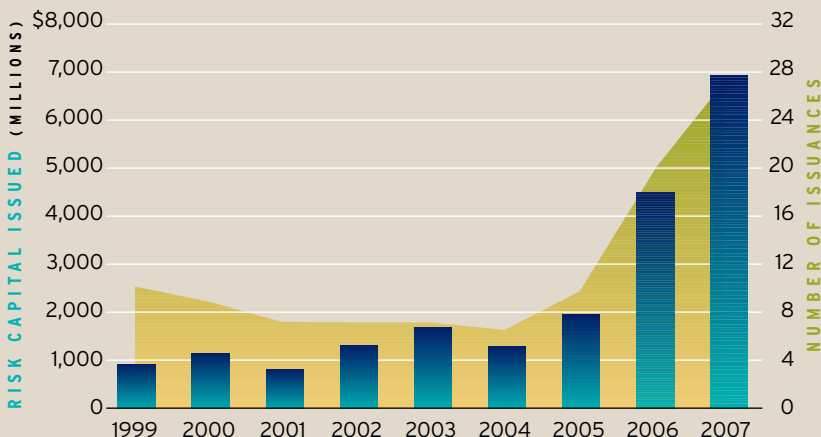
understanding of climate-related risks across Zurich’s businesses.

The initiative also involves the establishment of a Climate Change Advisory Council that will directly report to Zurich’s group management on strategic and operational issues associated with climate change. And, as part of the climate initiative, Zurich has launched an applied research program with organizations and institutions to examine the critical economic, finance and policy issues associated with climate change.

According to Zurich, the main objective of its market-focused global climate change initiative is to understand the emerging weather, financial and regulatory risks associated with climate change and to develop products and services that allow customers to cope with these risks. **IF**

## BY THE NUMBERS

The catastrophe bond market continues to grow, both in terms of the volume of risk capital issued and the number of bond issues, with 2007 the most active year in the market’s history.



Source: Guy Carpenter & Co. L.L.C.

## Benfield, Best team up to deliver real-time rating change notices

**MINNEAPOLIS**—Reinsurance intermediary Benfield Inc. can now provide real-time A.M. Best Co. Inc. reinsurer rating change notifications to its U.S. clients.

Using direct, live data from A.M. Best along with the intermediary’s proprietary Global Reinsurance Distribution System, Benfield will notify clients affected by reinsurer rating changes.

The notifications will detail reinsurance contracts that Benfield services that are affected by the rating changes.

Benfield Inc. is the Minneapolis-based U.S. unit of London-based Benfield Group Ltd. **IF**

## THREE QUESTIONS



*Julie Rochman, president and chief executive officer of the Institute for Business & Home Safety, joined the Tampa, Fla.-based organization last November after more than 20 years in public affairs and advocacy positions representing major corporations, research and safety organizations and issue-based coalitions, including time at the American Insurance Assn. where she was senior vp of public affairs. Recently she talked about the work of the IBHS and plans to boost the organization's commercial lines-related resources and activities.*

**It's interesting that the IBHS is planning to boost its commercial lines-related activities. Though the organization's name is the Institute for Business & Home Safety, do you think it's often perceived as having more of a personal lines focus?**

The "Business" in IBHS comes before "Home." There's always been interest and activity in that area. I think what's different going forward is we're really going to amp up our focus on a couple of areas.

The heart of any town, any city is the business community. That's the lifeblood. We also know that one in four businesses don't recover from a disaster. The small businesses in particular operate on a razor-thin margin.

What we're really adding is greater emphasis on the structural aspect of business enterprises. Commercial property damage accounts for \$30 billion in annual losses for the insurance industry. Residential losses are \$41 billion. So, while it's less, it's a significant portion. We're going to have a new program we'll roll out this year called Fortified for Safer Business. So when people are building new buildings they can earn the certification. We're doing some targeted research. We're looking at, for example, water incursion in commercial buildings.

The other area that I would highlight is that we're trying to do some data collection post-disaster on commercial structures. We think we can be very helpful getting data, slicing that data and then giving it back to the companies.

My personal history is both personal and commercial lines and I really like the commercial lines risk. So I have a great interest in putting more focus on that area.

**How do business owners tend to respond to some of your risk mitigation proposals? Do they buy in to the idea of spending a bit now on risk mitigation and loss control in order to possibly reduce future losses?**

I don't think business owners are all that different in their professional lives than they are in their personal lives. One of the discussions we need to have as an industry—insurance—is how do we get property owners—home owners and business owners—not to look at everything as something involving a give-back: "If I do this than my insurance premium is going to go down."

We'd like to be part of that conversation with business owners and everybody in the food chain that it's in everybody's interest that we be more preventative rather than curative. It's a mindset and it's a mindset that needs to change.

**How receptive have the relevant legislators, regulators and other government officials been to the kinds of changes the IBHS advocates?**

It does vary by jurisdiction and state and, to be clear, we don't lobby except a little bit on building codes. We work through the advocacy trades. And I think it's important that legislators and regulators hear that policyholder voice. I think that's what was so important with TRIA.

After 9/11 when the government opened up the Treasury to take care of victims and after Katrina when the government opened up the Treasury to take care of victims, I think that with the budget realities the way they are now we'll have an easier time, because they don't want to be an open checkbook. **IF**

## Aon purchases Gallagher Re's U.S., U.K. brokerages

**CHICAGO**—Aon Corp. has entered into an agreement with Itasca, Ill.-based Arthur J. Gallagher & Co. to purchase Gallagher Re's U.S. and U.K. reinsurance brokerage business.

Under the agreement, Chicago-based Aon will pay Gallagher approximately \$30 million in cash and an additional cash payment of up to \$15 million based on revenue generated by the reinsurance intermediary operations in the

12 months following the close of the transactions. According to Gallagher, the U.S. transaction was completed Feb. 22, with the U.K. transactions, subject to certain conditions, expected to be completed by April 30.

In addition to the purchase of the business, Gallagher Re staff in the United States and United Kingdom will join Aon Re Global. Aon said in a statement that as a result of the purchase, it would

have an increased presence in the U.S. accident, health and life reinsurance markets, as well as enhanced capabilities in the U.K. specialty, casualty and financial institutions business.

Aon also noted that Gallagher Re has invested significantly in index-based capital markets solutions, which the broker said would align with its integrated capital solutions strategy and add to its Aon Capital Markets team. **IF**

## New firm expands portfolio of services

**WILTON, Conn.**—John D. Dempsey, who founded and served as managing partner of the Dempsey, Myers & Co. firm for more than 25 years, has formed a new firm, Dempsey Partners L.L.C.

Mr. Dempsey and a leadership team of 10 senior executives will operate from existing offices in New York, Chicago, Dallas, Houston, San Francisco and Los Angeles, in addition to the firm's headquarters in Wilton, Conn.

In a statement announcing the new firm, Mr. Dempsey said that Dempsey Partners would go beyond

the business interruption and loss accounting work of his prior firm to offer clients a portfolio including risk management consulting and claims services.

The new firm will offer such capabilities as large property damage assessments and disaster response consulting, forensic analysis, corporate and employee fraud investigations and commercial litigation services, as well as continuing to offer exposure value analysis for clients that want to assess, quantify and finance business interruption risks.

For more information about the new firm, visit



Mr. Dempsey

[www.dempsey-partners.com](http://www.dempsey-partners.com).

Also as part of Dempsey Myers split into two companies in February, the former firm's other named partner, Bill Myers, has formed RWH Myers & Co. L.L.C., focusing on loss accounting services including property and business interruption claim preparation and business interruption value and exposure analysis. **IF**

## Symposium to focus on doing business online

A second annual gathering of representatives of the various constituencies involved in doing insurance business online will take place this fall in Dallas.

The second eInsurance Symposium is scheduled for Sept. 15-17. The event will be presented by Dallas-based online insurance exchange MarketScout, with strategic partners including Business Insurance and Safeco Insurance Cos.

Last year's first eInsurance Symposium drew more than 350 attendees from 36 states, Canada, the United Kingdom and Mexico. The number of players from the online insurance arena that attended the 2007 meeting was seen by many as a harbinger of the next phase of online insurance business.

Among those attending the two-day Dallas event in 2007 were representatives of retail agents, intermediaries, insurance companies, reinsurers, technology firms, investment banks and other investors.

The 2008 eInsurance Symposium will feature panels and presentations from industry leaders on various aspects of doing insurance business online. And scheduled receptions provide opportunities for networking with fellow symposium attendees and exhibitors.

Registration for this year's eInsurance Symposium, as well as information about the 2007 event can be found online at [www.einsurance-symposium.com](http://www.einsurance-symposium.com). **IF**

### THE QUOTE



**'NOBODY LIKES a range. They want an answer.'**

**KAREN M. CLARK**  
PRESIDENT AND  
CHIEF EXECUTIVE OFFICER,  
KAREN CLARK & CO.

### Errors & Omissions

In a story about appealing to members of Generation Y in the January issue of Industry Focus, mention of a suggestion that a pool-side, penny ante poker tournament replace a traditional cocktail party was in the context of CPCU Society social events, not Marsh USA Inc. events.

## Swiss Re offers excess liability cover for agents and brokers

**OVERLAND PARK, Kan.**—Swiss Re's Commercial Insurance is offering excess liability coverage for insurance agents and brokers professional liability.

Available nationally, eligible risks include agencies with primary coverage through various errors and omissions insurers purchased through the Independent Insurance Agents & Brokers of America's agents E&O program.

Policies are written on nonadmitted paper from First Specialty Insurance Corp., a Swiss Re subsidiary. First Specialty products are available only through licensed surplus lines brokers.

Agents and brokers interested in applying for the coverage should go online to [www.independentagent.com/eocontact](http://www.independentagent.com/eocontact) to determine their local IIABA E&O contact. Applications must be submitted through Big I Markets in the same manner as for the primary nonadmitted Big I E&O program. Underwriting authority for the product remains with First Specialty.

Zurich-based Swiss Reinsurance Co.'s Swiss Re's Commercial Insurance, based in Overland Park, Kan., provides insurance products in specialized markets in the United States and Canada. **IF**



**Mr. Duperreault**

New York-based Marsh & McLennan Cos. Inc. has named former ACE Ltd. Chief Executive Officer **Brian Duperreault** president and CEO. Mr. Duperreault, who retired from ACE in 2006, succeeds Michael G. Cherkasky. The company announced in December that Mr. Cherkasky would resign when MMC found a new CEO.

**Blaine Bontempo** has been named president of Farmington, Conn.-based Discover Re's Specialty Marketing Group, the company's captive and programs unit. Before joining Discover Re, Mr. Bontempo was national practice leader for the captive and reinsurance division at Genesis Underwriting Management Co.

As part of a move to consolidate its worldwide retail operations under a single Aon Risk Services operation, Chicago-based Aon Corp. has made several personnel moves. **Steve McGill**, CEO of Aon Risk Services, will assume the additional role of chairman. **Ted Devine**, who had been CEO of Aon Re Global, was named president of Aon Risk Services.

**Andrew Appel**, who had been CEO of Aon Consulting, was named to succeed Mr. Devine at Aon Re. Mr. Appel will remain chairman of Aon Consulting, but will be succeeded by **Kathryn Hayley** and **Baljit Dail** as co-CEOs. Ms. Hayley previously was CEO of Aon Consulting U.S., while Mr. Dail had been Aon's chief information officer, a role he will retain.

Willis Group Holdings Ltd. has named **Vic Krauze** chief operating officer of New York-based Willis North America. Mr. Krauze, who had been regional executive officer and national partner for Willis North America's central region, replaces Tom Ealy, who now leads the company's commercial and consumer segments in the United States and Canada.

**Steven Smith** has been named president of property solutions for ReAdvisory, the analytical arm of reinsurance intermediary Carvill Group Ltd. Mr. Smith joined Carvill in 2004, assuming responsibility for leading the London-based intermediary's catastrophe modeling efforts and aiding the development of ReAdvisory models and products. As president of ReAdvisory, Mr. Smith succeeds **John A. Beckman**, who has been named senior vp and chief risk officer of Chicago-based CNA Financial Corp.

Tampa, Fla.-based Arbitration Forums Inc. has

named **W. Russ Smith** president and CEO. Mr. Smith, formerly vp-claims at United Services Auto Assn., succeeds D. Kay Smith, who retired.

**Gilles Meyer** has been named CEO of Paris-based SCOR Global Life S.E. He succeeds Uwe Eymer, who has stepped down from SCOR Group's executive committee and became nonexecutive chairman of SCOR Global Life. Before his appointment as CEO, Mr. Meyer was director of SCOR Global Life's Southern and Western Europe and Asia market unit. SCOR Global Life also named **Frank Engelaender** chief financial officer. He previously had been in charge of finance and administration at SCOR Global Life's Business Unit 2, based in Cologne, Germany.

Dallas-based independent insurance and financial services firm Waldman Bros. L.L.P. has named **Tom Callanan** president of its commercial insurance division. Mr. Callanan had been senior vp of the commercial insurance division.

Louisiana Medical Mutual Insurance Co. in Metairie, La., has named **Dr. Thomas H. Grimstad** president and CEO. Dr. Grimstad, who previously was senior vp of underwriting, succeeds Dr. John E. Lemoine.

Dubuque, Iowa-based Cottingham & Butler has named **Timothy L. Berns** CFO. Mr. Berns joins Cottingham

& Butler from Arthur J. Gallagher & Co., where he was corporate controller over financial reporting.

**Lawrence J. Dunn III** has joined Woodridge, N.J.-based NIP Group as CFO. Mr. Dunn joined specialty insurance intermediary NIP Group from GMAC Financial Services, where he was managing director and chief operational risk officer for a subsidiary company.

New York-based American International Group Inc. has made several appointments in its Foreign General insurance division. **Alexander R. Baugh** was named managing director of AIG United Kingdom Ltd. and regional president of Foreign General's U.K. and Ireland division. Mr. Baugh previously was president of AIG Europe S.A. and president of American International Underwriters' Commercial European Region. **Julio A. Portalatin**, senior vp, was named to succeed Mr. Baugh as president of AIG Europe and president of AIU's Continental European region. Mr. Portalatin previously served as president of the AIU accident and health division. **Jose A. Hernandez**, who had been COO of AIU's accident and health division, will replace Mr. Portalatin as president of AIG Europe.

**Steve Denton**, chief operating officer of Atlanta-based Beecher Carlson, has been named to the additional post of president. As president, Mr. Denton succeeds Tom Golub, who remains the firm's chairman and CEO. **IF**



**Dr. Grimstad**

REINSURANCE  
TECHNOLOGY

# Dependence on cat models puts focus on what's going in, what's coming out

By Rodd Zolkos

Catastrophe models have become increasingly important both for ceding companies assessing their reinsurance needs and for reinsurers as they make underwriting decisions and manage their portfolios.

As the industry's reliance on models continues to increase, the models themselves—as well as the way they're used—continue to evolve, bringing increased attention both to the importance of the quality of the data that goes into the models and to the true meanings of their results.

Though the models have been refined, enhanced and expanded over the years, they've been available to insurers and reinsurers in some form for two decades.

In 1987, Applied Insurance Research, now AIR Worldwide Corp., introduced a fully probabilistic catastrophe model that could produce scientifically based loss estimates for thousands of potential scenarios. As Hurricane Andrew made landfall in 1992, AIR correctly modeled that the industry could face losses in excess of \$13 billion. Unfortunately, it took the more than \$15 billion in losses that the industry ultimately faced from Hurricane Andrew to convince the industry to embrace catastrophe modeling.

Since then, other catastrophic events have deepened the industry's interest in catastrophe modeling, notably the 2004 and 2005 U.S. hurricane seasons that, among other things, sparked interest in the potential impact of climate change, and the Sept. 11, 2001, terrorist attacks that drove industry interest in the ability to somehow model losses from acts of terrorism.

Recently, as industry concern has

grown about the potential impact of avian influenza, there also has been interest in modeling pandemic risks.

"Catastrophe modeling has transformed in several phases since its inception in the late 1980s, and continues to evolve," Claire Souch, senior director of model management at Risk Management Solutions Inc. in London, said by e-mail. "This has partly been driven by lessons from actual events, such as Hurricane Andrew, the Northridge earthquake, and the European windstorms in the 1990s, as well as the hurricanes of 2004 and 2005."

"Advancements in science and research, as well as in computing power and the ability to produce virtual simulations, vastly increase our understanding of the natural world and allow us to represent it at higher resolution within the models," Ms. Souch said. "More and more risks are now being modeled, reflecting changes in the building environment. For example, last year RMS provided the capability to model wind farms in Europe."

Particularly since Hurricane Katrina in 2005, some have increased their efforts to use the models more effectively. One of the pioneers of catastrophe modeling now focuses on helping companies understand that uncertainty is a natural element of the models and guiding them to make decisions based on a range of probable outcomes rather than seeking a single, definite answer as they model their exposures.

"I think the biggest change going into the future is going to be how models are used and used more effectively," said Karen M. Clark, president and chief executive officer of Boston-based Karen Clark & Co.

## MODEL PERFORMANCE

While some raised questions about the models' performance in Katrina's immediate aftermath, modeling firms generally suggested their tools performed as expected.

"Our view is that our hurricane models generally performed well in terms of insured losses both in '04 and '05," said Bill Churney, vp at Boston-based AIR Worldwide Corp. "We didn't see much need to make radical changes in

terms of losses to the model."

Still, the firm has refined its hurricane model since then, he said, including changes related to certain types of construction, certain risk classes and generally adding greater granularity to the model. AIR also did a lot of work in modeling business interruption and added functionality to modeling hurricane-related storm surge losses, Mr. Churney said.

"There were a lot of things that we were able to learn and benefit from that kind of enhanced the models of the past few years," he said.

Among other things was the recognition of the major importance of the quality of insurance and reinsurance data going into the models. "One of the big problems was, is the replacement value of the building correct," Mr. Churney said. It's important that insurers have quality data for each building in their portfolio, and AIR has seen ways to work with insurers and reinsurers to help them improve the quality of their data.

"The problem isn't the computing power, it's the data feed," said Steve Smith, president of property solutions at ReAdvisory, the analytical arm of London-based intermediary Carvill Group Ltd. "As an industry, we're getting better at doing that."

"That's an evolving process, the improvement of that data capture," Mr. Smith said, noting that the emphasis on data quality was one of the 2005 hurricane season's major effects on catastrophe modeling.

"The 2004 and 2005 hurricanes were transforming in many ways," said RMS' Ms. Souch. "Firstly, they gave us real-life examples of how a wide variety of buildings respond to extreme wind speeds and storm surge, and this information has been used to improve parts of the models. In addition, they taught us the reality of post-event loss amplification, which had been theorized for years."

"The sheer volume of claims, and other factors such as evacuations, changed the landscape of how claims are handled and settled, and led to inflation in the actual claims paid," she said. "The storms also transformed the industry's awareness of the models—their limitations as well as their bene-

fits—and the importance of knowing as much as possible about the risks being insured."

Ms. Souch noted that data quality has become a key factor in pricing risk, and that rating agencies increasingly see data quality "as a proxy for the effectiveness of operational controls."

"Incomplete and erroneous information has a direct impact on catastrophe model loss output, and can impact reinsurance costs by millions of dollars," Ms. Souch said. "Analysts spend up to 70% of their time reformatting data, but trawling through a portfolio looking for anomalies is a full-time and onerous job, and many instances of wrong coding will still be missed."

Ms. Souch said that RMS has a team in India dedicated to cleansing data, and that the firm is producing various analytics and tools designed to automatically flag data problems.

## COMPUTING POWER

Mr. Smith said there are other aspects of the cat modeling process that demonstrate evolution as well.

"What we're seeing now is we're sort of over the bump that 2005 put in the way and all that information got assimilated," he said. "Now we're looking at all the models that sort of got put on the back burner as we dealt with that bump," which included models for exposures such as tornado, hail and offshore energy.

Dramatic increases in computing power have also had a significant impact on the evolution of catastrophe modeling. "A lot of the techniques we're seeing are very computationally extensive," Mr. Smith said. "Ten or 15 years ago they simply weren't possible."

"There has been a huge benefit in terms of what companies can do with the models," Mr. Churney said. As that modeling power increases, insurers' and reinsurers' expectations of the models continue to increase as well. "The demands continue to increase on what people want to do," Mr. Churney said. "They want to do it at ever higher levels of resolution."

And increasing IT power is allowing them to get that information more quickly. Mr. Churney noted that in the

past year AIR has introduced improvements that reduced detailed exposure data run-times by a factor of five. AIR expects further improvements this year, he said, reducing run-times further by a factor of two.

"I think one of the other big trends you see out there is to move toward a common exposure data format," Mr. Churney said. "Certainly that's been a potential obstacle to companies in moving to some of these more complex processes." He said he hopes such a common format will be achieved within the next few years.

In addition to the hope for data standardization, Mr. Churney said he thinks the future of cat modeling will include continued efforts to better understand the physics behind catastrophic events. "I think that understanding will continue to improve over time," he said.

Such an understanding will lead to expanding the types of risks that can be modeled, he said. "You definitely see for a given peril, say hurricane, (modelers) trying to expand the types of risks that can be modeled."

In addition to efforts to expand the types of exposures that can be modeled, the geographical scope is expanding as well as models begin to take on exposures such as European floods and typhoon or earthquake exposures in China.

"As we update models or develop new models, one of the things we're going to be taking a close look at is what we know with regard to climate change in these various regions and what can be said about that," Mr. Churney said.

The climate change issue, however, is one that AIR is approaching cautiously, in terms of tweaking its models, Mr. Churney said. While AIR tells its clients that the modeling firm wants to stay involved in the debate over the impact of climate change and hurricane frequency, "We don't see our role as being throwing in every new theory that comes out into the cat model," Mr. Churney said.

"That's going to be a challenge going forward," he said, noting that it will be

incumbent on the modeler to determine when theories are credible enough to give them a place in AIR's model.

And, he noted, AIR has an internal research team of 25 working on its own assessments of such issues as climate change and hurricane frequency.

Science migrating from academia into the modeling process is another factor in the evolution of catastrophe modeling.

"We're seeing a big jump in the science behind the cat models," Mr. Smith said. Introduction of such scientific techniques as numerical weather projection has produced "almost a quantum leap" in the modeling process, he said.

For all the improvements in cat modeling, however, issues remain about how the models are used and the way their output is understood, said Karen Clark & Co.'s Ms. Clark. Ms. Clark recently formed her own company to help clients better use cat modeling tools.

"I've seen, since Katrina, a lot of problems with companies using the models" that generally fall into three areas, Ms. Clark said: problems with the data going into the models, problems properly understanding the models' output "and I think the biggest challenge is an over-reliance on models."

"One of the things that we've focused on is providing external reviews and audits of companies' data processes and how they're using the (models') output," she said.

Ms. Clark noted that with rating agencies and catastrophe bond investors also increasingly relying on the output from insurers' and reinsurers' catastrophe modeling, "If you think about it, the output, that information is not audited at all in the same way that other financial information is audited."

"We strongly believe there have to be standards of practice in using these models because they're being relied on for very important financial decisions," Ms. Clark said.

"Some sort of review process, certification, etc., needs to be put in place over the next few years," Ms. Clark said. "With respect to the models them-

selves, of course they will continue to evolve and they will continue to improve." But, Ms. Clark said, "The models are based on limited scientific information."

"We have very limited data on hurricanes and earthquakes and other natural hazards." The models, she said, "do the best job they can using that limited data, but they can't be relied upon to give very precise answers."

The models "will continue to be fine-tuned and the modelers have great scientists and engineers," Ms. Clark said. "They're doing a great job. But we can't go that much further in reducing the uncertainty."

"Most people don't realize it, but the modeling process itself—apart from the models—is very complex," she said. "There are many steps to it and there are many places where mistakes can be made."

### REVIEW PROCESS

Ms. Clark's company has introduced a review process it calls IMARC—Independent Metrics for the Assessment of Risk from Catastrophes. An IMARC review covers components of the risk modeling process such as preparing exposure data, benchmarking that data, performing the modeled analysis, benchmarking the loss estimates generated by the modeling and applying the modeled results.

"There needs to be some standard review process," Ms. Clark said. "The industry as a whole and every company that we've talked to, they want to do a good job of risk assessment and using the models properly."

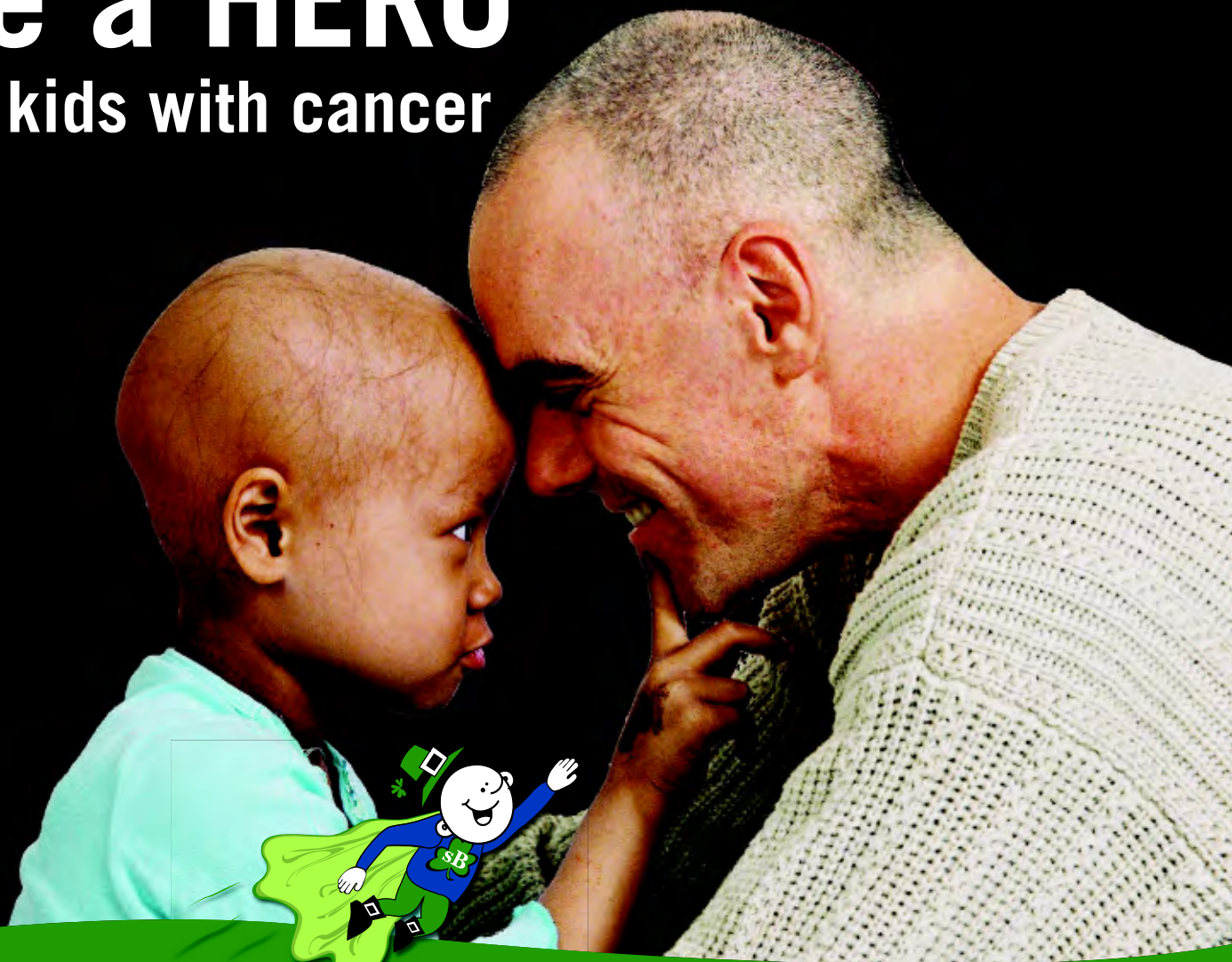
Companies using cat models knew there was uncertainty in their results before Hurricane Katrina, Ms. Clark said. Still, it's difficult to come to grips with understanding that uncertainty. "Nobody likes a range," she said. "They want an answer."

Ms. Clark said her company works to help companies determine what constitutes a reasonable range of possible losses and make their decisions within that range. "It's not easy," she said. "It's much more difficult to use the models as a tool and incorporate the uncertainty in that tool into decisions. But companies need to learn to do that." ■



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# Data-enabled decisions

## Reinsurers making greater use of software to better quantify risks and premiums

By Meg Fletcher

**T**echnological innovation in the reinsurance marketplace is helping reinsurers better gauge ceding insurers' financial strength, risks they face and prices paid for reinsurance while allowing cedents to make more informed decisions about the reinsurance they buy and the risk they retain.

For example, the executives of Eire Insurance Group "sleep better because they get more and better information about the risk they are managing," said Charles Longua, vp and corporate financial adviser of the Eire, Pa.-based insurer, a regional property/casualty company with about \$3.8 billion of gross written premium in 2007.

Speaking generally, he said his company chooses to use software based on a stochastic model to analyze qualitative data using probability theory that "quantifies risk in dollars and cents" for 12,000 possible outcomes, he said.

Eire executives then look at the best, worst and median outcomes to determine the level of risk the company should assume. Sometimes, the company decides that the most cost-effective way to balance risk and premium is to structure its reinsurance program to retain the lowest and highest layers of risk and reinsure the middle layer, said Mr. Longua.

Advances in computing capability have given reinsurers and ceding insurers many software products and programs from which to choose when making reinsurance-related decisions.

Overall, there has been an explosion in the amount and type of data used in modeling and making decisions, especially by primary insurers that want to protect financial results, said Peter Marotta, enterprise data administrator and principal with the Insurance Service Office Inc. in Jersey City, N.J.

Primary insurers must be able to provide sufficient "granularity," or speci-

ficity, in the data about their insured risks or they will face higher prices for reinsurance, Mr. Marotta said.

In terms of property/casualty risks, "I see a constantly improving set of data," he said. Reinsurers and insurers are requiring more detail about concentrations of risk and the structure of buildings since the Sept. 11, 2001, terrorist attacks and the 2005 hurricane season.

Subsequent improvements in building codes also are being reported in the data, which historically has been based on fire codes, sources said.

Overall, reinsurers have somewhat lagged primary insurers in using data to quantify exposures, but are catching up and seeking more data about claims-related activity, Mr. Marotta said.

### CAT MODELING

Using data for catastrophe modeling is important for both primary insurers and reinsurers, sources say.

"Natural catastrophe models combine historical disaster information with current demographic, building—age, type and usage—scientific and financial data to determine the potential cost of catastrophes for a specific geographic area," according to an analysis by the New York-based Insurance Information Institute. "The models use vast databases of information to simulate the physical characteristics of

thousands of potential catastrophes and project their effects on both residential and commercial property."

Risk Management Solutions Inc., a Newark, Calif.-based modeling company, recently added perils to its modeling offerings, including China earthquake and influenza pandemic risks, said Matthew Grant, the London-based chief markets officer for RMS.

Also, new flood models for London and the Czech Republic were introduced last year by New York-based Guy Carpenter & Co. L.L.C., a risk and reinsurance specialist unit of Marsh & McLennan Cos. Inc.

"Flood risk in the U.K. recently has become a matter of growing concern for the insurance industry, amid ever increasing development in the flood plain areas and calls from the Assn. of British Insurers for the government to increase spending on flood protection schemes," a company statement said.

"We have seen an increased demand from clients based in Central and Eastern Europe for new modeling approaches that can help them assess their potential exposures from natural catastrophes," said Hamish Dowlen, vp in Guy Carpenter's Munich office. The Czech flood model, which covers all of the republic's major rivers and most densely populated areas, is based on the company's new Catastrophe Analysis Toolsuite, which is known as G-CAT.

Ceding insurers and reinsurers use catastrophe modeling to better understand the property/casualty risks they face, balance their portfolios and determine an appropriate premium for reinsurance, Mr. Grant said.

"There are very few reinsurers that don't have one or more catastrophe models," he said. Among primary companies, the larger ones will use a model or make use of a modeling company's services, Mr. Grant said.

Interest in modeling products has expanded beyond property/casualty companies to include life reinsurers and the capital markets, he said.

A new RMS program helps insurers and reinsurers better understand the data that they have and reviews inconsistent data to ensure correctness, Mr. Grant said. For example, RMS provid-



ed 200 rules related to construction risks that flag inconsistencies, such as incorrect data that recently identified the Empire State Building as being made of wood even though any building over 12 stories must be constructed of more durable material, he said.

A particular concern of some reinsurance industry members is a shortage of knowledgeable people to handle some of the current technological tools, especially catastrophe modeling, sources say.

A few years ago, RMS established a certification program for catastrophe risk analysts, Mr. Grant said. Most of those who obtain the Certified Catastrophe Risk Analyst designation work for client companies, he said.

## ERM

Reinsurers and insurers also use technology to provide an enterprise risk management approach to modeling the risks of an entire company, which is the focus of DFA Capital Management Inc. in Purchase, N.Y. Its trademarked ADVISE platform allows insurers and

customers because they are all concerned about the performance of their investments, Mr. Suchar said.

Technological advances also are having a major effect on facultative reinsurance business, sources say.

Under such arrangements, individual risks are offered by an insurer to a reinsurer that has the right to accept or reject each risk.

Facultative placements represent about 10% to 15% of the total reinsurance market in North, South and Central America, according to William Donnell, head of facultative business for Swiss Reinsurance Co. units serving the Americas.

Generally, most reinsurance coverage is placed through reinsurance treaties.

Swiss Re provides different levels of service to clients, depending upon the degree of collaboration they want with company underwriters, he said. A client with a large, complex risk may want extensive collaboration while a client with a much smaller risk may be able to use a Swiss Re program to keep the

**'ULTIMATELY, IT IS THE client's decision whether the extra risk is commensurate with the extra premium.'**

**MIKE PETROCİK**  
MUNICH RE AMERICA

reinsurers to better understand the implications of potential business decisions on a companywide basis, said Chris Suchar, executive vp for DFA's operations in North America.

The platform solves the technical problems of coping with the hundreds of contracts that a reinsurer is typically involved with, Mr. Suchar said. It helps reinsurers control their portfolio and optimize their pricing of coverage.

In addition, ceding companies are increasingly interested in bringing such portfolio analysis in-house, so they can obtain their own perspective on it, said Karen Verelley, DFA's vp-marketing.

DFA also offers a global economic market simulator that makes projections about how capital markets will perform in the future.

The projections are important for both property/casualty and life/health

cost of coverage as low as possible, Mr. Donnell said.

For example, a client with "a vanilla-type risk" that will require facultative reinsurance costing less than \$25,000 in annual premium can make use of the company's SwiftRe program, he said. Under that program, an insurer can use technology that Swiss Re installed in the client's office to enter data about the risk and request coverage from the reinsurer. He said he expects the program to increase its limits in the future.

A client with similarly sized risks also has the option of having Swiss Re make the entire submission for facultative coverage. That process was streamlined during the fourth quarter of 2007, cutting the time to receive a quote from an hour to about 15 minutes.

In addition, Swiss Re Group complet-

ed a project last year that increased the uniformity of data requested for facultative placements throughout its operations, Mr. Donnell said.

Munich Re America uses its Dynamic Reinsurance Analysis approach to help clients analyze the value of their reinsurance program and compatibility with their individual risk appetites, said Mike Petrocik, the Princeton, N.J.-based vp and chief actuarial officer for the company's specialty markets division.

A key focus is finding out "how often might something really bad happen" and presenting that and other key outcomes in understandable format, such as a graph that visually summarizes the probability of outcomes and loss totals given various reinsurance programs, he said.

While Munich Re's systems are very complex, they have been engineered so that "desk underwriters," rather than more highly trained actuaries, can use and interpret those accurately for clients, Mr. Petrocik said.

"We don't attempt to say: 'Here is the right thing and here is the wrong,'" he said. "Ultimately, it is the client's decision whether the extra risk is commensurate with the extra premium."

Munich Re also offers a program called Auto Fac, an information processing program for P/C facultative placements that can quote, bind, endorse, cancel and renew policies within minutes. It provides rating worksheets for each transaction and has the ability to display a detailed transaction history of any policy in the system, the company said.

Under the program, insurers are given specific parameters under which they can bind coverage for Munich Re, said Kevin Smith, senior vp-direct facultative in Princeton, N.J.

It offers some flexibility, however, in situations in which an applicant's risk exceeds an insurer's parameters, he said. In that case, the system generates an e-mail to a Munich Re underwriter who will review the submission and decide whether to accept or reject the risk or ask more questions about it.

The system also produces a detailed monthly report that helps managers oversee their operations. ■



## Fully equipped

Intermediaries bringing high-tech toolbox to help insurers make their reinsurance decisions

By Rodd Zolkos

As they work to help clients make better reinsurance purchasing decisions, reinsurance intermediaries are developing their own technology tools to assist with the process.

And, as ceding companies rely more and more on information technology to help shape their reinsurance programs, expectations that intermediaries will provide those tools are growing.

"We have made very substantial investments in people and data and now even software that we've developed ourselves," said Ryan Ogaard, managing director and global leader of Guy Carpenter & Co. L.L.C.'s Instrat unit in Seattle.

As catastrophe modeling developed, people increasingly thought about exposures from a probability perspective, Mr. Ogaard said. As modeling changed insurers' views of probable

losses, that new view began to shape their reinsurance needs. "So we're finding it necessary to give a more holistic view of the risk and the capital needed to support the risk just to give reinsurance advice," he said.

"This is risk capital management," he said, in which the intermediary, working with the insurance company client, is "driving towards a more analytic quantitative approach."

Steve Smith, president of property solutions at ReAdvisory, the analytical unit of London-based Carvill Group Ltd., said in part intermediaries' efforts to develop IT tools reflects the insurance industry seeking to match the capital markets' analytical capabilities.

"The capital markets are 10 to 15 years ahead of us as an industry," Mr. Smith said. The insurance industry, though, is recognizing it can apply some of the same sorts of techniques such as value at risk, using technology to

look across an entire portfolio to make decisions about pricing, underwriting and reinsurance, asking, "If I add another piece of business, how much additional capital do I need to support it?"

"It's a convergence in how we are taking capital markets technology into our business and being as capital efficient as we can," Mr. Smith said.

Carvill is applying tools such as cat models, mapping technologies and underwriting systems. "How do you meld them? It's that kind of convergence that we're looking at," he said.

"With things like mapping technology, we're looking at how to present charts and graphs," he said of efforts to present information more effectively, such as through maps depicting exposure information with data drill-down capability, so clients can use it more efficiently.

"Being able to see that graphically and quickly really helps the underwriting process and the risk management," Mr. Smith said.

Aon Corp.'s Aon Re Global operation uses a number of IT tools to help clients and has developed its own Impact Forecasting modeling unit.

"We have developed several tools and we also license commercially available tools to help our clients identify their exposures and also manage their exposures," said Guru Rao, Chicago-based head of catastrophe research and development at Aon Re Services and president of Aon Re India.

### CUSTOMER-SPECIFIC FOCUS

Aon Re doesn't limit its application of its tools to clients' reinsurance transactions; instead, the tools are "fully embedded" in its clients' broader operations in terms of evaluating insurers' risks, helping them determine if they're writing business in the right areas, identifying opportunities for growth and otherwise helping them improve their businesses.

"That requires us to have a very broad knowledge of catastrophe modeling," Mr. Rao said.

Impact Forecasting's services are available only to Aon clients. Its model is open to clients' scrutiny. "That contrasts with the commercially available models, which are black boxes," Mr.

Rao said.

"We can actually take this model and modify it and retrofit it to a client's needs," Mr. Rao said. "So they don't have to rely on generic models that are out there."

Mr. Rao noted that commercial catastrophe modeling firms offer probabilistic loss estimates. "No two models give the same results, so it's important to have a range of loss estimates," he said. "So we make sure we license the major catastrophe models, plus we have our own Impact Forecasting."

"Having an internal cat modeling unit helps us address any specific needs our clients have," Mr. Rao said. "The other differentiation we have is our online catastrophe management tool, called CatPortal." That platform provides clients tools such as charts, tables, maps and satellite imagery, all of which are interactive and allow clients to examine their exposure information and reinsurance information online.

Using CatPortal, Aon Re clients can overlay events on maps of their exposures to determine the extent of risks they might face.

CatPortal is "a very powerful report that allows our clients to ask a question that they might need to answer to make a decision," Mr. Rao said. "What would take weeks in the past to query and obtain now just takes minutes."

According to Mr. Rao, Aon Re also offers clients a tool called Catastrophe Scorer, "a precision property rating tool" that assesses total cost of risk for various exposures, adding the cost of factors such as reinsurance and capital to the exposure itself to provide "the true cost of risk."

And Aon Re offers clients a risk/reward optimization tool. "Basically, it integrates the various operations and the catastrophe management in a very cohesive and holistic way," Mr. Rao said.

Among tools that Guy Carpenter offers its ceding company clients is a platform it calls i-aXs, developed in response to a "gap" the intermediary saw in handling and analyzing the data that comes out of catastrophe models, Mr. Ogaard said. "How do you handle this massive volume of information," he asked.

With i-aXs, Guy Carpenter provides

clients a platform for storing, gaining access to and visualizing data. For example, i-aXs can overlay real-time storm information on a map of a client insurer's exposures.

"I-aXs is definitely made to let people visualize their data," Mr. Ogaard said. "You can slice and dice your information," he said. "You have to be able to do that to ensure your data quality."

"The other thing is this is a collaborative platform," he said. "You empower the clients to do some of these things themselves."

"This is something we see as complementary to the cat models," Mr. Ogaard said.

An emphasis on capital management, enterprise risk management and rating agency considerations "caused us to build and keep building a tool called MetaRisk," the InStrat global leader said.

MetaRisk is a dynamic financial analysis tool that can evaluate an entire spectrum of risks to help clients determine "what's the risk and how much capital is needed to support the risk," according to Mr. Ogaard.

"We have expanded the capability to put in other classes of risk like asset risk,

**'HAVING AN internal cat modeling unit helps us address any specific needs our clients have.'**

**GURU RAO**  
AON RE

credit risk and market risk in conjunction with your liability risks," he said. "We're starting to license that to clients. It started as an internal model but we're finding our clients need that to meet their ERM requirements."

"With i-aXs and MetaRisk we're really in the software business," Mr. Ogaard said.

The intermediary often develops tools to serve clients whose exposures might not fit into the models provided by the commercial modelers. "We're constantly developing niche products," Mr. Ogaard said.

Other intermediaries are also developing tech tools to help their clients. New York-based Holborn Corp. offers one called Eye in the Sky, a Web-based

management information application. It provides Holborn clients immediate access to graphic, multilayered maps showing possible exposures and instant analysis of related data.

The product was client-driven, Frank D. Pierson, senior vp and chief technical officer at Holborn, said while demonstrating the tool at last year's Property Casualty Insurers Assn. of America conference in Boston. "The genesis of this was one of our clients was looking at Google Earth."

"The idea is, if there is an issue that I want to go investigate, can I go look at it," he said. "The idea was to give our clients back control of the data."

## TOP QUESTIONS CHANGING

Minneapolis-based John B. Collins Associates Inc. demonstrated a new IT platform of its own at last year's PCI gathering, a desktop portfolio management tool for insurers called CatXplorer. The platform provides a high level of flexibility and user control in analyzing portfolios of property or workers compensation business.

Using CatXplorer, Collins clients can view, map, track and analyze their

property or workers compensation portfolios. The platform offers drill down capability, in addition to allowing users to filter information by any variables in the portfolio. Information can be extracted through Excel spreadsheets or on maps.

As intermediaries develop more and more IT tools for their clients and clients' expectations rise in concert, an observation that Guy Carpenter InStrat's Mr. Ogaard made about some insurers' expectations is telling.

"More and more we're seeing—it sort of started in Europe—requests for proposals that say, 'One: What is your risk modeling platform and can we license it?' and 'Two: Can you place reinsurance?'" ■

# Aging baby boomers pose challenges for life and annuity providers

By Meg Fletcher

**NEW YORK**—Aging baby boomers are buying annuity products more often than life insurance, a change in demand that is challenging life and annuity companies to operate more efficiently, two related studies conclude.

While both life and annuity providers have improved their operations in recent years, there is more they can do, according to the 12th annual benchmarking studies of insurers' back-office operations from Deloitte Consulting L.L.P., a subsidiary of Deloitte & Touche USA L.L.P. in New York. The studies, which analyze 2004-2006 data from 50 companies, are known as the 2007 LIONS study for life insurers and the 2007 ACES study for annuity providers.

In each study, researchers compared general participants' answers with those of a select study group comprised of 10 to 15 of the largest life insurers and annuity providers. In some cases, researchers also presented answers from a third group of low-expense companies.

## LIFE TRENDS

"Currently, the size of the life market is decreasing, so total underwriting premium is not growing," said Jack Tyniec, a New York-based specialist leader with Deloitte's insurance benchmarking center.

"Given the increasingly competitive and slow-growth environment for life insurance products, cost containment through operational efficiency is considered a top priority for executives," Joe Guastella, national leader for Deloitte's insurance consulting group, said in a statement.

Reflecting that decline is a drop in business expenses per \$1,000 of annual life premium. Average expense figures for all participants dropped from \$170 in 2004 to \$147 in 2006, while

expenses for study group members dropped from \$167 to \$151 during the same period.

There were slight increases, however, in total operations and the related information technology share of life business expense. There also has been an increase in customer service processing expenses per in-force policy, the study said.

"Insurers need to manage the entire business process model" because expenses are evenly divided among new business operations, customer service operations and related IT, researchers found.

Researchers also found that "insurers with lower-cost structures typically have faster service delivery time." Insurers with low-cost structures also handled fewer service transactions at a unit cost similar to other participants, the study concluded.

"But it is vital executives recognize that success depends not just on committing to increase efficiencies; it also requires focusing on the ones that have the most impact," Mr. Guastella said.

Call centers offer significant potential for savings, researchers said.

"Companies are tapping into the potential of call centers to varying degrees; the full benefit does not yet appear to have been achieved," the study said.

The overwhelming majority of insurance-related calls are being answered by a customer service representative, researchers found. Interactive Voice Recognition technology entirely handles only 13% of the study group members' calls and 14% of other participants' calls.

A company representative is able to resolve a customer's concerns during his or her first call 82% of the time for study group members and 75% of the time for all others. Yet, many of the remaining calls have to be referred to another area for processing.

"Call centers have undergone significant change in the past five years," Mr. Tyniec said. Internet-based services have siphoned off some of the simpler inquiries, so the call centers now receive requests for more complex inquiries and transactions, he said. Use of "intelligent call routing" can direct callers with a specific need to a representative who has the specific skills and background to handle it. Some transactions require that the representative hold a specific type of license, he added.

Study data show that companies are not meeting their own service standards about 30% of the time.

The report recommended four ways for a life insurance company to improve efficiency:

- Expand use of differentiated service levels.

Insurers tend to offer higher levels of service to producers—rather than customers—and industry research indicates that they appreciate such preferred treatment.

- Explore additional outsourcing opportunities.

"Outsourcing for insurers is still gaining traction," contrary to the general trend in the financial services industry, the report said. "Insurers are most open to outsourcing servicing processes for closed lines of business" such as administration and claims.

- Leverage Internet-based service capabilities.

"The broader financial services industry trend toward increased customer self-service via phone—IVR—and Web is beginning to reach the insurance industry," the researchers said in noting that insurers are leveraging Internet-based service to varying degrees. "Given industry growth dynamics, we would expect to see customer service processing expense decreasing."

- Address costly legacy IT systems.

"Legacy system maintenance expenses constrain the ability to invest in

enhanced capabilities," the Deloitte report said. Such systems can be "an albatross" for established companies, Mr. Tyniec said.

"When companies make discretionary IT investments, they tend to invest in new business application IT more than customer service application IT," researchers found.

## ANNUITY TRENDS

"Annuity sales have experienced explosive growth over the short term, which may be masking underlying efficiency issues," Richard Roth, the Atlanta-based practice leader for Deloitte's global benchmarking group, said in a statement. "While it can be challenging to try to determine where a system can be made more efficient right when it's being taxed the most, that is exactly the time to seek out the disconnects and redundancies because they are magnified."

Maintaining expense efficiencies should be a priority for annuity providers, researchers said.

"Within the annuity business, success is driven more heavily by technology, which can require significant outlays, underscoring the importance of managing each component of the business process model, including IT," researchers said.

Despite that, study group members made noteworthy progress in reducing the expense per \$1,000 of annual annuity deposits, which dropped from an average of \$40 in 2004 to \$32 in 2005 and \$27 in 2006, according to the data. That compares with mixed results for all other participants, who reported expenses of \$36 in 2004, \$42 in 2005 and \$34 in 2006.

With the surge in annuity business, transaction volumes and unit costs have increased, researchers found.

"Annuity products require more frequent customer interactions than life products," the report said. As the market witnesses a fundamental shift from asset accumulation to income planning, annuity products will play a key role and may involve an even longer-term relationship between the customer and the annuity provider. Researchers also questioned whether

annuity providers are missing an opportunity by not focusing more on the unique needs of customers.

"In-force administration transaction unit costs have been increasing at approximately 9% per year for the study group," researchers said. Specifically, the average transaction unit cost for those participants went from \$10.14 in 2004 to \$11 in 2005 and \$12.04 in 2006.

"While e-Service and other mechanisms may be utilized to manage in-force transaction unit costs, transactions are expected to continue to grow," researchers said.

Study results about annuity providers' expenses, were mixed, however.

There was a sharp decline in expenses per \$1,000 of annuity deposits, which is the way revenues are described for this line of business. There also were declines in new business processing expense as well as total operations and related IT share of business expense. At the same time, though, there were increases in customer service processing expense on a per contract basis and increases in service transactions per contract and unit expenses per transaction, they found.

When it comes to call center usage, there is an opportunity for annuity providers to improve performance in meeting target service standards, the study concluded.

While most calls are still being answered by a customer service representative, IVR penetration "is low" at an average 28% for all companies and 29% for the study group, but it is more than double the rate for life companies, the study said.

"Given the growth market, product complexity and increasing transactions, companies should consider expansion of self-service; customer service representatives cannot answer most calls," the report said.

Currently, annuity provider customer service representatives are able to resolve a customer's concerns on his or her first call 78% of the time for all providers and 77% for the study group.

"In the coming years, companies—including both annuity and life insurers—will adopt improved speech-enabled systems to upgrade/replace existing IVR systems," the study said.

"The main difference we see" between annuity providers and life insurers is that annuity providers spend more on discretionary IT and use a service model that does not differentiate the end customer, the study said.

The study recommended four ways that annuity providers can improve their efficiency:

- Address root causes of so-called "not-in-good-order" transactions.

The rate of NIGO transactions, which lack essential correct information from customers, "continues to be high across all companies, which translates into added time and cost required to process new business," the study said. Lowering the NIGO rate "will allow companies to lower processing unit expenses even further and may help increase marketplace attractiveness by enhancing (the) ease of doing business."

- Expand use of straight-through processing.

"The ability to process transactions with less paperwork, eliminate duplicative efforts and build in compliance parameters is critical to the industry," the study said.

Annuity providers differ from life insurers because they are able to invest more in discretionary customer service IT than are life insurers, researchers said.

Annuity providers "are investing in IT at about the same rate as life insurers," although they are spending more in discretionary IT, which means they will be in a better position to invest in 'straight-through processing' of annuities," the study said.

- Explore additional outsourcing opportunities.

"Providers with lower-cost structures have more aggressively outsourced key business functions," the study said. Among study participants, outsourcing "has not fully taken hold," although providers outsource more remittance and contract statement functions than other functions.

- Leveraging capabilities for client self-service using Internet-based services continues.

Annuity providers are not yet fully leveraging such capabilities, but such capabilities continue to evolve, they said. ■

# Future compliance success hinges on reliable data

By **Judy Johnson**

Insurers spent a couple of years focused on Sarbanes-Oxley Act compliance, basically an extensive process and controls documentation exercise.

In response to Section 302, management assigned corporate minions to review and document existing controls. Responding to Section 404, any control problems discovered by the minions were to be fixed, controls were to be added as necessary and an external audit performed.

The response to Section 409 concerning real-time disclosure of material issues is likely to be less documentation and more scrambling, since real-time information remains an ephemeral concept in most insurance companies today.

If companies across industries have learned anything from Sarbanes-Oxley compliance, it's that all this documentation is expensive and that, for professional auditing firms, Sarbanes-Oxley was as big a windfall as Y2K was for many information technology consulting companies.

The possibility of market and shareholder outrage when business stopped and systems crashed drove companies to spend enormous sums on Y2K remediation. The prospect of jail time for senior executives was a major driver to endure the pain and the cost of initial Sarbanes-Oxley compliance activity.

The prospect of executive jail time has receded, but compliance demands have not diminished as Sarbanes-Oxley activities have tapered off. More proactive insurers are beginning to rethink both the role and the scope of compliance activity within their organizations.

## INFORMATION ACCURACY

A key component of all compliance activity is information—its acquisition,



**Ms. Johnson**

structure, storage, accessibility, security and, above all, accuracy. The traditional compliance function, reactive, detached and focused on regulatory reporting and responses, has been limited and hampered by the difficulty of accessing information within the enterprise. Automation, processes and data repositories remain fragmented within organizational silos, where reliance on legacy systems and disinclination to bear the cost and impact of change has trumped any strategy to transform the way technology and processes support the business.

Industry consolidation has exacerbated the problem, bringing more systems, more processes, more data of unknown quality, more inconsistencies in the way business silos are managed, and new reasons for more internal and external audits.

Culturally reactive companies have decided to shrug and pay the fines or delegate the handling of compliance issues to division management. That this same division management is dealing with the strategic corporate imperative of growth over governance is seemingly not an issue.

Proactive insurers are looking at a

wider focus and corporate responsibility for the compliance function as it moves from reactive to proactive, from a detached responsibility to one where the risks and uses of technology are considered, from a regulatory response manager to a business process monitor and risk manager.

The future role of compliance must be to manage regulatory and legal risks before they become compliance issues or regulatory failures. Since proactive management requires immediate access to good information, this transformation cannot happen detached from better use and management of the enterprise's IT infrastructure.

Changing compliance focus creates new demands on the ways in which systems collect, manage and monitor critical enterprise information. Since enterprise information is difficult to access, analyze or manage in functional, silo-driven organizations, IT trends and priorities are changing to meet new compliance realities. These priorities include:

- Making process improvement critical.
- Making data quality, long a recognized but unaddressed problem, a key concern.
- Considering and addressing continuing data security risks.
- Modernizing and replacing core legacy applications.
- Increasing spending on disaster recovery and business continuity.
- Moving toward a new, more flexible technology architecture.
- Increasing emphasis on business analytics and intelligence.
- Increasing the focus on IT governance.

It is impossible for a company with bad data, broken processes and dysfunctional systems to be compliant.

The foundation of a compliant organization consists of functional applications, accurate information, secure data and systems, and managed processes (see box).

Although implementation and support of the critical compliance components cannot be divorced from automation, these are business—not technology—issues and the technology

focus must be on understanding and managing impacts of change to the business.

Many companies have indicated a lack of faith in the validity of their corporate data and that inaccurate data has led to lost sales and poor financial performance.

The information security problem will not go away, as threats to corporate data continue to increase and mutate. All processes that involve people or technology are involved in security management.

The legacy applications supporting most insurers represent operational cost, security risk, data and compliance issues, and disaster recovery and business continuity complexity to the company.

Improvements to financial systems and processes are continuing in many companies post-Sarbanes-Oxley.

Insurer spending on compliance activity is far from over. In attempting to manage compliance, insurers should go back to basics, finding and fixing what's broken in the industry's process and IT infrastructure. This means a serious assessment of process and information gaps in the organization weighed against a clear understanding of business priorities.

Not everything can be easily fixed by adding technology, and not everything needs to be fixed in order for an organization to be both successful and compliant. A sound business strategy is key, since managed compliance and improved corporate governance are its byproducts. Only technology that adequately serves the strategy should be implemented.

None of the technologies listed is trivial to implement and all will affect the day-to-day operation of the organization to some extent. Technology modifications that impact core legacy systems will have the greatest effect on business functions and processes. Changes that increase both business flexibility and compliance are worth the investment.

*Judy Johnson is vp and principal solutions architect at Patni Computer Systems Inc. in New Brunswick, N.J.*

## COMPLIANCE CONNECTION

Information technologies connected to these foundation components include:

### COMPLIANCE COMPONENT:

Accurate information

### RELATED INFORMATION TECHNOLOGY

- Data management
- Information search & retrieval
- Reporting & business intelligence
- Content management & archiving
- E-mail & message archiving

### COMPLIANCE COMPONENT:

Secure data & systems

### RELATED INFORMATION TECHNOLOGY

- Data security
- Disaster recovery
- System configuration management

### COMPLIANCE COMPONENT:

Functional applications

### RELATED INFORMATION TECHNOLOGY

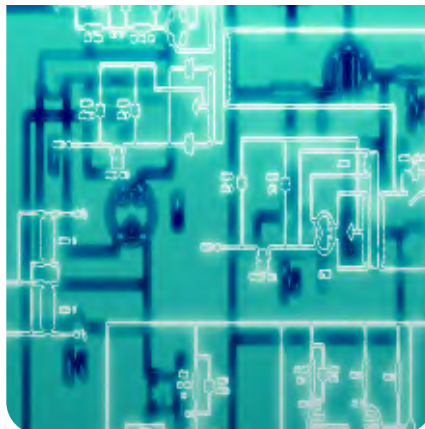
- Legacy modernization
- Application rationalization
- Litigation management & e-discovery
- Financial management
- Transaction surveillance

### COMPLIANCE COMPONENT:

Managed processes

### RELATED INFORMATION TECHNOLOGY

- BPM & workflow
- Process embedded compliance checklists
- Audit
- Records management
- E-learning



## Willis launches cyber risk facility to cover data loss

**LONDON**—Broker Willis Group Holdings Ltd. has launched a new cyber risk facility to cover business interruption and recovery costs associated with incidents of malicious and accidental data loss.

CyPro, London-based Willis' new suite of products, is designed to help protect businesses' balance sheets and the potential for erosion of their brands, the broker said.

Willis said CyPro was specifically designed to help clients reduce exposure to risks related to technology use and incorporates stand-alone first-party nondamage business interruption coverage, offering coverage in cases where no physical damage is done to the system.

The broker noted that while recent high profile data privacy breaches have focused on potential third-party losses, coverage for both first- and third-party losses is available through CyPro.

The product suite offers financial assistance to firms facing costs associated both with repairing systems and replacing data, as well as the expense of trying to mitigate reputational damages, such as by hiring a public relations firm in the aftermath of a data breach.

In a statement announcing the new product suite, Terri Driscoll-Cooper, business development director at FINEX Professional Indemnity, said, "Technology is now driving business, yet businesses have failed to change the way they insure against these new perils. Companies' assets are moving from 'bricks to clicks' yet their protection against the enormous reliance on technology to run their business remains woefully inadequate."

With nearly 300 professionals, FINEX is the financial, executive and professional risks division of Willis, acting as a knowledge basis for Willis around the world. ■

# Private equity firms drawn to brokerage industry

By Daryl Polenz

In January 2007, USI Holdings Corp. announced its sale to GS Capital Partners, a private equity affiliate of Goldman Sachs Group, for approximately \$1.4 billion.

One month later, a similar deal was announced: the purchase of HUB International Ltd. by Apax Partners and Morgan Stanley Principal Investments for approximately \$1.8 billion.

On June 1, 2007, Alliant Insurance Services announced its sale to Blackstone Group for \$1.1 billion. Notice a pattern?

In the insurance brokerage business, mergers and acquisitions are an inherent part of the competitive environment. The industry is constantly consolidating, with more than 200 M&A transactions announced each year, according to SNL Financial.

Even with all the consolidation, the industry remains highly fragmented. Insurance is also a relatively slow-growth industry. In recent years, average annual property/casualty insurance premium growth has been less than 5%

and life insurance has been, for all practical purposes, a zero-growth business. Because of the fragmentation and limited organic growth opportunities, mergers and acquisitions are some of the most effective ways to generate above-average growth rates in this sector.

So, in an industry with consistent robust M&A activity, what characteristic makes these recent deals unique? The answer is private equity.

Private equity firms are targeting the insurance brokerage industry because it has characteristics that are inherently attractive to private equity investors. In general, the industry has low capital requirements, generates substantial cash flow, remains highly fragmented, and has demonstrated the potential for value creation via consolidation and operating leverage.

## GROWTH BY CONSOLIDATION

USI and HUB, and to a lesser extent Alliant, reached their current sizes primarily by being among the most active and aggressive consolidators in the industry. As such, they are skilled acquirers with the knowledge, experi-

ence and technology being what many consider "perfect" platforms for private equity investors.

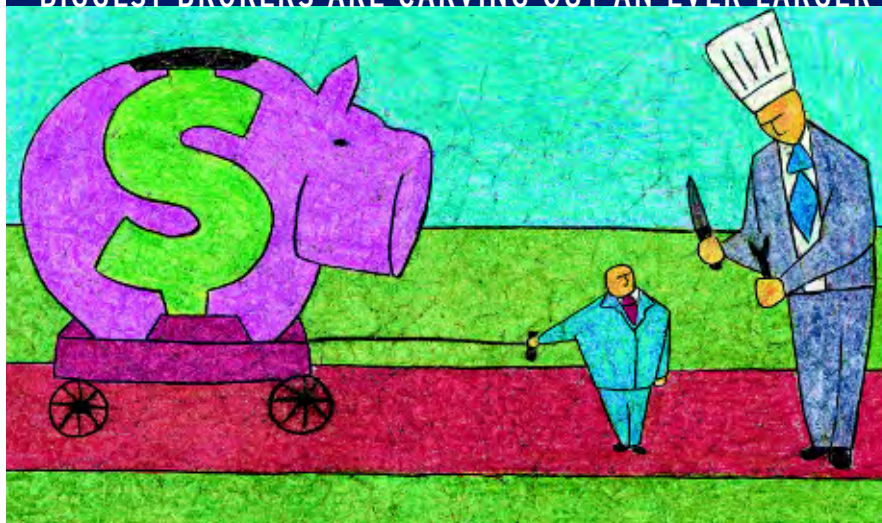
With new private equity owners, USI and HUB are likely to become even more aggressive acquirers. As privately held companies, they no longer need to be concerned about quarterly earnings and can take a longer-term view. The new private equity owners are financially sophisticated investors with a relatively high risk tolerance, easy access to capital and a willingness to operate with a higher leverage ratio.

If these new owners follow the typical private equity timeline, they will rapidly implement a value creation business plan and then target a liquidity event, via a sale or an initial public offering of the business, within three to seven years.

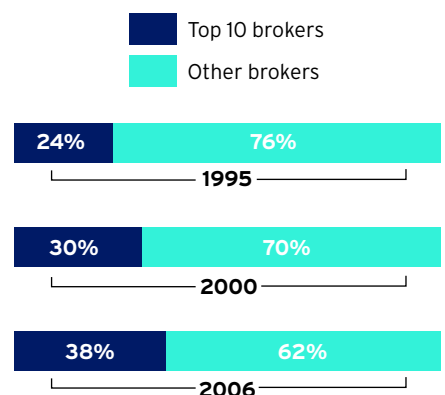
With the addition of aggressive private equity investors to the insurance broker M&A market, what can we expect?

**RECENT PAST:** Historically, middle-market M&A deals in the insurance brokerage industry were typically event-driven. Owners decided to sell a business

## BIGGEST BROKERS ARE CARVING OUT AN EVER LARGER SHARE OF THE MARKET



The market share of top 10 brokers has grown since 1995.



Source: Business Insurance



Mr. Polenz

because of a specific event. A retirement, family feud, lack of succession plan, defection of key management or some other event made the status quo impractical or undesirable.

Transaction prices paid for insurance brokerage businesses would, more or less, follow the insurance cycle: A soft market would translate into lower transaction prices; a hard market would lead to higher transaction prices.

**NEAR FUTURE:** Deals in early 2007 pushed transaction multiples to all-time highs even in the face of a softening insurance market. This disconnect between the insurance cycle and transaction pricing is likely to continue.

The pursuit of acquisitions by private equity-backed insurance brokers will probably accelerate industry consolidation. Private equity activity in the sector may lead to more price-driven consolidation that will augment the more typical event-driven M&A transactions. Additional acquisitions of large private and publicly traded insurance brokers are real possibilities since private equity has demonstrated the ability to consummate transactions significantly larger than even the largest insurance broker.

The industry could even witness a business combination of large brokers in the type of transaction that produced the current market leaders, but that has not happened in almost a decade.

For insurance brokers that are planning on or considering selling, now is the time to make sure the business is properly positioned for a sale. Insurance brokers will likely experience a period of unprecedented opportunity during which many companies can expect to start receiving, or receive more frequent, unsolicited offers for a purchase of the business. Rarely will an unsolicited offer yield the most attractive transaction, but it can be a catalyst for a process that can generate the right deal for the owners.

### HIGHER PRICES A CHALLENGE

For traditional consolidators, higher pricing will create challenges for sustaining growth within their existing business models. Transaction prices that are acceptable to insurance brokers owned by private equity firms may not be economically viable for other buyers. However, an acceleration of the

consolidation trend is likely to create other opportunities in the form of more dissatisfied producers looking for a different brokerage platform.

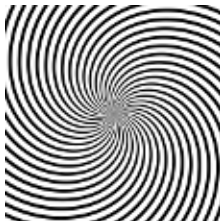
M&A activity always generates a certain amount of dislocation among producers, and that often presents an opportunity for brokers to attract high-quality producers by offering an attractive work environment and a brokerage platform designed to enable producers to be successful.

Regardless of your perspective, impending changes to the insurance brokerage industry could be quite interesting. Insurance brokers can expect to witness some industry transforming transactions in the near term. And, if you are ready for it, change is good because it often means opportunity.

*Daryl Polenz is a managing director in the New York office of Deloitte & Touche Corporate Finance L.L.C.*

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# Documents a springboard to a soft market success

By Karin Jessop  
and Jill Davidson

What's on your mind this quarter? If you're like most insurance executives, it can be summed up in two words: soft market.

A recent survey by Celent's insurance practice found maintaining growth in a softer and more uncertain market is top of mind among C-level executives. The report also noted that "growth in a soft market can mean growing relative to competitors." In this environment, customer retention is critical, and new business will most likely come from customers an insurer

products can capture and structure this data. The information can then be fed back to the business units or actuarial teams to help make underwriting decisions.

There also is the potential to feed this information into an insurance-specific business intelligence system for analysis, turning unstructured data into actionable information. This can give insurers a deeper understanding of who is buying which products, and provide a 360-degree view of each customer. Customer service representatives, marketers and sales teams would have the ability to see a customer's entire history, allowing them

order to cross-sell—for example, offering homeowner's coverage to an auto insurance policyholder who just purchased his first home. Or the insurer may have a life and health client who smokes and makes regular claims for asthma medication. The insurer can use its CCM system to send that customer information on stop-smoking programs. By doing so, insurers can potentially increase the value of existing policies. Response data from such campaigns can be analyzed to gauge the messaging's effectiveness and gain insight into buying trends.

Many leading insurers also use CCM to reinforce brand recognition and loyalty among current customers. A brand experience is defined and reinforced every time a customer interacts with the insurer. This includes calls into customer service, Web self-service and, increasingly, communication via cell phone and hand-held devices.

Accurate, up-to-date information and messaging can be incorporated into all of these touch points—from customer service representatives who can see a client's entire claim history, to Web portals providing 24/7 access to online records, to claims responses via hand-held devices. The more satisfied an insured is with each interaction, the more likely that she will become a repeat customer.

Documents should not be viewed as static objects. They are dynamic, flexible containers for living data. Insurers should be able to alter a document interactively (such as when a rider is added) or on-demand (triggered by an event, such as a life insurance policyholder turning 70). This data can then be populated to other systems across the enterprise, and help business analysts find new ways to increase ratios.

Insurers should take an enterprise-wide view of documents, both as marketing tools and as invaluable sources of unstructured data. This type of innovative thinking will define market leaders in the coming months, helping them retain market share and win new business from existing customers. ■



Karin Jessop (left) and Jill Davidson are product managers at Frisco, Texas-based Skywire Software.

already has. What many insurance executives fail to consider is how their customer communication strategy can impact these goals.

Insurers have traditionally viewed documents as a necessary cost of doing business. However, documents can provide a wealth of information about existing customers that can be used to strengthen relationships and win new business.

In today's integrated, service-oriented environments, data residing in an insurer's documents is more accessible than ever before. Often this information is in unstructured text, such as the record of a phone call an insured made to a call center to change a life insurance beneficiary. Numerous

to tailor marketing and sales pitches.

Documents, e-mails and online portals often constitute the main point of contact between insurers and insureds. As the face of the customer relationship, every communication must reinforce that relationship.

Consider an auto policyholder with two dependents: a 15-year-old daughter and a 13-year-old son. The insurer can utilize a customer communications management system to send a postcard reminding the policyholder her daughter will soon need to be insured as a driver on the family car. The action can be repeated in two years when the policyholder's son turns 15.

Insurers can use similar intelligence to create customized messages in

# 2008

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*\*Editorial highlights are subject to change.*



**JOHN WERSYN** is assistant vp and coordinator of risk management resources at Deerfield, Ill.-based Markel Shand Inc.

## Web a rich loss-avoidance resource

**N**owadays, it's not enough for businesses to rely solely on their professional liability insurance to manage risk. Given the litigious climate of the times, finding ways to avoid claims upfront must be a high priority for any responsible business or professional.

In my 25 years as a claim specialist, I've witnessed quite a variety of professional liability claims. I've had a great deal of experience with the types of loss a business or professional service provider can sustain—and it goes well beyond court-awarded damages.

For a professional, a claim's impact can include lost time that could otherwise be billed, out-of-pocket costs many policies don't cover and a tarnished professional reputation. The process of addressing claims and litigation is stressful and drains energy better applied to more productive efforts.

With this in mind, the value of doing whatever is possible to avoid claims becomes an important part of practicing any profession. Thus, like past "defensive driving" campaigns, a good proactive risk management plan improves the odds of avoiding claims for most businesses.

The emphasis on adding value to insurance products has increased recently. Rising insurance costs due to increased numbers of lawsuits against professionals, together with escalating defense costs and plaintiff awards, suggest that increased emphasis on prevention would yield great benefits.

One major loss control initiative for businesses and professionals was the drive for tort reform. Most of that legislation is now in place, though it's often proved less effective than proponents had hoped.

In keeping with the American way of seeking a better mousetrap, attention is increasingly being focused on finding new avenues for avoiding loss. These include developing value-added risk management programs.

Securing liability insurance from a reputable insurer is a necessary part of any risk management program, but for most businesses and professions, it's no longer enough. I'd advise a business owner or professional to be sure that coverage includes added value in the form of risk management features. Web-based tools can be especially effective.

Risk management and loss avoidance have

been around for years, and seminars regularly address the subjects. Typically, the focus on these topics does increase awareness temporarily but, with time and attention to other matters, much of what was learned fades, especially if a business isn't harshly reminded of the importance of this concern by periodically facing a claim or lawsuit.

While liability risk management and loss control aren't new concepts, what is relatively new is the availability of computerized risk management and loss control tools. In my view, these online, interactive tools are the best option, offering a policyholder the most timely, comprehensive information and long-term value.

Easy access to loss avoidance information and other resources in Web-based programs allows professionals to increase their knowledge and focus on loss avoidance. Such tools can further benefit professionals by improving their understanding of the lessons learned by those unfortunate practitioners

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**LIKE PAST 'defensive driving' campaigns, a good proactive risk management plan improves the odds of avoiding claims for most businesses.**

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making news as defendants in lawsuits.

Where can a business find such tools? Professional liability insurers that share experience and lessons learned with policyholders add risk management value to each insurance policy and align common interests in avoiding claim expenses and losses.

When researching insurance coverage, potential insureds, agents and brokers should look for a policy that includes an online risk management resource. Insurance is often shopped with a keen interest in price and an insurer's claims handling reputation. No question, price and claims handling are important. But both can be reduced by avoiding claims in the first place.

Increasingly, insurers are offering risk management resources. It won't be long before professional liability insurance shopping will focus not only on price and claims handling, but also on the insurer's effectiveness in helping policyholders avoid claims.

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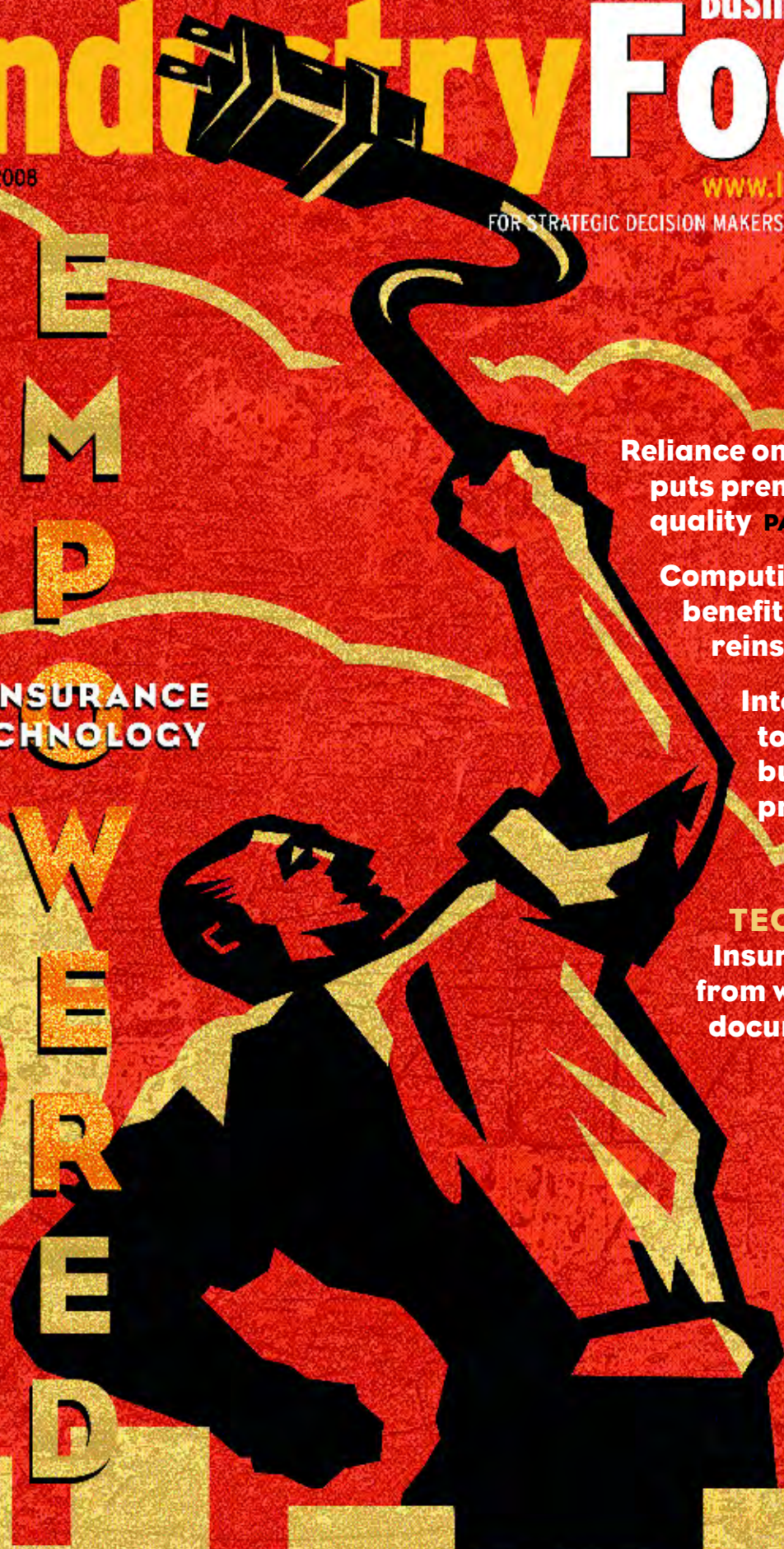
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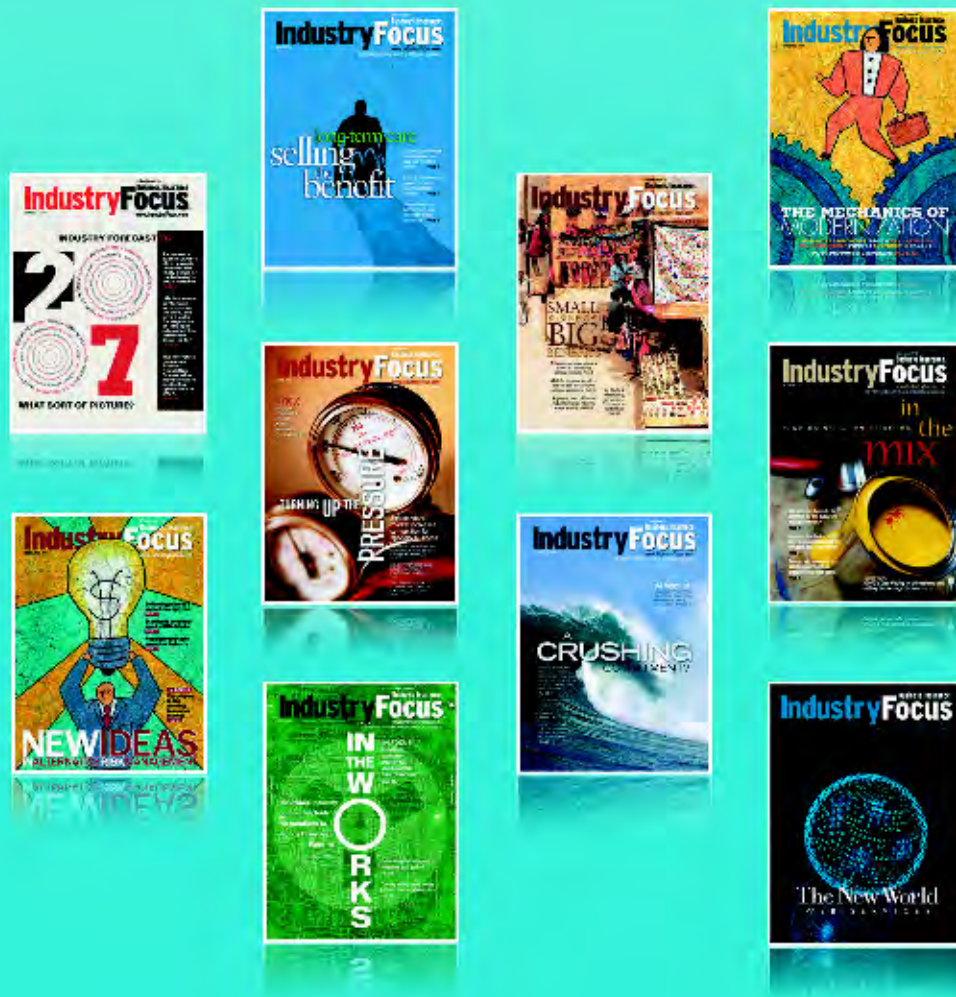
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