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March 23, 2009

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DESPITE SHARP PROFITS DROP
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In Brief

**Insured cat losses
top \$52.5B in 2008**

Insurance losses from catastrophes totaled \$52.5 billion in 2008, according to research by Swiss Reinsurance Co. Worldwide economic losses from natural and man-made catastrophes in 2008 reached \$269 billion, Zurich, Switzerland-based Swiss Re said in its latest sigma study. According to the research, there were 137 natural catastrophes and 174 man-made disasters in 2008. Swiss Re defines a catastrophe as an event with losses of at least \$85.4 million. Natural catastrophes cost insurers more than \$44.7 billion, the study said.

**Reinsurer premiums
rise in 2008: RAA**

Property/casualty reinsurers wrote \$23.9 billion in net premiums in 2008, an increase of \$1.2 billion compared with 2007 results, according to a survey by the Reinsurance Assn. of America. The Washington-based RAA surveyed 19 U.S. property/casualty reinsurers and reported the 2008 combined ratio for the group was 101.8%, up from 94.7% during the same period a year ago. The deterioration of the combined ratio was attributable to a 71% loss ratio and a 30.7% expense ratio, the RAA said in a statement. Reinsurers' policyholders' surplus was \$64.4 billion at the end of 2008, down from \$75.9 billion at 2007 year-end.

**WCIRB calls for
24% rate hike**

The Workers' Compensation Insurance Rating Bureau of California on Wednesday recommended a 24.4% increase

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Bonus pay uproar compounds AIG woes

*Lawmakers strive
to recoup incentives
at financial unit*

By **MARK A. HOFMANN**

WASHINGTON—Congressional ire over retention bonuses paid to employees of American International Group Inc.'s financial products unit is growing hotter by the day.

Efforts are being made in both houses of Congress to recoup \$165 million in retention bonuses paid to employees of AIG Financial Products Corp., the unit that was involved in complex securities deals that brought the company near bankruptcy and led to a federal bailout of more than \$170 billion.

The House voted last week to impose a 90% income tax surcharge on bonuses received by employees at companies that received at least \$5 billion in federal financial aid. The Senate is expected to follow suit soon with its own tax proposal. The moves came despite AIG Chairman and Chief Executive Officer Edward M. Liddy's

INSIDE:
Will furor nix
future bailouts
for AIG? **PAGE 21**
AIG not under-
pricing market,
says GAO. **PAGE 20**



REUTERS
President Obama last week criticized bonus pay to AIG Financial Products staff, which AIG CEO Edward M. Liddy (right) was called on to explain.

call on some employees to voluntarily return part of the bonuses.

News of the bonus payments sparked a public outcry, with President Obama saying he instructed Treasury Secretary Timothy Geithner to explore every legal avenue to get the bonus money returned.

But some legal experts question whether legislation should be the first step in the effort to recoup the bonuses.

Congressional fury was more than evident last week when Mr. Liddy appeared before the House Financial Services Committee's Subcommittee on Capital Markets,

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**P/C spinoff
seen as vital
to keep staff**

By **SALLY ROBERTS**
and **JUDY GREENWALD**

NEW YORK—Proposed government action to severely limit or prohibit bonus payments at American International Group Inc. puts even more pressure on the beleaguered company to quickly spin off its property/casualty units and launch an initial public offering, observers say.

While the focus of the government hearings and public outcry last week was on the retention bonuses paid to executives from AIG Financial Products Corp.—the unit responsible for the firm's disastrous credit-default swap business—key insurance executives from AIG's commercial insurance operations also are receiving retention bonuses (BI, Dec. 15, 2008).

A measure passed by the House of Representatives last week, however,

See **REACTION** page 21

Marsh seeks to put limit on its own liability

Asks clients to agree to \$10 million E&O cap

By **SALLY ROBERTS**

NEW YORK—Marsh Inc. last week began asking clients to sign off on new client service agreements that include a \$10 million cap on the New York-based broker's professional liability.

The move brings Marsh in line with other professional service firms, such as accountants, investment bankers and actuaries and is

about prudent risk management, not any widespread problem at the brokerage, executives there said.

The cap will not affect most clients bringing errors and omissions claims against Marsh, they noted. However, it will protect the firm from low-frequency, high-severity claims that could negatively impact the bottom line of the firm, which largely self-insures those risks, the executives said.



MMC President and CEO Brian Duperreault said the cap is intended to help Marsh manage its own risk.

Marsh's small-account business, its risk consulting unit and MMC consulting unit Mercer L.L.C., already put such provisions into client contracts.

"It all boils down, to me, to risk management," said Brian Duperreault, president and chief executive officer of MMC, in an interview last week. "We need to improve our own risk management. We're good at advising others, and I wanted to make sure we were good at practicing it ourselves."

"We do stand behind our business, but we are not the insurer of last resort," he said.

Indeed, Marsh CEO Daniel S. Glaser noted there have been a couple of suits against the firm seeking more than 1,000 times the amount of money Marsh received in com-

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Claims of willful misconduct and gross negligence are excluded from the cap.

The provision is a global directive of parent company Marsh & McLennan Cos. Inc. and will be implemented across all of its business units, starting with Marsh's middle-market and large-account business in the United States, executives said. Several units, including

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BI DIRECTORIES

Updated 2009 TPA directory available

Business Insurance's 2009 Directory of Third-Party Administrators is available. The directory contains information on companies that provide a minimum of \$500,000 in claims services to self-insured clients. The directory is available as a searchable Excel chart or PDF. For the first time this year, the dollar amount of workers compensation claims paid also is available. Go to www.BusinessInsurance.com/directories.

Business Insurance®

REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

Business Insurance (ISSN 0007-6864) Vol. 43, No. 12, is published weekly, except last week of December, by Crain Communications Inc., 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to *Business Insurance* Circulation Department, 1155 Gratiot Ave. Detroit, Mich. 48207-2912. \$5 a copy and \$97 a year in the U.S. \$130 in Canada and Mexico (includes GST). All other countries, \$230 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 40012850, GST No. 136760444, Canadian return address: 4960-2 Walker Road, Windsor, ON N9A6J3. Printed in U.S.A. Copyright © 2009 by Crain Communications Inc.

Soft P/C market persists despite poor results

Investment, cat losses drag down profits for insurers in 2008

By JUDY GREENWALD

Catastrophes, investment losses, a soft market and deteriorating underwriting results all contributed to a miserable 2008 for commercial property/casualty insurers.

And although many observers say there are signs that recent rate declines are far smaller than in recent years, they disagree as to whether rates may rise in 2009.

Even excluding the massive \$99.29 billion loss reported by American International Group Inc. for the year, 11 other insurers surveyed by *Business Insurance* posted a

73.1% decline in net income and all reported either losses or double-digit decreases in net income.

Among other survey results:

- Net premiums written increased just 1.3%, to \$141.44 billion.

- Insurers reported a 98.8% combined ratio for 2008 vs. a 90.8% ratio for 2007.

- Policyholder surplus for the 10 insurers reporting this data decreased 10.4%, to \$117.5 billion.

Investment losses were a dominant factor in last year's results, experts and analysts say.

"That is the area of biggest concern and is doing the most to drive the negative results for the industry," said John L. Ward, chief executive officer of Cincinnati Partners L.L.P. in Cincinnati.

"The investment problems last year really overwhelmed any issues

with the cycle or underwriting concerns, and that's been driving a lot of our discussion lately," said James B. Auden, Chicago-based senior director at Fitch Ratings.

Investment losses "put the value of most companies under a lot of pressure," said Paul Newsome, analyst with Sandler O'Neill & Partners L.P. in Chicago. "Some companies did better than we originally projected; some did worse. Obviously, the more conservative companies are doing better than the less conservative companies from an investment perspective," he said.

"You can't paint with a broad brush" the issue of investment problems, agreed Bill Bergman, an analyst with Morningstar Inc. in Chicago. Chubb Corp. and Travelers Cos. Inc., for instance, "seem to have avoided a fair amount of the

investment problems that are afflicting a lot of the prominent (insurers) and, going forward, I suspect their position in the marketplace is strengthened."

Catastrophe losses also pressured the property/casualty sector during 2008.

"It was a tough cat year, so that drove loss ratios up," Mr. Auden said.

Meanwhile, price deterioration and greater competitiveness reflected the soft market, he said.

"We have not seen the hard market materialize," Mr. Auden said. "We think '09 will be worse than '08 from an underwriting standpoint." Despite a "lot of cheerleading," rates are still declining. While they may be doing so at a slower

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COBRA model notices available for employers

Former workers can learn of subsidies available

By JERRY GEISEL

WASHINGTON—Employers now have the model notices they need to inform former employees of COBRA premium subsidies that are available to many workers laid off since the recession began.

The Labor Department was required under the recent economic stimulus law that instituted the COBRA subsidies to develop notices that employers could use to advise beneficiaries of the subsidy and how to enroll for subsidized coverage. The notices were released March 19, as mandated by Congress.

Under the law, involuntarily terminated employees are required to pay only 35% of the COBRA premium and the federal government will pick up the remaining 65%. The subsidies are available up to nine months, until a terminated employee is eligible for coverage from a new employer or becomes eligible for Medicare.

The Labor Department has provided four model notices, each tailored to a specific situation.

For example, the so-called "full notice" would be sent to beneficiaries who lost or lose group coverage from Sept. 1, 2008, through Dec. 31, 2009. A so-called "abbreviated notice" would be for beneficiaries now receiving unsubsidized COBRA.

Another model notice applies to individuals who lost their jobs from Sept. 1, 2008, through Feb. 16, 2009—the date before the stimulus legislation was signed into law—and at the time declined COBRA. That notice, which must be provided to beneficiaries by April 18, informs them of their second chance to enroll in COBRA coverage.

The fourth notice describes the right of individuals working in states with so-called mini-COBRA laws, which apply to employers with fewer than 20 employees, to also receive COBRA subsidies.

While employers are free to develop their own notices, experts expect employers will use the model notices because of time pressures

COBRA MODEL NOTICES

MODEL NOTICE 1: For beneficiaries who lost or lose group coverage between Sept. 1, 2008, and Dec. 31, 2009

MODEL NOTICE 2: For beneficiaries receiving unsubsidized COBRA

MODEL NOTICE 3: For individuals who lost their jobs between Sept. 1, 2008, and Feb. 16, 2009

MODEL NOTICE 4: Describes the right of individuals working in states with so-called mini-COBRA laws, which apply to employers with fewer than 20 employees, to also receive COBRA subsidies

to distribute the information and that they will pass Labor Department muster.

"Employers have been very anxious to receive these notices and they will use them," said Sharon Cohen, an attorney with Watson Wyatt Worldwide in Arlington, Va.

"Employers now have a very comprehensive set of documents," said Sandy Wheeler, a director in the Washington office of PricewaterhouseCoopers L.L.P.

Aside from the model notices, the

See **COBRA** page 19



British Prime Minister Gordon Brown recently said an announcement would be made "very soon" about ways to address the issue of pleural plaques.

Scotland OKs damages for asbestos scarring

Pleural plaques law permits compensation without ill health

By SARAH VEYSEY

EDINBURGH, Scotland—A law passed by the Scottish Parliament that would mandate compensation for workers who developed pleural plaques after exposure to asbestos could cost businesses and insurers up to £8.6 billion (\$12.02 billion), according to some estimates.

And the move by Scottish lawmakers may add to political pressure to create a plan to compensate pleural plaque sufferers elsewhere in the United Kingdom, experts say.

Pleural plaques are scarring of the lungs caused by exposure to asbestos. Although the condition can signal the possibility of future asbestos-related disease, it does not necessarily lead to ill health.

In October 2007, the House of Lords, the United Kingdom's highest court, ruled that claimants with

pleural plaques no longer should be compensated for the anxiety that the condition may cause.

But earlier this month, the Scottish Parliament passed the Damages (Asbestos-related Conditions) (Scotland) Bill, which states pleural plaques are a personal injury that is not negligible and "constitute actionable harm for the purposes of an action of damages for personal injuries."

The Assn. of British Insurers, which said the cost of compensating for pleural plaques in Scotland could reach between £1.1 billion (\$1.54 billion) and £8.6 billion (\$12.02 billion), said the bill could have "far-reaching, unintended consequences," and said insurers were "seriously considering mounting a judicial review."

"The bill is fundamentally flawed. It ignores clear medical opinion that plaques are symptomless and do not cause other asbestos-related conditions," said Nick Starling, director of general

See **PLAQUES** page 6

N.Y. weighs rule putting D&O buyers in charge of defense

In response to protests, Dinallo seeks input from the industry

By ZACK PHILLIPS

NEW YORK—New York insurance regulators are developing a rule that likely would legalize directors and officers liability policies that allow the policyholder to manage its legal defense during litigation.

An opinion from the New York State Insurance Department's general counsel in October 2008 argued that some such D&O policies are illegal under regulations, which sparked an uproar among D&O insurers and buyers because many such policies are in use, attorneys

and insurers say.

In response, the department has asked for the industry's help in crafting a new regulation by the end of April clarifying the legality of such policies, according to New York Insurance Superintendent Eric Dinallo.

"We were surprised as an agency (by) the amount of distress that this caused," Mr. Dinallo said last month at the Professional Liability Underwriting Society's D&O Symposium in New York. "We thought we were helping (and) only clarifying."

Large companies with their own legal departments sometimes prefer D&O policies that let them manage their own defense, because a litigation strategy overseen by the insurer may diverge from the interests of the business, lawyers say. The D&O



REUTERS

Eric Dinallo said an effort to clarify D&O policyholder rights resulted in surprising negative reactions.

insurer may be more focused on resolving a claim quickly or suppressing defense costs, while the policyholder may want to contest

the claim out of concern about damage to its reputation.

Some policyholders want the right to select their own counsel, said John McCarrick, a partner at Edwards Angell Palmer & Dodge L.L.P., who has spoken to Mr. Dinallo about the issue. "If you're taking that right away and saying, 'No, the insurer has to do it,' then that's problematic."

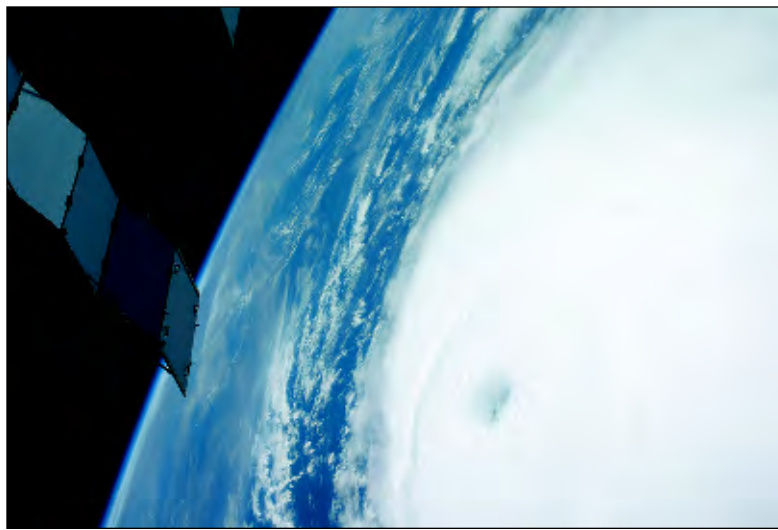
Mr. McCarrick said policies giving control to the policyholder are fairly common, especially among financial institutions and large, public companies. He added that D&O policies that allow the policyholder to oversee the defense generally are more expensive, because the insurer is ceding its ability to control the defense and claims costs. "When you have the duty to

defend, the insurer has the ability to negotiate rates," he said.

The insurance department's general counsel issued the October opinion in response to an inquiry from a D&O insurer. The department cited several regulations in concluding that the D&O policy must place the duty to defend on the insurer.

The department previously had approved some D&O policy forms transferring the duty to defend to policyholders, lawyers say, and the October opinion was confined to the specific policy about which the insurer inquired. But as more insurers and policyholders became aware of the opinion, there was growing apprehension that the department would broaden its reasoning to the

See **D&O** page 19



AP/NASA

Hurricane Ike, seen from the International Space Station last September when it was a Category 4 storm, was the third-costliest hurricane in U.S. history.

NAIC requires disclosure of climate change risks

Measure mandates annual questionnaire for largest insurers

By MEG FLETCHER

SAN DIEGO—The National Assn. of Insurance Commissioners last week adopted a mandate that large insurers disclose the climate change risks to which they are exposed and how they are responding to those risks.

Property/casualty and life/health insurers with annual premiums of \$500 million or more are required to disclose their climate-related risks by providing answers to an annual eight-question survey, which must be filed by May 1, 2010, covering 2009.

The survey must be submitted to the state where the insurance company is domiciled. Other insurers may be asked to voluntarily answer the survey, according to the NAIC.

The risk disclosure survey, a compromise developed over several months, garnered support from reg-

ulators and consumer groups but drew a mixed response from insurer trade groups.

"Climate change will have huge impacts on the insurance industry and we need better information on how insurers are responding to the challenge," said Pennsylvania Insurance Commissioner Joel Ario, who chairs the NAIC Climate Change and Global Warming Task Force, after the final NAIC vote taken March 17 during the organization's spring meeting.

Eight broad questions ask how an insurer is altering its risk management and catastrophe risk modeling, steps it has taken to engage and educate policymakers and policyholders as well as changes in its investment strategies due to the challenges presented by climate change.

The disclosure requirement was the second time this month that the NAIC emphasized the importance of insurers disclosing climate change risks.

"It is challenging for regulators to

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Employers urged to join reform talks

Wal-Mart exec says participation vital in health care debate

By JERRY GEISEL

WASHINGTON—The top benefits executive at the nation's largest retailer is urging employers to get involved and try to influence health care reform legislation.

"If you don't participate in the discussion, you won't like the outcome," said Linda Dillman, executive vp-benefits and risk management at Wal-Mart Stores Inc. in Bentonville, Ark.

Delivering a keynote address at the annual meeting of the National Business Group on Health in Washington earlier this month, Ms. Dillman said reforming the U.S. health care delivery and financing system is a necessity.

"The price of doing nothing would be disastrous," she said.

Advocating participation in health care reform efforts would seem an unlikely role for a company that critics have denounced as offering stingy health care plans to its own employees.

'The price of doing nothing would be disastrous.'

Linda Dillman, Wal-Mart Stores Inc.

Several years ago, an AFL-CIO-supported drive resulted in the introduction of legislation in dozens of states that would have required employers to spend a certain percent of payroll on health care or pay the difference to state

programs providing coverage to the uninsured. The bills typically targeted employers with large numbers of workers in a state and the bills often applied only to Wal-Mart.

But a district court in 2006 and a federal appeals court panel in 2007 found that such laws ran afoul of a provision in the Employee Retirement Income Security Act that preempts state and local laws and regulations that relate to employee benefit plans.

Being in the national spotlight and receiving the negative media coverage was not pleasant, Ms. Dillman said.

"We came under a lot of scrutiny," she said. "Some people thought we weren't doing a particularly good job."

But now, Wal-Mart executives say, the wheel has turned.

While close to 10% of its employ-

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Credit crisis raises collateral worries for more captive owners: Survey

By RODD ZOLKOS

INDIAN WELLS, Calif.—The biggest challenge facing captive owners is concern about collateral amid the economic downturn and credit crisis, according to the 2009 fronting survey by the Captive Insurance Cos. Assn.

But finding fronting insurance is not the concern it once was for captive companies, according to the survey.

Members of CICA's Fronting Survey Committee discussed findings from CICA's 2009 Survey on Fronting, Reinsurance and Employee Benefits earlier this month at CICA's annual international conference in Indian Wells, Calif.

The results of the annual survey

showed that companies' primary reason for using a fronting insurer "continues to be the need or desire to have admitted paper," said committee member Carol Frey, vp business development and alternative risk leader at ACE USA in Philadelphia.

Of the 83 respondents to the survey, 97% listed admitted paper as a primary reason for using a fronting insurer, with regulatory compliance the next-most frequently cited reason at 40%. The overall level of importance of fronting to their captive was given as either "very important" or "important" by 83% of those responding.

83%

Respondents who cited the overall importance level of fronting to their captive as either "very important" or "important."

The cost of fronting insurance was characterized as "reasonable" by 68% of those surveyed, with 26% calling the price as "expensive" and 6% calling it "inexpensive."

The survey shows a continuing soft market for fronting coverage. "I think we see a lot of neutrality," Ms. Frey said. "Of course, I think what's happening in a semi-depressed market...is a lot of companies are seeing reduced exposures." More than half of survey respondents—56%—reported no change in the cost of fronting from

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Malta seeks expansion by allowing incorporated cell captive insurers

Special-purpose vehicles to securitize risks likeliest prospects

By MICHAEL BRADFORD

VALLETTA, Malta—Malta, which is the only European Union member state to allow protected cell companies, is working to permit the formation of incorporated cell companies as well.

The Malta Financial Services Authority is working on the shape of ICC legislation that may be unveiled in a few months, said Joe Bannister, chairman of the MFSA.

In the PCC structure, the individual shells' assets and liabilities are separate from those in the other shells. Malta is home to four PCCs, and those companies contain 10 total cells.

The domicile wants to expand the services it can offer by allowing the formation of ICCs, Mr. Bannister said. He noted that the Malta law is being based on ICC legislation in place in Guernsey, though he said that law is "being looked at as a base, but not as a model. We have to use a European model and align the law with E.U. directives and regulations," he said.

Separate vs. joined risk

ICCs operate similar to PCCs but offer some additional protection for cells' assets in the event that one of those entities becomes insolvent. Cells in an ICC are treated as separate companies, whereas those in a PCC have no separate legal identity.



Malta is considering legislation that would allow incorporated cell companies, an addition to protected cell companies that already exist in the domicile.

Because of their individual legal status, ICC cells are able to contract with each other, a practice that is not possible for PCC cells.

Malta is considering ICC legislation that would allow ICCs to form as special-purpose vehicles that would be used to securitize risks, or as captive insurers, said Mr. Bannister. He acknowledged that the benefit of establishing an ICC is likely to be greater for SPVs than captives. Because capital requirements for a cell likely will be the same as for a

stand-alone captive insurer, potential owners could see that requirement as prohibitive, said Mr. Bannister.

He said, though, that cells in an ICC captive each would enjoy "passporting" privileges that allow them to do business directly in E.U. member states.

But even with that advantage, "we see more of an application for SPVs," Mr. Bannister said of the potential for ICCs in the jurisdiction. "We're hearing more (interest) from the SPV side."

Awaiting details

Captive managers in Malta are waiting on the final form of any ICC legislation before they will comment on how such a law might function. They do say, though, that ICC legislation may not be a shot in the arm for Malta captive formations.

Managers are aware the proposal, as it is being discussed, would make ICCs more attractive to SPVs than captives, said Angela Wright, client director in the captive management practice at Marsh Management Services Malta Ltd. in Sliema. "Everybody is lukewarm about it at the moment."

"Until we can see the law or a draft, we don't really know the format," said Michael Gatt, managing director of Atlas Insurance P.C.C. Ltd., a Ta' Xbiex-based protected cell company.

Mr. Gatt said the usefulness of a new law for captives likely will hinge on the capital requirements. "I imagine it will be the same as for stand-alone captives," he said. "This issue needs to be addressed."

Plaques: Scotland approves scarring comp

CONTINUED FROM PAGE 3

insurance and health at the London-based insurer trade group, in a statement. "And the full cost implications of this measure, which will be paid for by all Scottish taxpayers and firms, have been ignored."

In addition, the bill could have consequences beyond pleural plaques, he said. "It ignores the fundamental legal principle that compensation is paid only where there are physical symptoms, and could open the floodgates for claims from people exposed to a risk but showing no symptoms."

During the Scottish Parliament debate on the bill, Fergus Ewing, a Scottish National Party member, said actuarial estimates suggested that by the middle of the next decade, annual costs for compensating for pleural plaques will reach a peak of between £7 million (\$9.8 million) and £19 million (\$26.5 million) a year.

It is difficult to predict how much it will cost to compensate claimants with pleural plaques, said Steve Matthews, a director at nonlife actuarial consultancy EMB Consultancy L.L.P. in Epsom, England.

Public awareness of pleural plaques, and of asbestos-related conditions in general, has increased in recent years, partly as the result of several high-profile media and political campaigns, he said.

There also is a possibility for forum shopping whereby claimants living or working in other parts of the United Kingdom may seek to bring claims in Scotland because, for example, their company's head office was based there.



The measure does not define how much compensation should be paid for pleural plaques cases, noted Peter Taylor, a partner in the insurance and reinsurance department of London-based law firm Lovells L.L.P.

While the bill relates only to Scotland, its passage could add to political pressure for pleural plaques to be compensated in other parts of the United Kingdom, experts say.

The U.K. government is in discussions with interested parties about potential ways to address the issue.

There still has been no formal

announcement made on the issue in the wake of a government consultation in England and Wales that closed last October, but British Prime Minister Gordon Brown recently said an announcement would be made "very soon."

While the government is unlikely to overturn the House of Lords decision, the idea of some form of compensation plan, likely funded in part by the insurance industry and part by the government, has been suggested, said Adrian Budgen, a partner at law firm Irwin Mitchell based in Sheffield, England.

The Nottingham, England-based Assn. of Personal Injury Lawyers welcomed the Scottish Parliament decision and said it hoped the government would follow suit for claimants in England and Wales. "Anything less would make the justice system inherently unfair," it said in a statement.

The Scottish Trades Union Congress, a labor union, said it also hoped the U.K. government would make changes to ensure "victims in England and Wales are also compensated for the scarring caused by plaques, whether physical or psychological."

Commentary

Genuine risk transfer experts, do speak up

The economic situation surely proves to any remaining doubters out there that we live in a world without economic borders. The speed and ferocity of the spread of the latest crisis has taken almost all experts by surprise.

It also largely explains the, at best, haphazard and, at worst, clueless response of those charged with the wise management of our global economy, particularly in the closing months of last year. This is, of course, a risk management crisis at heart and one of gargantuan proportions. The international banking community failed to manage its credit risk adequately, and the rest of the world now pays a heavy price for that risk management failure.

Moreover, the crisis also represents a failure of risk-based regulation as those charged with the protection of our wealth unwittingly hastened the contagion of the risk by failing to recognize the problems before they emerged.

Politicians also failed to manage the risk to society. This is because they wittingly delivered the environment in which the banks and other wealth "managers" were allowed to convince themselves and everyone else that we had entered an era of unstoppable gains.

Read back through the speeches made by those in charge of our macro risk during the past few years and they appeared to believe the economic cycle had been conquered by advanced risk management techniques, exemplified by the slavish belief that risk could be amortized through endless securitization. This occurred despite the glaring warning signals sent by a string of corporate collapses such as Barings Bank P.L.C., Long Term Capital Management, Enron and Parmalat.

But all is not lost. The forthcoming G20 meeting of world leaders represents an opportunity to face up to the problems of the past, drop the politics and talk turkey.

The politicians need to accept responsibility for the failure of macro and financial risk management and support calls for a truly uniform, realistic and apolitical approach to global risk management based on the real, not hopelessly assumed, value of risk.

The alternative would be to blame each other for the problem, adopt regional or, even worse, national strategies, reconstruct the trade barriers and hope for the best.



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Risk managers in the insurance industry and corporate world have long lurked in the shadows of their more flashy and infinitely higher-paid counterparts in the banking world. Now is the time for the solid corporate risk transfer industry to emerge from the shadows and tell it as it is. Help the politicians, regulators and banking industry learn how to identify, manage and effectively transfer

This is, of course, a risk management crisis at heart and one of gargantuan proportions.

risk properly to prevent this from happening again.

A big first step would be for the U.S. and European insurance supervisors to drop their well-documented differences and create a true level playing field and thus raise the efficiency of a now very valuable commodity—true risk transfer capacity. They really can use Solvency II to build a bridge between the European, U.S. and other international supervisory regimes and show the banks how to do it.

Business Insurance took its own step in this direction with the recent decision to merge its European title, *Business Insurance Europe*, back into the mother ship. By doing so, *BI* has recognized that risk respects no trade or national barriers and that risk managers must pull together to tackle this international problem.

Let us hope the Risk & Insurance Management Society Inc. and the Federation of European Risk Management Assns. adopt such an outward-looking approach as they prepare for their conferences in Orlando, Fla., and Prague, Czech Republic, and help kick-start the rehabilitation process.

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Business Insurance OPINIONS

Many answers needed about rules, bonuses

SHOULD RETENTION BONUSES paid to employees of American International Group Inc.'s financial products unit be hit with huge taxes?

Responding to public outrage after disclosure that \$165 million in bonuses were paid to the employees of AIG Financial Products Corp.—the unit responsible for AIG's disastrous credit-default swap business—federal legislators are moving in that direction.

Last week, the House of Representatives approved legislation in a lopsided vote that would impose a 90% income tax surcharge on employees who accept bonuses from companies that receive at least \$5 billion in federal emergency financial aid.

We can well understand the outrage over the bonuses.

Certainly, many would question why individuals who made such disastrous decisions, and triggered the biggest-ever federal government bailout of a company, should be rewarded with any kind of bonus.

We think, though, that there are other, more important questions that need to be addressed before Congress takes further action.

Perhaps one of the most important questions is whether imposing such a punishing tax on retention bonuses would make it harder, if not impossible, to keep employees on board whose expertise might be invaluable in winding down a unit in a cost-effective way.

Maybe even more important is whether legislators are focusing on the right issue: how the company was allowed to amass such mind-boggling liabilities without a scintilla of regulation or scrutiny.

If the goal is to prevent future federal bailouts, this is the issue that legislators should be debating.

There are other, more important questions that need to be addressed before Congress takes further action.

Antitrust exemption has little to do with AIG

SOME LAWMAKERS ONCE AGAIN have introduced legislation that would repeal insurers' limited exemption from federal antitrust law under the McCarran-Ferguson Act. And once again, one of the arguments put forth as part of the proposal is that eliminating the antitrust provision would make insurers more responsive to policyholders' complaints about handling claims.

We can understand frustration over claims handling, although we don't see how changing antitrust law would promote consumer protection in this area. But this time around, proponents of repeal have offered a new argument that might play well on Capitol Hill.

The argument is that, somehow, American International Group Inc.'s near-meltdown and subsequent rescue by the federal government demands that McCarran-Ferguson's limited antitrust exemption be repealed.

We haven't been cheerleaders for McCarran-Ferguson, particularly given the near-exclusive role it gives states in regulating insurance. We are longtime supporters of allowing insurers to choose to be federally regulated rather than state-regulated.

But we're hard-pressed to see how eliminating the limited antitrust exemption while keeping insurers under state regulation has anything to do with AIG. In fact, we'd say the AIG situation cries out for stronger regulation of insurers—and as AIG has taught us, their parent companies—at the federal level. Repealing the limited antitrust provision while maintaining state regulation of insurers would do absolutely nothing to reach that goal.



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Business Insurance welcomes letters to the editor. The section is intended to be a forum for readers' opinions and comments. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters.

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Buyers should take advantage of changes

Insurer enterprise risk management and economic capital modeling are beginning to transform the dynamics of insurance markets, so corporate buyers should position themselves to take advantage of the changes under way, say Virginia R. Prevosto, vp-insurance information products and analytics at Insurance Services Office Inc., and Michael R. Murray, assistant vp-financial analysis at the Jersey City, N.J.-based ISO. The recession is the latest development causing insurers to rethink how they measure and manage risk, the authors say.

VOTE

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THIS WEEK'S RESULTS

How long do you keep your/your clients' liability policies?



NEXT WEEK'S QUESTION

Should buyers accept a cap on their brokers' professional liability exposure?

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Chicago: 312-649-5286; London: 44-207-457-1412;

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SUBSCRIPTIONS: Detroit: 888-446-1422

Business Insurance is published by
Crain Communications Inc.

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Recession packs a host of challenges amid uncertainty

By Richard E. Sherman

Q: What are the most significant short- and long-term effects of the recession on casualty insurance?

Though the nature of this recession is unprecedented, making predictions hazardous, there are a few effects that can be expected across the market:

- The market likely will harden throughout 2009 due to multiple factors pressuring rates upward. These factors include increased need for reinsurance as direct writers look for capital relief obtained by lowering retentions; lower investment portfolio returns cutting into insurers' ability to offset high loss ratios and still maintain profitability; increased liability claims for lines such as directors and officers liability, errors and omissions, and professional liability resulting from the economic turmoil; a poor loss year in 2008 with

claims costs, which could result in lower rates. Auto fatalities dropped almost 10% through October compared with a year earlier, according to the Department of Transportation. However, a partial offset likely will be caused by an increase in uninsured and underinsured drivers.

- General liability premiums written using revenue as the exposure base will fall, at least in the short run, as revenue falls. Workers compensation premiums will slide as widespread layoffs reduce payrolls.

Fallout related to the American International Group Inc. bailout and

insurer downgrades is more difficult to predict. At this point, the Obama administration appears committed to keeping at least the larger insurers operating. The longer-term outlook for casualty insurance is clouded by challenges that are likely to remain in place for years:

- The future nationalization of some banks may be followed by the nationalization of some of the larger insurers. The possibility of federal regulation of insurance replacing state regulation could become a reality, given Washington's tendency to favor federal oversight in most

major areas of the economy.

- Efforts to avert an economic meltdown via massive government spending and astronomical deficits most likely will result in a serious devaluation of the U.S. dollar, leading to high rates of inflation. Because federal stimulus spending most likely will only have limited effectiveness in widespread job creation, while putting upward pressure on interest rates, continued bailouts probably will spawn an environment where a sustained economic expansion will be severely hampered for years to come.

A key area of great uncertainty is the future form of the health care industry, and its effect on workers compensation costs. At some point, dramatic reforms likely will result in constraints on the medical cost escalation that has been rampant for decades. No one can reasonably predict when or how this might occur.

No one is surprised that our nation is headed for a rough ride in the near future. We all hope things will shake out and settle down to an environment that will provide a much-needed basis for future growth and prosperity.

Ask a Casualty Actuary



Richard E. Sherman is president of Richard E. Sherman & Associates Inc., a casualty actuarial consulting services in Ashland, Ore.

weather-related catastrophe losses among the highest on record.

- Investment losses for insurers will result in reduced capacity, pressuring rates further. This also may result in more difficulty in obtaining coverage in some areas, especially those prone to catastrophes.

- Major increases in surety losses tied directly to the dramatic increase in the number of financially distressed contractors.

- Serious increases in losses on surety bonds for self-insurers due to the rise in business failures.

- An increase in the size of assigned risk pools will occur as capacity decreases, leading to higher costs shared by operating insurers.

- Lower payrolls and a thinning workforce could increase accident frequency and costs as remaining workers are overtaxed. Cost-cutting related to risk management and safety controls may exacerbate this effect.

- Increased cases of arson due to imminent foreclosure could result in an increase in property loss costs.

However, not all the expected effects of a recession are bad.

- A decline in driving related to the recession likely will reduce auto

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DISCOVER RE

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Exposures and opportunities rest on vigilance, informed response

By John J. Hampton

In early March, the Blue Cross & Blue Shield Assn. held an ERM Summit in San Diego. This column is based on a presentation at that conference.

Any discussion about risk in 2009 can appropriately begin by reminding ourselves of Chinese curses. One example is, "May you live in interesting times." In China, this refers to events such as famine, plague, pestilence and war. Today we can add Bernie Madoff, American International Group Inc., Lehman Bros. and Bear Stearns. A second Chinese curse is, "May you come to the attention of the authorities." This could refer to the Department of Justice, attorneys general and chief prosecutors. A third Chinese curse is, "May you find what you are looking for." Homes we cannot afford. Loans we cannot repay. Destruction of our lifetime savings.

The curses remind us of the most popular approach to enterprise risk management following guidelines from the Committee of Sponsoring Organizations of the Treadway Commission. The goals are OK. ERM should be effected by the board and senior management and applied across the enterprise consistent with a specified risk appetite. As of mid-2008, the COSO approach to ERM was widely discussed, slowly implemented and most advanced in financial institutions.

Huh? Most advanced in financial institutions? Countrywide. Merrill Lynch. Bear Stearns. Citibank. Lehman Bros. Fannie Mae. Freddie Mac. What went wrong?

My suggestion is that the failure of ERM lies in our need to think we have reduced uncertainty when we are dealing with risk. We may not be able to reduce it in the real world, but we certainly can reduce it in our own minds. One of the most common techniques is to make a forecast using three scenarios: (1) likely, (2) best case and (3) worst case. Let us test the proposition using value at risk, a widely used measure of exposure and opportunity.

Suppose a company wants to minimize its exposure to fluctuations in the real, Brazil's currency. It borrowed 30 million reais at a time when it had 40 million reais as receivables. As it normally collects 90% of the receivables (36 million reais), its gross exposure is 6 million reais (36 vs. 30). If it is confident that the exchange rate between the real and the dollar will not fluctuate more than 20% in the next period, the worst-case for value at risk is 20% of 6 million, or 1.2 million reais.

Or is it? Suppose economic or political conditions cause a liquidity crisis so customers default on their obligations. The company would not collect its receivables yet it still would owe its full debt. Reverse the collection number. If 90% of customers default, the company collects only 4 million reais. The calculation quickly changes to 30 million minus 4 million, or 26 million of gross exposure. Now assume the fluctuation in currencies is 60% instead of 20%. The value at risk becomes 60% times 26 million, or 15.6 million reais. What is the worst case now?

An ERM program can fail if it relies too heavily on quantitative techniques. We are trained to look at data and estimate likely outcomes in normal times. We understand probability and the normal probability distribution curve where 95% of the possibilities are approximately within two standard deviations from a likely outcome. The statistical analysis can create an unwarranted confidence that causes us to stop watching for changes that might move us into the 2.5% extremes.

Malcolm Gladwell, in "Blink: The Power of Thinking

Without Thinking," is highly critical of analytical tools even within the 95% confidence intervals. He claims a person's "gut" is often a better decisionmaker than lengthy risk analysis. It is pretty easy to show our tendency to be overconfident when we are using numbers. Earlier this year, a group of MBA candidates in an ERM course at St. Peter's College were given the following data for a public company.

Year	Net income	Earnings per share	Dec. 31 stock price
2003	\$9.3 billion	\$3.55	\$72
2004	\$9.9 billion	\$3.73	\$64
2005	\$10.5 billion	\$3.99	\$67
2006	\$14.0 billion	\$5.36	\$70

In the pursuit of value at risk, they were asked to estimate the likely, high and low ending stock price for 2007 and 2008. Answers varied from \$40 to \$80. Even though the financial crisis was in full bloom, most individuals were confident that the estimates were solid. The company was AIG whose year-end stock price was \$47 in 2007 and \$1.30 in 2008.

We can even show a tendency toward undue confidence when no statistical data supports numbers. Once somebody makes an estimate, confidence tends to rise. In a different MBA class, five teams of students were given five minutes to complete a task. They were told that homeowner insurance policies covered property damage and personal injury from animals. Then, they were asked to estimate the number of animals in U.S. homes in the categories of cats, dogs, reptiles, primates and big cats. Five individuals, one from each team, moved to the front of the classroom where they were asked to reveal the team estimate of cats. All answers were in millions, specifically 200, 14, 12, 8, and 2. Then each individual was asked, "How confident was your team that you were close to the right answer?" Despite the wide range and obvious situation that most estimates had to be wrong, four teams were highly confident. One team stated that it had no clue. The actual number of cats was 65 million.

It is human nature to believe that we can make reasonable estimates, even in the absence of evidence. After the students were told the actual number of cats, they resisted revealing the team estimates for dogs. They reassessed the estimate in light of new evidence and all five individuals gave answers between 55 and 80 million. The actual number was 78 million.

Let us bring this to a focus. We live in an uncertain world. In the area of 2.5% at each tail of the distribution, we often find the greatest opportunities and the most dangerous exposures (see Figure 1). We need to be looking for a future Google or Apple at one end of the distribution and an AIG and Citibank at the other. Organizations need a central risk function that has no responsibility other than providing an early warning for risks and opportunities that might otherwise be missed by key executives. Then, it shares its findings by opening channels for collaboration to pursue opportunities and mitigate exposures.

What are the 5% risks and risk opportunities in your organization? Do you have a central risk function that is sensitive to the 5% changes in technology, the financial system, pandemics, fossil fuel shortages, pollution, environmental change and earthquakes in California? If not, why not? If not now, when?

These questions are the cutting edge of enterprise risk management in 2009.

Emerging Risk STRATEGIES



John J. Hampton is the KPMG Professor of Business and Dean of the School of Professional and Continuing Studies and Graduate Business Programs at St. Peter's College in New Jersey. To read Mr. Hampton's columns and interviews, visit www.BusinessInsurance.com/ERM.

Questions Answers

Ironshore Ltd. is poised to continue its rapid growth after the acquisition of high-profile industry executives. Its new chief executive officer, Kevin H. Kelley, joined Ironshore in December 2008 after more than three decades at Boston-based Lexington Insurance Co., a unit of AIU Holdings Inc. He recently spoke with Business Insurance Editor Regis Coccia about his vision for Ironshore.



A vision for Ironshore

Q: What attracted you to Ironshore?

It wasn't a brand-new startup. It was over two years old, it had 170 people. Probably most importantly, it had...a U.S. business, a Bermuda base of operations, and the beginnings of a Lloyd's operation with the Pembroke agency that we purchased in 2008. I saw the three platforms as essential to building an organization that I think will be the best practice-focused specialty insurer.

Q: What differentiates Ironshore?

No. 1, our approach to the business at this stage of our development. Our biggest challenge, as I think the industry's biggest challenge, is going to be the constraint of capital. The way we're addressing that is by taking a look at human capital first. We've recruited, just in the short time that Sean Kelly (CEO of Ironshore's U.S. operations) and I have joined, a business leader for our high-capacity excess business. We've brought on a surplus lines business that will be based in St. Louis. Our goal, as has been the goal of the company, is to recruit market leaders such as Greg Flood at IronPro, Matt Dolan at IronHealth, and to build a company around that leadership. And we'll continue to add to that as opportunity presents itself. One thing I've learned is that it's great to have plans, but it's probably more important to have a nose for opportunity so you can adjust your plans once opportunity presents itself and then take advantage of it.

Q: What's the sweet spot for Ironshore, if it's possible to define?

There is no one. As you would expect, the sweet spot for D&O is going to be very different than the sweet spot for health care. The sweet spot for our property business will be very different from the other two. In some businesses, we'll be Fortune 2000 players and in other businesses that won't be as relevant. Our key is to have shares in different market segments. One of the obvious opportunities that we saw in the Iron-Starr operation (the joint venture between Ironshore and Starr Excess) was to get involved in a very interesting segment, the Fortune 2000 segment, that provides high-capacity business. That mar-

ket probably best exemplifies the risk management of both sides of the trade. Clients are looking at their aggregate exposures to a number of markets and managing those exposures in a way that I've never seen before. Historically, there might be one company that buyers try to manage their exposure to. In this environment, there's overall concern about aggregate exposure to many. So that creates an opportunity for syndication, and an opportunity for a company like ours. One of the reasons we chose to enter that business on a joint venture basis is that expressed the idea that syndication was going to be a very important trend going forward.

Q: What opportunities are attractive in the current marketplace?

We're encouraged by what we're seeing on the property side. We think the property market will be the first to make a turn. We recognize our clients have some economic pressures on them, so we're mindful of the tension between the underwriters' need to improve the rate environment vs. their need to be efficient and commercial. We also think there will be opportunities in the D&O world,

as the exposure and experience of the last few years get played out. We continue to see great opportunity in the high casualty excess business. We will write more of our U.S. business on a nonadmitted business because we think there are some great opportunities to be nimble and flexible....We think being nimble, flexible and creative are characteristics that are going to be the winners in the next three to five years.

Q: Would you like to model Ironshore on Lexington's success?

I want to model Ironshore to be the best Ironshore can be. I don't believe that one copies something else for greatness. Greatness is unique. I want to thank Hank Greenberg and AIG for the opportunity they both gave me in leading Lexington Insurance Co. and building, with the help of so many talented people, what was really a joy.

READ an unabridged version of this interview online at www.BusinessInsurance.com

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NBGH: Wal-Mart reduces uninsured rate to 5.5%

CONTINUED FROM PAGE 4

ees lacked health insurance as recently as 2007, Wal-Mart's current uninsured rate is 5.5%, Ms. Dillman said. The improvement, she said, resulted from offering lower-cost health care plan options, better communicating its offerings and providing up to \$500 in annual credits that employees can use to meet any health care expense.

Wal-Mart, the nation's largest private employer with about 1.4 million workers, has taken other steps to make health care more affordable.

The company made waves in 2006 by offering more than 300 generic prescription drugs for just \$4 for a 30-day supply.

Critics said the move was a publicity stunt or a loss leader to attract more customers to Wal-Mart's more than 4,200 U.S. stores, but Ms. Dillman said program has been profitable.

Name-brand prescription drugs often have low profit margins, while generics often have high margins, Ms. Dillman said. The \$4

dures other than transplants, Ms. Dillman said.

"They don't always default to transplants," Ms. Dillman said.

Earlier this year, Wal-Mart launched a program, called Life with Baby, in an effort to reduce the number of premature births. Expectant mothers are given access to registered nurses to provide information on issues such as proper diet, and assistance is provided through the first year after delivery and includes lactation instruction as well as vaccinations.

5.5%

Wal-Mart's current uninsured rate. Close to 10% of its employees lacked health insurance as recently as 2007.

The improvement resulted from offering lower-cost health care plan options, better communicating its offerings and providing up to \$500 in annual credits that employees can use to meet any health care expense.

generic drug program increased business to the point that Wal-Mart had to hire more pharmacists.

The program's success showed that price can change consumer behavior concerning health care, she said.

Aside from Wal-Mart's consumer program, it currently offers more than 2,000 generics to employees for \$4 a month.

While prescription drug utilization has increased, Wal-Mart is spending less because of the price difference between generics and name-brand drugs, Ms. Dillman said.

On a related front, Wal-Mart in September 2005 began opening health care clinics in its stores. To date, about 55% of clinic customers are uninsured. Ms. Dillman said this shows that if a health care service is convenient and the cost is low, people will use it.

Aside from its cost-reduction efforts, Wal-Mart contracts with Mayo Clinic as a provider of organ transplant services and offers employees financial incentives, such as company-provided transportation expenses, to select Mayo as a provider.

Mayo was chosen as a transplant provider for its success rate and willingness to consider medical proce-

360 attend NBGH meeting

WASHINGTON—About 360 individuals attended the National Business Group on Health's 2009 Business Health Agenda meeting held March 11-13 at the J.W. Marriott Hotel in Washington.

A wide range of sessions were held, including how employers are trying to hold down costs, employer attitudes and concerns about the direction of health care reform legislation, and a call by Senate Finance

Committee Chairman Max Baucus, D-Mont., for employer input as he attempts to craft a play-or-pay mandate as part of a broader health care reform measure.

For more information about next year's meeting, March 10-12 at J.W. Marriott Hotel in Washington, contact the National Business Group on Health at www.business-grouphealth.org.

—By Jerry Geisel



LANDOV

Sen. Max Baucus, D-Mont., sought employer input as he tries to craft a play-or-pay health care mandate.

TRANSFER THE RISK POSED BY RETIREE BENEFIT LIABILITIES.

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Provider reimbursements, data top employer concerns

NBGH session focuses on potential changes in health care system

By JERRY GEISEL

WASHINGTON—Employers have their own ideas about reforming the U.S. health care system as Congress and the Obama administration begin to develop such legislation.

High on employers' priority list are revamping the way medical care providers are reimbursed and

expanding the availability of medical results so providers and consumers better understand the effectiveness of treatments for specific conditions.

At the same time, employers are adamant that some elements of the health care system be retained, chiefly continuing the bar on state and local governments from imposing their own requirements on employer-sponsored health care plans. Those ideas were discussed at a roundtable session at the National Business Group on Health's annual conference in Washington earlier

this month.

John Rains, vp-compensation and benefits at restaurant chain Cracker Barrel Old Country Stores Inc. in Lebanon, Tenn., said reformers should focus on provider reimbursement. Under the current system, Mr. Rains said, provider compensation is based on volume of services, not quality. That results in duplication of effort and wasteful health care spending, he said.

Mr. Rains cited a personal example of how the reimbursement system generates duplication and unnecessary spending. When his

mother was injured in a recent fall, she was taken to a hospital emergency room, where X-rays were taken. When his mother was taken later to her primary care physician, the doctor insisted on having another set of images taken.

"There is so much waste," said Brian Marcotte, vp-compensation and benefits in the Morristown, N.J., office of Honeywell Inc., a diversified provider of products and services for multiple industries.

Variation in providers' care is another way health care dollars are wasted, Mr. Marcotte said. Research

has found that providers vary greatly in how they treat medical problems and the intensity of services they use. Employers and others say one way to combat that situation is for more information to be available so providers have a better understanding of what treatments for particular medical conditions are the most successful.

"We need to know what works and what does not," said NBGH President Helen Darling.

In some cases, though, a cost-effective strategy would be to boost reimbursement of some medical providers. "We need to elevate the status of primary care providers. They are not paid enough" and their reimbursement is not consistent with the value they offer, said Emily Diedrich Foster, director of government relations in the Washington office of engine manufacturer Cummins Inc.

Many health care experts say the reimbursement system is so skewed in favor of specialists that some parts of the country have severe

'We need to elevate the status of primary care providers. They are not paid enough' and their reimbursement is not consistent with the value they offer.

Emily Diedrich Foster, Cummins Inc.

shortages of primary care providers. That has cost consequences as primary care providers often are in the best position to spot a medical problem before it develops into a more complicated condition that is more expensive to treat.

Still, panelists said, parts of the current system are worth retaining.

Ms. Foster, for example, said a provision in the Employee Retirement Income Security Act that pre-empts state and local laws that relate to employee benefit plans is vital. Without ERISA pre-emption, it would be nearly impossible for multistate employers to comply with what would become a patchwork of state and local requirements for benefit plans, she said.

While upcoming reform legislation is almost certain to include a play-or-pay mandate in which employers either would have to offer coverage meeting a specified standard or pay some type of assessment, some panelists say it is hard to stake out a position on a mandate until there are more details.

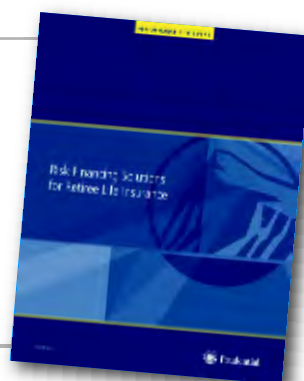
"So much will be in the details," Mr. Marcotte said, such as what benefit threshold employers would have to meet to be exempt from the "pay" part of the mandate.

Ultimately, "reform will require compromise and open minds," said panel moderator Pamela Kimmet, senior vp-human resources at Coca-Cola Enterprises Inc. in Atlanta.

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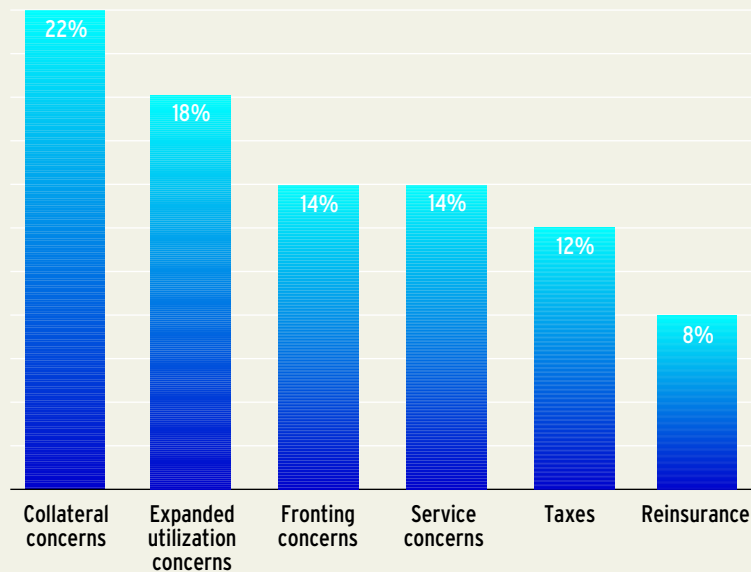
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WORRIES ON THE FRONTING FRONT

Biggest challenges of owning a captive during 2008



Source: 2009 Survey of Fronting, Reinsurance and Employee Benefits, Captive Insurance Cos. Assn.

CICA: Captive owners most concerned about collateral

CONTINUED FROM PAGE 4

the prior year, while 21% reported reduced costs and 23% reported a cost increase.

The survey reveals a slight decline in captive owners' perceived value of fronting insurance, with survey respondents getting better value for the cost of reinsurance coverage than for fronting. "You'll see more value on the reinsurance side where they see (reinsurers) paying losses," said Catherine Duffin, division chief operating officer-group strategy at Artex Risk Solutions Inc. in Itasca, Ill., and chairwoman of the CICA Fronting Survey Committee.

Questioned about the biggest challenges facing captive owners, 22% of those responding to this year's survey cited collateral concerns, followed by expanded utilization concerns, fronting concerns, service concerns, taxes and reinsurance (see chart).

By comparison, the biggest challenge cited in last year's survey was service concerns (36%), followed by tax concerns (22%), reinsurance (13%) and fronting (9%).

Given the collateral concerns, Ms. Frey recommended that captive owners considering taking on more risk in their captives should first check with their financial institutions to determine what the added cost of required collateral will be so they can make informed business decisions.

And, she noted, given today's economic climate, captive owners should expect potential fronting insurers to scrutinize them and their reinsurance relationships more closely.

"Given what's going on in the economy, don't be surprised if your

fronting carrier asks you who your reinsurers are," Ms. Frey said. Fronting insurers are likely to question captives about their risk aggregations as well as examine the financial strength of their reinsurers, she said.

The survey shows a slight reduction in the percentage of respondents saying their reinsurance costs were the same as the prior year, as well as an increase in the number of respondents reporting an increase of less than 5% in reinsurance costs.

There also was a small increase in the percentage of respondents reporting more restrictive reinsurance terms and conditions, and a small decline in those saying reinsurance terms and conditions were less restrictive than in the prior year. "Typically in reinsurance, the terms and conditions tighten up before price does," said Carol Pierce, vp at Munich Reinsurance America Inc. in Princeton, N.J.

Not surprisingly, the survey showed captives' investment returns are down. More than 50%

of respondents reported their average investment yield in 2008 was less than 3%, compared with 2007 when a majority reported yields of more than 5%. "Less than 3% does not mean less than 3% to zero," Ms. Pierce said. "It means less than 3% to whatever," suggesting some captives might have had negative investment returns in 2008.

Ms. Frey said it's important to recognize that many captive companies' responses were based on programs put in place prior to the financial crisis, so it will be interesting to see how the impact of the crisis is reflected in next year's survey.

CICA's fronting survey report is free for CICA members and costs \$50 for nonmembers.

'Given what's going on in the economy, don't be surprised if your fronting carrier asks you who your reinsurers are.'

Carol Frey, ACE USA

Captives likely affected by 'flow down' rather than direct federal law: CICA speaker

By RODD ZOLKOS

INDIAN WELLS, Calif.—Regulatory activities at the state and federal levels have the potential to affect captive insurance business in the coming year.

Perhaps the most immediate potential is at the state level, according to one captive industry expert, and it may stem more from what some states choose not to do than actions they do take.

Speaking at the annual Captive Insurance Cos. Assn. international conference earlier this month in Indian Wells, Calif., Charles Cohen, a partner at the Phoenix law firm Barger & Wolen L.L.P., said, "Many states have captive insurance laws, but the true captive domiciles have assets to administer them."

If a domicile's captive operation lacks sufficient resources and must look elsewhere in the insurance department for assets, "it doesn't bode well for the captive program" and breeds internal conflict in the department, Mr. Cohen said.

He noted that many domiciles formed in the early 2000s now are hitting the "100-captive wall." That circumstance—a function of time and the number of captive formations—occurs at the point when the program's balance tips from promoting the domicile to having to regulate and examine the companies it's licensed, he said.

It's at that point that domiciles face what sometimes can be a difficult decision: whether or not they're willing to devote the resources needed to maintain a vital and viable captive insurance operation, a decision that can be particularly challenging in tough economic times.

"In a lot of the domiciles around the country, I think that is where we are at this point," Mr. Cohen said. "And that, of course, is exacerbated by the economic crises and the budget difficulties that these states are going through."

Mr. Cohen cited several factors he sees as essential to establishing an effective captive program within a department of insurance. Among them are support and promotion of the captive effort by the insurance commissioner, buy-in by department staff in the captive program, a qualified dedicated captive staff, motivation and adequate resources.

In regard to motivation, Mr. Cohen said, "It really does matter to the people in the insurance department; what the governor and the insurance commissioner say is important."

At the federal level, as expected, discussion of insurance regu-

lating discussion of some federal role in monitoring systemic risk, Mr. Myers said, "The question is, How is the federal government going to get its hands around this?"

And, regarding discussion of an optional federal charter for insurance, he said, "You can count a dozen or maybe 20 insurance companies that are so big that if they fail there would be substantial risk." Some are using the financial crisis to help them make the case that, perhaps, those companies should be regulated at the federal level, he noted.

Mr. Myers said, however, that it's difficult to regulate insurer solvency at one level of government without also being involved in rate regulation and vice versa. "It's very difficult to have an optional federal charter that's going to work well," he said. "There are a lot of pitfalls here."

The attorney speculated there will be much federal legislation that runs counter to what state insurance officials would like to see. Still, he said, "for the federal government to reorganize the insurance business is going to be tough."

The most likely course at the federal level is establishing an Office of Insurance Information, Mr. Myers said. Such an entity could be set up within the Treasury Department, but likely would be established by legislation and charged with monitoring the insurance industry, he said.

"Congress does two things well," Mr. Myers said. "It either does nothing or it overreacts." In today's climate, it's likely Congress will overreact on some issues as it attempts to move quickly to deal with the economy and financial services crisis, he said.

Michael Mead, president and chief executive officer of Lionheart Insurance Group in Chicago, moderated the panel on regulation.

'It's very difficult to have an optional federal charter that's going to work well. There are a lot of pitfalls here.'

Robert H. Myers Jr.,
Morris, Manning & Martin L.L.P.

lation is emerging as part of the broader discussion of financial services regulation. But another participant in the CICA conference's regulation panel, Robert H. Myers Jr., a partner at law firm Morris, Manning & Martin L.L.P. in Washington, said it's unlikely there will be any federal regulatory activity that directly affects captive insurance.

The issue for captives, Mr. Myers said, is whether there will be any federal insurance regulatory activity that will "flow down" to affect captives.

Among issues Mr. Myers suggested that those in the captive industry should be watching are economic stimulus efforts. Stimulus legislation "is really the big deal. It's the thing that everything else is going to key off of," he said.

375 attend CICA 2009 conference; 2010 moves to Florida

INDIAN WELLS, Calif.—This 2009 International Conference of the Captive Insurance Cos. Assn. drew approximately 375 attendees to the Hyatt Grand Champions Resort and Spa in Indian Wells, Calif., March 8-10.

Conference sessions covered topics such as regulatory developments, the reinsurance market, tax issues for captives and even a presentation on "Jungle Risk Management—Risk Lessons from the African Bush" by Gert Cruy-



The Hyatt Grand Champions Resort and Spa in Indian Wells, Calif.

wagen, group manager-risk management at Johannesburg, South Africa-based Sappi Ltd.

Next year's CICA International Conference is scheduled for March 7-9, 2010, at the Omni Orlando Resort at ChampionsGate in Orlando, Fla.

—By Rodd Zolkos

Market Moves

Willis consolidates facultative units

LONDON—Willis Group Holdings Ltd. has consolidated its facultative reinsurance operations under a new unit, Willis Facultative, the London-based brokerage said.

During the past five years, the company has grown its facultative business through several decentralized units and a centralized operation will ease clients' access, Willis said in a statement.

Matthew Keeping, formerly managing director of Willis Reinsurance Facultative, is chief executive officer of Willis Facultative, the firm said.

FedFirst subsidiary acquires Allsurance

MOUNT LEBANON, Pa.—An insurance agency subsidiary of FedFirst Financial Corp. has acquired Allsurance Insurance Agency, FedFirst said in a statement.

Terms of the acquisition were not disclosed.

Exchange Underwriters Inc., the insurance agency unit of Monessen, Pa.-based FedFirst, sells property/casualty, commercial liability and other products.

It now includes the life, health and property/casualty offerings of Allsurance, a Mount Lebanon, Pa.-based agency.

Harbor Insurance combines Fla. agencies

FORT PIERCE AND PORT ST. LUCIE, Fla.—An independent holding company has acquired property/casualty agencies Harbor Insurance Agency and Florida Consolidated Agency Inc. from National City Bank.

National City acquired the Florida operations as part of its 2006 and 2007 acquisitions of Fidelity Federal Bank & Trust and Harbor Federal Bank.

Tom Cook, president of 53 Group Holding Inc., the holding company that acquired the agencies, previously was president of National City Insurance Group Inc. Both acquisitions will be merged into Harbor Insurance, a new organization, the company said in a statement.

Florida Consolidated offices in Juno Beach and Greenacres, Fla., will merge into a new West Palm Beach office. Harbor Insurance offices in Palm Bay and Palm City, Fla., will move into the existing Vero Beach office. Existing offices in Fort Pierce and Port St. Lucie, Fla., will continue to operate, all under the Harbor Insurance banner.

Industry veterans form actuarial consulting firm

SAO PAULO, Brazil—Four industry veterans have formed an actuarial consulting company in Brazil that specializes in benefits.

OTBX Solutions Ltd., based in Sao Paulo, focuses on pensions, health care, insurance and reinsur-

ance, according to a company statement.

The four founders of the firm—Eder Carvalhaes da Costa e Silva, Edson Duarte Jardim, Lúcia da Silva Valle and Sandra Lima Santos—have more than 20 years experience with Watson Wyatt Worldwide Inc., Mercer L.L.C. and MetLife Inc., the statement said.

Ascension Insurance buys Florida agency

FORT LAUDERDALE, Fla.—Kansas City, Mo.-based Ascension Insurance Inc. has purchased Dennis Bartlett agency of Fort Lauderdale, Fla., the company said.

Dennis Bartlett specializes in medical malpractice coverage and

joins Employers Mutual Inc., a Stuart, Fla.-based firm offering insurance, employee benefits, brokerage and risk management services that already is part of the Ascension group of companies.

The deal, terms of which were not disclosed, was finalized in January, according to a company statement.

MedAssurant joins Care Continuum Alliance

BOWIE, Md.—MedAssurant Inc., a health care solutions firm, has joined the Washington-based DMAA: The Care Continuum Alliance.

The alliance promotes organizations committed to raising quality and value in chronic disease care.

Bowie, Md.-based MedAssurant provides services that include advanced health care data analytics to improve clinical outcomes, cost and disease management.

Fireman's Fund of Ga. merges with parent

NOVATO, Calif.—Fireman's Fund Insurance Co. of Georgia has merged with its parent company.

FFICGA merged with American Insurance Co., a unit of the Novato, Calif.-based Fireman's Fund Insurance Cos.

As part of the deal, the parent company assumed all liabilities under the terms of FFICGA's policies, so policyholders now are insured by AIC.

TO SUBMIT ITEMS

BI's Market Moves column reports on activities by insurance industry companies and related entities. Please send news of Market Moves to Zack Phillips, 711 Third Ave., New York, N.Y. 10017 or e-mail zphillips@businessinsurance.com.

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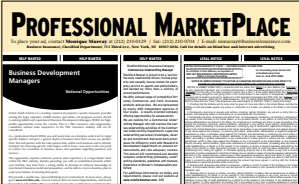
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UP CLOSE



PETER GALE

NEW JOB TITLE: Vp of Insurance Services for the Baton Rouge, La.-based Louisiana Workers Compensation Corp.

PREVIOUS POSITION: Account executive with Brown & Brown Insurance of Washington

GOALS FOR NEW POSITION: The LWCC is a very successful 17-year-old company with a great reputation. In the short term, I want to continue to provide the highest level of service for our agents and brokers and ultimately, our policyholders. Long term, I am looking at continuing our mission...which is comprised of providing a stable and viable market for our agents and policyholders and the employees of Louisiana.

CHALLENGES FACING THE INDUSTRY: Market confidence had been hammered during the past 12 months and (the problem) doesn't seem to be subsiding anytime in 2009. Our agents and brokers are looking at partners to get them through these uncertain times. A lot of that is to focus on being responsive, creative and flexible in our support of them. The economy is really hammering

them so we have to be reactive and responsive to their needs and their policyholders' needs. The key will be maintaining a consistent underwriting approach while maintaining financial strength, which is critical for our success so we can be sure to pay our claims.

FIRST EXPERIENCE IN THE INDUSTRY JOB MARKET: I came out of University of Washington business school and was not even familiar with underwriting. I had to actually look that up in the library at the university. My first job was as a casualty underwriter. What was exciting about that was when I read what an underwriter does I found that it really encompassed all of the skills that I picked up in my business degree. It allowed me to take all those skills and apply them to real-life situations. Within 18 months, I was promoted.

ADVICE: The insurance business has given me enormous opportunity. I've held different positions, from underwriter to management to IT operations to training. I don't know if you would really find that diversity in different industries. If you really like challenges and unlimited potential then you should consider the insurance industry.

Comings & Goings ONLINE

VISIT www.businessinsurance.com/ComingsandGoings for a full list of this week's personnel moves and promotions. Check our Web site daily for additional postings and sign up for the weekly e-mail.

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:

Allison Martinat
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- Harleysville Group Inc.
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- Stephens Insurance L.L.C.

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U.S. health insurers expected to restore profitability: S&P

By JOANNE WOJCIK

Despite any impact the recession might have on revenue and earnings growth this year, U.S. health insurers are expected to take steps during 2009 to restore their former profitability, according to Standard & Poor's Corp.

New York-based S&P revised its outlook for U.S. health insurers to negative in November 2008 because so many insurers' earnings were falling far below projections due to underestimation of medical cost trends, an unanticipated change in business mix and inadequate pricing of some Medicare Advantage

and Part D prescription drug programs, the New York-based ratings agency reported.

As a group, the 37 insurers S&P monitors reported 2008 earnings that were approximately 25% less than estimates.

In addition to raising premiums for certain lines of coverage, health insurers also will trim their administrative overheads, according to S&P, which pointed to recent layoffs at Bloomfield, Conn.-based CIGNA Corp. and Indianapolis-based Well-Point Inc. as examples. Those health insurers are cutting 4% and

3.5%, respectively, of their work forces and are closely monitoring their budgets, Medicare payment rates and the potential impact national health reform might have on their margins after 2009, S&P analysts said in the report, "Will Profits Rebound for Health Insurers in 2009?"

"For the 37 health insurers in our database, 2008 earnings were about 25% below the estimates we made this past year," said Standard & Poor's credit analyst Neal Freedman in a statement. "In all, 19 health insurers ended up cutting their own 2008 earnings forecasts."

Of that group, S&P lowered ratings on seven, revised the outlooks to negative from stable on three and affirmed ratings with a stable outlook on the remaining nine, Mr. Freedman noted.

S&P also is paying close attention to the business mix at Minnetonka, Minn.-based UnitedHealth Group Inc. and Woodland Hills, Calif.-based Health Net Inc., where enrollment rates at small- or midsize employers were less than expected for 2008.

"Lower-than-expected enrollment in the fully insured, commercial, small and midsize group was a

significant contributor to earnings shortfalls in 2008," the S&P report said.

S&P attributed much of insurers' earnings shortfalls in their Medicare business to adverse selection caused by enrollment of beneficiaries more likely to take advantage of the benefits available.

S&P's report on U.S. health insurers' future profitability is available to RatingsDirect subscribers at www.ratingsdirect.com, or it can be purchased by calling 212-438-9823 or by sending an e-mail to research_request@standard-andpoors.com.

Professional negligence cases rise

By SARAH VEYSEY

The number of professional negligence cases in England and Wales increased 137% in 2008, according to London-based law firm Reynolds Porter Chamberlain L.L.P.

A total of 147 professional negligence cases reached court in 2008 compared with 62 in 2007, according to research by the law firm.

There tends to be an increase in professional negligence cases in times of economic downturn, RPC said. In addition, conditional fee arrangements, known as "no win no fee," and third-party funding for cases, have become available to claimants since the last major recession in the United Kingdom. These mechanisms make launching claims against professional advisers less risky for claimants, RPC said in a statement, because claimants do not have to pay the legal costs of unsuccessful claims.

"The availability of 'no win no fee' arrangements may encourage businesses and individuals to take a gamble on launching claims against their advisers in an attempt to recoup some of their losses," said Tim Bull, a partner at RPC. "Some claimants may also try to launch a claim under the misconception that professional services firms will settle claims before they go to court in order to protect their reputation," he added.

ADVERTISER

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PROPERTY/CASUALTY INSURERS' YEAR-END RESULTS 2008

Major U.S. property/casualty insurers ranked by net income. All amounts are in thousands of dollars.

Companies	CORPORATE			PROPERTY/CASUALTY OPERATIONS					
	Net income 2008	Percent increase (decline) 2008-2007	Consolidated revenues 2008	Combined ratio 2008 ¹	Combined ratio 2007 ²	Net premiums written 2008	Percent increase (decrease) 2008-2007	Policyholder surplus 2008	Percent increase (decrease) 2008-2007
The Travelers Cos. Inc.	\$2,924,000	(36.4%)	\$24,477,000	91.9%	87.4%	\$21,683,000	0.3%	\$21,491,000	(6.1%)
Chubb Corp.	1,804,000	(35.7)	13,221,000	88.7	82.9	11,782,000	(0.8)	12,400,000	(4.6)
ACE Ltd.	1,197,000	(53.6)	13,632,000	89.6	87.9	12,593,000	8.6	14,446,000	(13.4)
Liberty Mutual Insurance Co.	1,140,000	(24.9)	28,855,000	99.9	100.1	25,467,000	13	12,330,000	(12.9)
Cincinnati Financial Corp.	429,000	(49.9)	3,824,000	100.6	97.0	3,010,000	(3.4)	3,360,000	(22.0)
American Financial Group Inc.	195,800	(48.9)	4,292,700	87.6	83.3	2,885,900	6.4	1,921,300	(11.0)
RLI Corp.	78,676	(55.3)	561,012	84.2	71.4	513,456	(4.7)	708,154	(8.6)
Argo Group International Holdings Ltd.	62,900	(56.3)	1,255,800	100.4	99.4	1,151,000	34.7	N/A	N/A
CNA Financial Corp.	37,000	(94.6)	6,262,000	100.9	93.8	4,925,000	(4.2)	7,967,000	(5.6)
Old Republic International Corp.	(558,366)	N/M	3,237,765	97.2 ¹	91.9 ²	1,966,672 ¹	(6.9)	2,258,705	(11.0)
Hartford Financial Services Group Inc.	(2,749,000)	N/M	9,219,000	90.7	90.8	10,224,000 ¹	(2.0)	6,000,000	(29.4)
American International Group Inc.	(99,289,000)	N/M	11,104,000	109.1	90.2	45,234,000	(3.9)	34,616,000	(8.2)
CUMULATIVE	(\$94,727,990)	N/M	\$119,941,277	98.8%	90.8%	\$141,435,028	1.3%	\$117,498,159	(10.4%)

(1) Includes dividends. (2) Statutory. N/M—Not meaningful.
Source: BI survey, company reports

Results: Soft market persists despite fall in P/C profits

CONTINUED FROM PAGE 3

rate, “things haven’t turned upward on most lines.” That said, “The market hasn’t gotten nearly as bad as it was, say, in the late ‘90s,” Mr. Auden said. “I think companies still have an underwriting profit, but it doesn’t correspond with an adequate return on capital.” The immediate outlook is for a continued soft market, observers say. Jeanne M. Hollister, Hartford Conn.-based managing principal of Towers Perrin’s Americas property/casualty insurance prac-

tice, said the firm’s fourth-quarter commercial lines insurance pricing and profitability trends survey showed “We’re seeing less in the way of price reductions than we’ve seen in any quarter in the last two years.” While rates are still declining, “we do expect prices will firm during 2009, but that it will be gradual,” she said. “I think the first quarter will be better than the fourth quarter, but I don’t see it beginning a sharp recovery,” Mr. Newsome said. For the rest of 2009, “I’m more hopeful. I think there’s a very good chance that over the course of the year companies will start raising prices,” although it

will take time before they are reflected in operating results. John Iten, senior director at New York-based Standard & Poor’s Corp., also said property/casualty prices may rise later this year. “We’re not quite at the inflexion point yet where commercial pricing is, on an average basis, rising, but we’re getting closer and the best guess at this point is that we’ll get to that point sometime in the second half of this year,” Mr. Iten said. However, the poor economy may dampen demand for insurance, he said. So while insurers may be collecting more premium, “that may not

be enough to offset the lower amount of insurance that companies are buying,” particularly in workers compensation, which is based on payrolls and “should come under pressure” because of layoffs, Mr. Iten said. However, Edward Keane, senior financial analyst with Oldwick, N.J.-based A.M. Best Co. Inc., had a slightly different view. “From what we’re hearing, rates are going to stabilize, probably, in the second half of 2009 and if we do see an uptick of rates, it will probably be in 2010.” Mr. Newsome said another factor that could affect rates is AIG. “They are reported to be amongst the most

NAIC: Regulators to require climate change risk disclosure by insurers

CONTINUED FROM PAGE 4

determine how well-prepared the industry is for the challenges of climate change,” because many insurers omit that topic in their Securities and Exchange Commission filings, Sean Dilweg, Wisconsin insurance commissioner, testified March 12 before the U.S. Senate Committee on Commerce, Science and Transportation. It is “imperative” regulators examine how climate change affects insurers’ investments that include coastal real estate subject to weather-related losses. Regulators also are interested in whether insurers provide incentives to mitigate losses for themselves and policyholders, he said. “The Insurer Climate Change Disclosure Survey is the first of its kind” and could help financial institutions “to gain insight into the impact of climate change on their industries,” Mr. Dilweg testified. Two consumer-oriented groups supported the regulatory proposal:

Boston-based Ceres, a group including investors and environmental groups, as well as the Austin, Texas-based Center for Economic Justice. “Today’s vote is a wake-up call about the vast challenges climate change poses for the insurance industry and the overall global economy,” Ceres President Mindy S. Lubber said in a statement. Jack Ehnes, a major insurance industry investor and chief executive officer of the nation’s second-largest public pension fund, called the NAIC action timely and essential. “One painful lesson of the current economic meltdown is the need for increased attention to corporate risk management,” Mr. Ehnes, who heads the California State Teachers’ Retirement System, said in the Ceres statement. “These disclosure requirements will finally create consistent and comparable information for investors to determine the real steps insurers have taken to assess important risks.” The NAIC survey “represents a



Interstate 45 leading into downtown Houston is blocked by police after it was closed by flooding after Hurricane Ike in September 2008.

significant compromise by both industry and advocates,” according to the two consumer organizations. The compromise removed proposals that would have required top executives to attest to the information and file it as part of an insurer’s

annual statement. Two Washington-based trade associations, the American Insurance Assn., which represents property/casualty insurers, and the American Council of Life Insurers, also supported the survey. However,

aggressive with respect to price cuts. If that should change, that would be an important factor.” Declining reserve redundancies also are an issue. “Prior-period reserve adjustments continue to have some modest favorable development” but there are signs “that the amount of those favorable adjustments are dwindling and likely will not continue into 2009,” Mr. Ward said. A report issued last week by Moody’s Investors Service in New York said, “the industry has fully harvested its reserve redundancies.” Another big uncertainty is the state of the financial markets, which “will likely continue to be a concern to the industry,” as 2009 progresses, he said. “It’s very difficult to predict what could go wrong with the general market and, whether you like it or not, these companies are big investors in (financial company stocks) by their very nature,” Mr. Newsome said. Mr. Auden also said, “the market’s bounced back a little bit, but it’s still down quite a bit in the first quarter, and we think investment performance is still going to be weak.” “You’re still going to have some realized losses falling through in 09” and “underwriting results aren’t likely to improve so, from a profit standpoint, if it’s an average or below-average cat year, you’ll see more net income improvement, but we aren’t expecting any great improvement in profitability for ’09,” Mr. Auden said. The overall economy and the Obama administration’s stimulus plan also could influence this year’s results, observers say. The “problematic” economy and the stimulus package “will overlay onto the many issues that the industry routinely faces from quarter to quarter,” Mr. Ward said. “To the extent the stimulus package is used to spark infrastructure spending, that could have a modest plus for the industry in terms of increasing demand for commercial insurance.”

two Midwestern property/casualty associations continue to oppose it. “We think it is highly inappropriate for insurance regulators to be prying into such areas, especially given that they intend to make the insurers’ responses public,” Robert Detlefsen, vp-public policy for the National Assn. of Mutual Insurance Cos. in Indianapolis, said in a statement. Uncertainties in climate science and related modeling capability suggest it is “premature and inappropriate at this time” to seek substantive information from insurers’ answers, David Kodama, director of policy analysis for the Property Casualty Insurers Assn. of America in Des Plaines, Ill., said in a statement. In other business last week, NAIC regulators: • Adopted revisions to a property/casualty model guaranty fund act. • Took steps to expand the NAIC’s accreditation programs from regulation of insurers’ financial data to include market conduct.

COBRA: Model notices available for employers, former employees

CONTINUED FROM PAGE 3

Labor Department has resolved several questions that employers and others raised about the subsidy.

Using a question-and-answer format, the Labor Department, for example, says beneficiaries can be required to pay 35% of the full COBRA premium, which includes a 2% administrative fee. Some participants had questioned whether the administrative fee was excluded in calculating their share.

"That question certainly has been answered," said Karen Frost, health and welfare outsourcing strategy

leader with Hewitt Associates Inc. in Lincolnshire, Ill.

Still, the notices do not resolve all the issues employers already face in trying to comply with the law.

For example, the full general notice must be provided to anyone who had a COBRA-qualifying event since Sept. 1, 2008, including those who quit and are ineligible for the COBRA subsidy.

That could create confusion and result in employers and plan administrators having to field questions about why beneficiaries are receiving information about the subsidy, said Ms. Wheeler of Price-

waterhouseCoopers.

In addition, there is some disagreement as to whether the notices require eligible beneficiaries already receiving COBRA to take an active step to receive the subsidy. Some

READ documents from this case online at BI's Knowledge Center www.BusinessInsurance.com

plan administrators have been automatically enrolling qualified beneficiaries into the subsidy program, even without the beneficiaries making a positive election, which some experts say the model notices bar.

"That is the biggest news about the notices. Beneficiaries must make a positive election," said Andy Anderson, of counsel with Morgan, Lewis & Bockius L.L.P. in Chicago.

While uncertain it is explicitly mandated, others say it would be sound business practice to require beneficiaries to fill out the notice and elect the subsidy to reduce the likelihood of ineligible individuals receiving it.

For example, without the individual filling out the form, an employer might not know that a laid-off worker was entitled to receive coverage through a spouse's group

health insurance plan and, thus, is ineligible for the subsidy.

"It strikes me as in the best interest of the employer to get feedback," said Ms. Cohen of Watson Wyatt.

Benefit experts say the subsidies likely will result in a surge in the percentage of beneficiaries opting for COBRA coverage. Employers in industries hardest hit by the recession likely will see the greatest enrollment surge because those employees will have the most difficulty finding jobs and alternative health insurance coverage, Hewitt Associates' health actuaries said.

D&O: N.Y. considers defense rule

CONTINUED FROM PAGE 4

entire market, invalidating many D&O policies, observers said.

"By the end of November, everyone knew about this and thought, 'This is a disaster, we've got to do something on this,'" said Gary Henning, assistant vp of the Northeast region for the Washington-based American Insurance Assn. "That started the conversation."

Mr. Dinallo pointed to an unused department regulation from 1997 clarifying the legality of D&O policies giving policyholders the duty to defend as a good starting point. "My understanding was this

'My understanding was this old regulation got some real buy-in and that it just...got hung up in Albany.'

Eric Dinallo,
New York Insurance Department

old regulation got some real buy-in and that it just, for whatever reason, got hung up in Albany," Mr. Dinallo said.

Deputy Superintendent and General Counsel Robert H. Easton said he couldn't say what the eventual regulation would contain but that it would clarify the law in a way the department and D&O marketplace finds acceptable.

Industry groups are amassing feedback. Mr. Henning said AIA circulated a revised draft to carriers last week and hopes to reach consensus in two or three weeks.

He said brokers are creating their own draft and that the two groups will attempt to reconcile their versions before presenting the department with their recommendations. He said he hopes to submit feedback to Mr. Dinallo by mid-April.

"Superintendent Dinallo, to his credit, recognized this was a problem, understood the public policy argument...and said 'Let's fix this,'" he said.

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GOVERNMENT OFFICIALS SPEAK OUT AGAINST AIG BONUSES

The revelation last week that American International Group Inc. was paying \$165 million in bonuses to employees at its infamous AIG Financial Products unit sparked political outrage. President Obama, federal lawmakers and state officials all lambasted the insurer for rewarding employees held responsible for creating the crisis that pushed AIG to the edge of bankruptcy. Here is a sampling of the criticism:



"This is a corporation that finds itself in financial distress due to recklessness and greed. Under these circumstances, it's hard to understand how derivative traders at AIG warranted any bonuses, much less \$165 million in extra pay. How do they justify this outrage to the taxpayers who are keeping the company afloat?"

—President Obama

"I know there is considerable outrage in the House of Representatives, as there is throughout the country, about the bonuses awarded to employees of AIG Financial Products division at a time when the company is reliant on considerable taxpayer dollars. The president shares that outrage, and so do I."

—Treasury Secretary Timothy F. Geithner

"The chairman of the Federal Reserve has said the government's efforts to prevent AIG from failing outright are akin to a neighbor smoking in bed and setting the house on fire...what we are seeing is the folks responsible picking the pockets of the firefighters and stealing the hubcaps off the fire trucks."

—Senate Banking, Housing and Urban Affairs Committee Chairman Christopher J. Dodd, D-Conn.

"The first thing that would make me feel a little bit better toward them if they'd follow the Japanese example and come before the American people and take that deep bow and say 'I'm sorry,' and then either do one of two things: resign or go commit suicide."

—Sen. Charles Grassley, R-Iowa

"The notion that we want to retain these people, that we want to pay the people who messed it up in the first place so they don't leave, is just backward to me. I think we would probably be better off if they did leave."

—House Financial Services Committee Chairman Barney Frank, D-Mass.

"AIG made more than 73 millionaires in the unit which lost so much money that it brought the firm to its knees, forcing the taxpayer bailout. Something is deeply wrong with this outcome."

—New York Attorney General Andrew Cuomo

ALL PHOTOS: REUTERS

AIG: Unit bonuses draw fierce criticism

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Insurance and Government Sponsored Enterprises.

"It is regrettable that we have even reached this point," said the panel's chairman, Rep. Paul Kanjorski, D-Pa. "When the press first reported about the AIG Financial Products' retention bonuses in late January, I called Mr. Liddy to express my concerns that paying out such sums at the very division that engaged in the risky behavior that warranted the government's bailout would rightfully incite a public outcry," he said.

"AIG should be held accountable for every bad decision it has made," said Rep. Tom Price, R-Ga. "The controversy surrounding AIG should be all the evidence we need that the government has no business interjecting itself in private companies....We have long known that AIG has acted irresponsibly. That should be reason enough to keep taxpayers at a distance, not force them into cleaning up a mess."

"The problem is not the dollar amount" but rather the incentive structure that existed at AIG, said Financial Services Committee Chairman Barney Frank, D-Mass., before Mr. Liddy revealed he had asked the recipients to return part of their payouts.

Mr. Liddy told lawmakers that he had asked employees of AIG Financial Products who received retention bonuses of at least \$100,000 to return at least half of the amount.

"Some have already stepped forward and offered to give up 100% of their payments," he testified last week. But Mr. Liddy said repeatedly that he could not unilaterally deny the bonuses that AIG was contractually bound to pay. "I have asked the employees of AIG Financial Products to step up and do the right thing," Mr. Liddy told the subcommittee.

After Mr. Liddy's testimony, Rep. Frank pressed him to provide the names of those employees who had

not returned the bonuses. Mr. Liddy said he could do so only if he received assurances of strict confidentiality. Rep. Frank would not provide that assurance and, as he did earlier, said he would ask the committee to subpoena them if he did not receive the list.

"I want to protect employees" and their families, said Mr. Liddy, who then read from an anonymous note that called for killing AIG executives and their families using piano wire.

During the hearing, some protesters held up hand-printed signs on pink paper condemning AIG. Rep. Kanjorski ordered them to surrender the signs to security

'I have asked the employees of AIG Financial Products to step up and do the right thing.'

Edward Liddy
American International Group Inc.

guards or leave the room. The protesters handed over the signs.

Subcommittee members were angered when Mr. Liddy told that the Federal Reserve had signed off on the bonuses without informing the Treasury Department. Mr. Geithner is scheduled to appear before the full committee this week to discuss the bonuses.

The controversy grew hotter when Senate Banking, Housing and Urban Affairs Committee Christopher J. Dodd, D-Conn. admitted that he had followed a Treasury request to scale back an executive bonus provision in the economic stimulus bill, an act that permitted AIG to issue the bonuses.

Some legal observers say the contracts should undergo close scrutiny before Congress attempts to legislate the return of the bonuses.

"Probably the first thing that should be done is look closely at the contract for the bonuses," said Paul F. Rothstein, professor of law at Georgetown University Law Center in Washington. He said such contracts usually contain conditions requiring that the employee has performed successfully or "hasn't done anything to result in discharge."

He said the Treasury Department also should look at possible fraud in AIG's dealings with the federal government. He said he believed both approaches "are more promising avenues than legislation." With legislation, "you run into some constitutional problems" because the bonuses have already been granted. "The Constitution views skeptically retroactive measures; it is similar to an ex post facto law or a bill of attainder." He said the government might want to condition future AIG payments on return of the bonuses.

"Specifically with regard to AIG, it's too early to say that this has to be dealt with in a tax way, without a thorough review of the contracts," said Omari Simmons, an assistant professor of law at Wake Forest Law School in Winston-Salem, N.C., who has written on corporate governance and executive pay. "The review needs to occur first to see if they were legally obligated to pay the bonuses in the first place."

But Peter Greenwood, a professor of law at Hofstra Law School in Hempstead, N.Y., said taxing the bonuses makes perfect sense. "By far, the simplest way to do it is to put a tax on it—take it back. You could have a tax on all bonuses paid out of federal money or you could extend federal pay scales to companies that are dependent on federal money," he said.

Mr. Greenwood added that authorities also might be able to use fraudulent conveyance law to recoup the money. Fraudulent conveyance law bars bankrupt companies from giving gifts, and bonuses are gifts, he said.

No evidence AIG is using bailout to cut prices: GAO

WASHINGTON—There is no evidence American International Group Inc. is using federal bailout money to undercut competitors' prices, according to a report by the Government Accountability Office.

The report—"Federal Financial Assistance: Preliminary Observations on Assistance Provided to AIG"—was released last week during a hearing at the House Financial Services Committee's Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises.

Some AIG competitors have complained that AIG has underpriced commercial property/casualty insurance because AIG "officials know that the federal government will not let them fail, so they can charge very low prices without fear of the consequences when the premiums collected turn out to be less than the losses those premiums were meant to cover," according to the report. "Some also suggested that buyers in the market are choosing to stay with AIG Commercial Insurance because they believe that the insurance company is now backed by the federal government and that their losses will ultimately be covered."

But Orice M. Williams, the GAO's director-financial markets and community investment, told the subcommittee that a preliminary investiga-

tion including talks with insurance buyers, brokers and state regulators showed that while "AIG may be pricing somewhat more aggressively than in the past in order to retain business in light of damage to the parent company's reputation, (GAO investigators) did not see indications that its pricing was inadequate or out of line with

previous AIG pricing practices. Moreover, some have noted that AIG has lost business because of the problems encountered by its parent company."

Pennsylvania Insurance Commissioner Joel Ario, who appeared before the panel on behalf of the National Assn. of Insurance Commissioners, made much the same point when asked by Subcommittee Chairman Paul Kanjorski, D-Pa., whether he'd seen evidence of underpricing by AIG units in Pennsylvania.

"There is a point at which low prices for policyholders can threaten long-term stability," Mr. Ario said. "To date, we have not seen any evidence of underpricing" by AIG, he added.

The report is available at www.gao.gov.

—By Mark A. Hofmann



Subcommittee Chairman Paul Kanjorski, D-Pa., was informed that Pennsylvania Insurance Commissioner Joel Ario saw no evidence of underpricing by AIG units in Pennsylvania.

READ this report online at BI's Knowledge Center www.BusinessInsurance.com

Bonus flap puts future bailout funds for AIG in question

Additional aid likely to come with strings attached: Observers

By JUDY GREENWALD

NEW YORK—American International Group Inc. will have a much harder time obtaining more federal funds due to controversy stirred by its bonus program, but likely still would get the aid if needed, many observers say.

However, the flap about the bonuses and, to a lesser degree, the amount of AIG bailout money that has gone to foreign banks, is likely to cast a shadow on the property/casualty units that AIG plans to spin off under AIU Holdings Inc., a separate holding company.

A total of \$165 billion in bonuses were paid to employees of AIG Financial Products Corp., a unit held largely responsible for the insurer's financial struggles. Word of the bonuses last week upset federal officials from President Obama on down.

The House of Representatives overwhelmingly approved a measure last week that would impose a 90% income tax surcharge on bonuses given to employees of companies that receive at least \$5 billion in federal emergency financial aid. The Senate is expected to follow suit.

Meanwhile, New York Attorney General Andrew Cuomo last week said AIG had complied with a subpoena to provide him with a list of financial products employees who received retention payouts.

"As we perform our review, we will simultaneously be working with AIG over the next few days to

determine which employees received payments and which chose to return the money they received," Mr. Cuomo said in a statement.

AIG Chairman and Chief Executive Officer Edward Liddy testified before a congressional hearing that he has asked certain employees to voluntarily return at least part of the bonus.

In a March 17 letter to Rep. Barney Frank, D-Mass., chairman of the House Committee on Financial Services, Mr. Cuomo said the most paid to a bonus recipient was more than \$6.4 million; the top seven bonus recipients received more than \$4 million each and the top 10 received a combined \$42 million. He also said 11 individuals who received at least \$1 million or more no longer work at AIG, including one who received \$4.6 million.

According to AIG, the \$165 billion in bonuses paid recently is in addition to \$55 million paid in December, under a retention plan adopted during the first quarter of 2008.

Another \$230 million in bonuses had been slated to be paid this year, but in a March 14 letter to Treasury Secretary Timothy Geithner, Mr. Liddy said AIG is committed to reducing 2009 retention payments "by at least 30%."

"I do not like these arrangements and find it distasteful and difficult to recommend to you that we must proceed with them," Mr. Liddy said in the letter. "With the benefit of hindsight, I would have designed these differently and at significantly lower levels."

"In dealing with turnarounds and runoffs, it is very common to put into place retention packages which include stay bonuses to keep people

on board (who are) necessary for the successful resolution of the problem," said Bruce C. Shulan, managing director at Stamford, Conn.-based Princeton Partnership L.L.C., which works with runoff insurers. "Having said that, it is also very uncommon to pay retention bonuses or stay bonuses to those who were the principal architects of the problems."

Most observers say while it will be harder for AIG to obtain any more federal funding in light of the con-

'Certainly, AIG never used to give up without a fight if they thought they had a good argument.'

David W. Steuber, Howrey L.L.P.

troversies, federal officials still are likely to provide more funds if necessary, albeit reluctantly.

John L. Ward, CEO of Cincinnati Partners L.L.P. in Cincinnati, said, "The government is in too deep into AIG to deny them any further assistance in the future if it's needed. I think they're committed to sticking with the problem until its, hopefully, successful resolution."

"At the end of the day, I have to believe" that the government, which is already an 80% shareholder, "will behave sensibly to protect that," said Jonathan Terrell, president of Washington-based Kenesis Corporate & Information Consulting L.L.C., which specializes in litigation support and insurance-related asset and

liability management. "Making a fuss about AIG bonuses is a wonderful way for the political establishment to allow us to be distracted from the real issues" of the failure of regulatory oversight, he said.

Any future bailout funds likely will be structured differently, said Jim Amen, a partner with Philo Smith & Co. in Stamford, Conn. "I think it'll come with a lot more strings attached, and the funding would be quite specific to particular assets or a different structure," he said.

"The government has made their support of that company clear, and our rating is dependent on continued support," said Joyce Sharaf, assistant vp at Oldwick, N.J.-based A.M. Best Co. Inc.

"I think it's less likely than it was, say, a month ago, but you can be very creative in how you deliver aid," said Bill Bergman, an analyst with Morningstar Inc. in Chicago.

An AIG spokeswoman said, "We work closely with our partners at the Fed and Treasury. They have already invested tens of billions of dollars in AIG, and we're all committed to doing everything we can to making sure the taxpayers don't lose that investment."

Meanwhile, observers point out that relatively little attention has been paid to billions in federal bailout dollars paid by AIG to foreign entities—all counterparties to either credit default swaps or securities lending programs—even though the total is many times what has been paid in financial products unit bonuses. In addition to Goldman Sachs and others, these banks include Societe Generale, Deutsche Bank A.G. and Barclays P.L.C.

The funds' distribution to foreign

entities was not particularly surprising to those who know AIG's "tentacles reach pretty far abroad," except perhaps the average taxpayer "who wouldn't have a reason to be intimately familiar with the insurance industry," said Sharilyn Pastor, who heads the insurance coverage group at McCarter & English L.L.C. in Newark, N.J.

Some observers see an irony, though, in AIG's apparent willingness to turn over billions to foreign banks in light of its reputation for being difficult about paying claims. AIG faces the challenge of balancing its financial troubles "and, at the same time, trying not to lose too much more standing in its markets and in its own industry," Ms. Pastor said.

"They probably felt they had the obligation and so they did it," said David W. Steuber, an attorney with Howrey L.L.P. in Los Angeles and co-chairman of its insurance recovery practice. "Certainly, AIG never used to give up without a fight if they thought they had a good argument," he said. "They never would have rolled over and played dead on that."

Mr. Ward had a slightly different reaction.

"It seems to me that AIG perhaps could have been a little bit tougher in negotiating a resolution of those credit default swaps short of just posting the collateral and passing through the funds to those entities. And if the U.S. government had been more actively involved in the process, there may have been points of leverage they could have brought to the transaction," Mr. Ward said.

"We met our legal binding and contractual obligations," said the AIG spokeswoman.

Reaction: Fallout builds pressure to spin off P/C units, launch IPO

CONTINUED FROM PAGE 1

would impose a 90% income tax surcharge on bonuses given to employees of companies that have received at least \$5 billion in federal emergency financial aid (see related story).

In addition, the House Financial Services Committee is considering legislation that would prohibit any bonus payments by companies that have received capital investments under the Troubled Asset Relief Program or the Housing and Economic Recovery Act until the investments are repaid in full.

Since its first federal bailout deal last September, AIG has lost several key insurance executives, including Kevin Kelley, longtime chief executive officer of Lexington Insurance Co., AIG's surplus lines unit; and Joseph Boren, CEO of AIG Environmental. It implemented a retention award program with the hopes of stemming the tide, sources say.

But with new restrictions likely being placed on those bonuses and the public ire associated with the bonuses, defections are likely to continue, observers say. That is why



AIG's planned spinoff of its property/casualty insurance operations into AIU Holdings Inc. and eventual IPO is so important, they say.

As part of a major restructuring launched earlier this month in conjunction with the latest phase of AIG's federal bailout, the company set up AIU Holdings, a distinct holding company that will house its commercial insurance group, foreign general unit and other property/casualty operations (BI, March 9). The unit is separately branded and has its own management.

The IPO is expected to take place in nine to 12 months, AIG Chairman and Chief Executive Officer Edward Liddy said during a confer-

ence call about the restructuring earlier this month. While about 20% of the business is expected to be spun off initially, observers have said they expect AIG to ultimately spin off the entire company.

Given the pressure on AIG and the outcry created by the bonus situation, there is growing urgency to execute that spinoff as a way to help retain key staff, observers say.

"Every day (the spinoff is) not done creates more uncertainty," said John Wicher of John Wicher & Associates in San Francisco. The problems facing AIG "and the anger surrounding these huge bonuses" is creating a shadow that "has to fall on the property/casualty companies."

The distractions created by the bonus issue are "not a positive" for the property/casualty units, said Mark Rouck, Chicago-based director at Fitch Ratings.

"I think they want to get back to being able to focus the company solely on the underwriting activities, the day-to-day operations of those entities. So, although they've got a management team in place to do that, at the more senior levels it's got to be a distraction," Mr. Rouck said.

John L. Ward, CEO of Cincinnati Partners L.L.P. in Cincinnati, said, "I'm sure the pressure, and the level of stress is building tremendously among all AIG employees right now, and so it could only have a negative impact on the property/casualty operations."

One concern is further loss of staff.

"What we are watching here is the dismantling of this company and the talent is going to go to other companies that don't have this kind of weight weighing them down," said John Challenger, chief executive officer of Challenger, Gray & Christmas Inc., an executive recruiting firm in Chicago. "My guess is that most talented people will flee because the retention bonuses are now the subject of such public scorn nobody will want to take the risk," he said.

That's why it is "crucial" for the company to quickly spin off its insurance operations and do an IPO, Mr. Challenger said. "A lot of people who've built their lives around AIG...feel let down by the one area of the organization that brought them down," he said. "The

spinoff gives them hope."

"There's no question (AIG) is a sinking ship and the government is a rock on top of the ship pushing it down," said Richard V. Smith, head of the executive compensation practice of Sibson Consulting, a wholly owned subsidiary of Segal Co. in New York.

In terms of spinning off its insurance operations, "if the big brains think that is going to save that part of AIG and keep those executives, then, yes, they should do it; but until that TARP money is paid back to the government, they're always going to have not strings attached, but ropes, to everything that they do," Mr. Smith said.

Robert L.S. Boroff, managing director of Reaction Search International Inc., an executive recruiting firm in San Ramon, Calif., said an IPO would help prevent further employee defections at the spun-off insurance unit.

"I think if you were to spin off a group like that and have the incentive of an IPO where they could see a gain, for sure that's a huge incentive for an employee to want to stay," Mr. Boroff said.

News In Brief

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in pure premium rates to the California Insurance Department. The WCIRB based its recommendation in part on an indicated increase in the claims cost benchmark of 17.6% of losses in 2008. Higher claims costs are largely due to increased medical costs, the WCIRB said in a statement.

Bill would remove antitrust exemption

Two lawmakers have introduced legislation that would repeal the limited antitrust exemption granted the insurance industry under the McCarran-Ferguson Act. Reps. Gene Taylor, D-Miss., and Peter DeFazio, D-Ore., unveiled the Insurance Industry Competition Act on Thursday. The bill would give the Department of Justice and the Federal Trade Commission the authority to apply antitrust laws to anticompetitive behavior by insurers, according to a statement from Rep. Taylor's office. The measure would not affect the ability of states to regulate insurance. Reps. Taylor and DeFazio and others introduced an earlier version of the bill in 2007, but the measure never reached the House floor.

P/C reserves surplus narrows

Loss reserves for U.S. property/casualty insurers are moving closer to a break-even point after reporting a large redundancy in 2007, according to a report by Moody's Investor Service. During the first nine months of 2008, New York-based Moody's estimates the property/casualty industry harvested about \$9 billion in reserves from 2007 and earlier accident years. Moody's estimated the industry began 2008 with a "healthy" reserve redundancy of 1% to 3%, or \$5 billion to \$12 billion. Moody's noted the harvesting of prior-year reserves and the resulting decline in reserve adequacy took place across the industry.

French firm liable for blast damages

French oil company Total S.A. has been found liable for property

damages caused by the 2005 explosion at a U.K. oil depot. A high court judge in London ruled Paris-based Total was solely liable for damage caused by the massive blast, which injured 43 at the Buncefield oil depot, near Hemel Hempstead, England. The facility was owned by Total and Chevron Corp. in a joint venture known as Hertfordshire Oil Storage Ltd. The depot was operated by Total. Total had argued Chevron should share some liability, but the judge ruled Total had failed to establish that the joint venture, HOSL, was responsible for the negligence that led to the explosion and that Total was not entitled to recover indemnity from either HOSL or Chevron. Total said it was considering an appeal.

Banner Health gets OK for captive benefits plan

The U.S. Labor Department has given tentative authorization to Banner Health, a Phoenix-based health care system, to use the U.S. Virgin Islands branch of its Cayman Islands captive insurer to fund life insurance risks. Under the plan, the policies would be issued by Minnesota Life Insurance Co., which would fully reinsure the risk through the Virgin Islands branch. The branch was set up last year to reinsure Banner Health employee benefit risks.

FSA chair supports credit rater regulation

Credit rating agencies should be regulated, Lord Adair Turner, chairman of the London-based Financial Services Authority, said in a report on the global banking crisis. He said the FSA supports proposals introduced by the European Commission that would require rating agencies to be regulated and require regulators such as the FSA to play a supervisory role to "ensure that appropriate structures and procedures are in place to manage conflicts of interest and to reinforce analyst independence from commercial revenue-maximizing objectives."

Arch unit sets up Lloyd's syndicate

Arch Insurance Co. (Europe) Ltd., a subsidiary of Bermuda-based Arch Capital Group Ltd., has received approval to establish a Lloyd's of London syndicate. Syndicate 2012 will be managed by a newly created managing agent, Arch Underwriting at Lloyd's Ltd., and will write mainly marine, personal accident, property and professional lines risks.

Marsh: Contract limits potential exposure

CONTINUED FROM PAGE 1

pensation.

"This is an acknowledgement where we have to say the role we play is as an adviser and as an intermediary; we're not the risk taker," Mr. Glaser said. "How can Marsh as a broker and risk advisory organization...be willing to accept unlimited liability for very limited and finite amounts of remuneration?"

While Mr. Glaser did not mention any specific cases against Marsh or one of MMC's other units, the cap likely would have limited the recovery efforts of the state of Alaska, which sued Mercer in December 2007 seeking to recover more than \$1.8 billion in pension losses the state alleges were due to Mercer's misconduct as an actuary for its Public Employees Retirement System and Teachers Retirement System pension plans.

Mercer says the state is attempting to hold it accountable for economic trends it has no control over.

The suit still is pending, an MMC spokeswoman said.

Messrs. Glaser and Duperreault said clients who were made aware of the cap last week understood the rationale but wanted to discuss it.

"Clients want a healthy and long-living MMC. They want us around," Mr. Duperreault said. "Setting a limit that basically satisfies the vast majority of issues and protects the company, that's good for clients."

Whether Marsh will ultimately walk away from clients that refuse to sign the contract remains to be seen. Mr. Glaser said there already has been one instance where Marsh was invited to tender on a piece of new business that it would not have tendered without the liability limit.

"We are committed to imple-

ment something," he said.

"It's something I'd have to noodle through," said Marsh client Carol Arendall, senior director of risk management for OfficeMax Inc. in Naperville, Ill. "I understand capping your exposure, but \$10 million doesn't seem like that high of a number."

"It will be interesting to see how their client base reacts when it comes time to renew their contracts," she said. "It could be one of those things that just isn't going to fly. And you may have another broker coming in saying 'We don't cap

'I understand capping your exposure, but \$10 million doesn't seem like that high of a number.'

Carol Arendall, OfficeMax Inc.

that. We're willing to stand behind our brokers'...or they may find that 90% of their clients don't even care."

John Phelps, director of risk management for Blue Cross & Blue Shield of Florida Inc. in Jacksonville, said he has yet to discuss the new caps with his Marsh broker but said he would approach it as he would any other vendor contract. "I'd assess the services they provide, the opportunities for errors, quality of services provided and risks to our company and decide if this is acceptable," he said.

While such provisions may be new to the insurance industry, they appear to be gaining some traction.

The London-based British Insurance Brokers' Assn. said earlier this month that it was studying the pros and cons of such liability caps.

"Many professions in the U.K. cap their liabilities with their clients...however, insurance intermediaries rarely do and we want to know if that's something they could do...and what are the pitfalls," said Graeme Trudgill, technical and corporate affairs executive for BIBA. He noted that he's aware of "some" larger brokers operating in the United Kingdom imposing such caps, but declined to name them.

"Many of our clients in the financial services business have limits of liability provisions in their contracts and I suspect many of the insurance brokers' clients do, too," said Mitchell J. Auslander, an attorney with Willkie Farr & Gallagher L.L.P. in New York, who advised Marsh on its new provision. "It is a prudent step in risk management. I would question the advice of any risk management adviser who did not manage its own risks properly."

Other observers are more skeptical.

"It's a prudent risk management technique, but the marketplace will ultimately decide whether it's a good idea or not," said Timothy J. Cunningham, a principal with OPTIS Partners L.L.C. in Chicago.

"I think the competition will attempt to use this to their advantage," he said.

BIBA's Mr. Trudgill agreed. "Obviously if a broker did it, it would perhaps put it at a competitive disadvantage to another broker that isn't restricting it," he said.

Representatives of Marsh rivals Aon Corp. and Willis Group Holdings Ltd. were unavailable for comment.

Mass. effort reduces COBRA costs

BOSTON—Massachusetts officials are integrating a two-decade-old state program that heavily subsidizes COBRA health insurance premiums with the new federal COBRA premium subsidy to further cut the costs of coverage for employees who lose their jobs.

Launched in 1988, the Massachusetts program—known as the Medical Security Program and administered by the Division of Unemployment Assistance—reimburses 80% of COBRA premiums for unemployed workers with adjusted

gross incomes of up to 400% of the federal poverty level.

The Massachusetts program is the only one of its kind in the country.

Under economic stimulus legislation signed into law last month by President Obama, the federal government will pay 65% of COBRA premiums for employees who lose their jobs between Sept. 1, 2008, and Dec. 31, 2009. The subsidy is available for up to nine months, until an employee is eligible for coverage from a new employer or becomes eligible for Medicare.

Massachusetts will apply its 80% subsidy to COBRA beneficiaries' 35% share. That will result in beneficiaries paying 7% of the premium and the state Medical Security Program paying 28%.

That type of integration between the Massachusetts program and the federal COBRA premium subsidy is allowed under the stimulus law.

As of January, more than 3,500 Massachusetts unemployed workers were receiving the state-provided subsidy, state officials say.

—By Jerry Geisel



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Cameras may snap liability cover scofflaws

If your car isn't properly insured, you soon may have three options in Chicago: stick to public transportation, avoid stoplights or keep your checkbook handy.

According to the Chicago Tribune, the Chicago City Council's transportation committee is considering a plan to use the city's red light cameras—used to snap images of the license plates of vehicles running red lights—to match the plates with insurance records to check for automobile liability insurance.

The plan would raise possibly more than \$100 million annually for the city by citing uninsured motorists under an ordinance that would be passed for the purpose, according to an executive of an insurance verification technology firm who presented the idea to Chicago aldermen.

But the benefits go beyond feeding the coffers of cash-strapped local and state governments, said Rowland Day, executive vp of Novi, Mich.-based InsureNet. Using the technology to crack down on uninsured



motorists should reduce the premiums that properly insured drivers pay for underinsured and uninsured motorist coverage, he said.

Mr. Day, who said his company also is in discussions with three unidentified state governments, said he believes the approach ultimately will be applied nationwide.

There are no privacy or personal information issues involved, he said. "It's not invasive," Mr. Day said. "We only care about that piece of metal rolling down the street."



Business Insurance END PAGE



The self-proclaimed King of Pop in an early March appearance at London's O2 Arena, a music venue that also will host sporting events in the 2012 Olympics.

Jackson tour promoter willing to 'go bare'

Michael Jackson may be the King of Pop, but he's reportedly having trouble courting insurers to cover much of his upcoming tour.

At 50 years old and about to embark on a seven-month tour, Mr. Jackson is having a hard time finding an insurer to cover show cancellations should he fall ill, according to the London Daily Telegraph.

According to the report, Mr. Jackson and promoter AEG Live UK Ltd. were "still negotiating" with insurers. AEG Live said it has found coverage with an undisclosed company for the first 10 dates of the tour, worth about £80 million (\$111.8 million).

Some 750,000 tickets for the 50 shows—all in London—reportedly sold out within five hours.

The additional dates reportedly would raise the policy to about

£300 million (\$419.1 million) in coverage.

If there are no takers, AEG reportedly said it would self-insure shows after the 10 covered dates. Robertson Taylor Insurance Brokers Ltd., the music and entertainment practice of London-based Oxygen Insurance Brokers, is handling the placement.

"The insurance brokers sent doctors and they spent five hours with him, taking blood tests," Randy Phillips, chief executive of AEG Live told the Daily Telegraph. "He's a vegetarian; he's in great shape. The insurance cover, we are working on that now."

But Mr. Phillips said AEG is willing to self-insure the remaining dates.

"It's a risk we're willing to take to bring the King of Pop to his fans," he said.

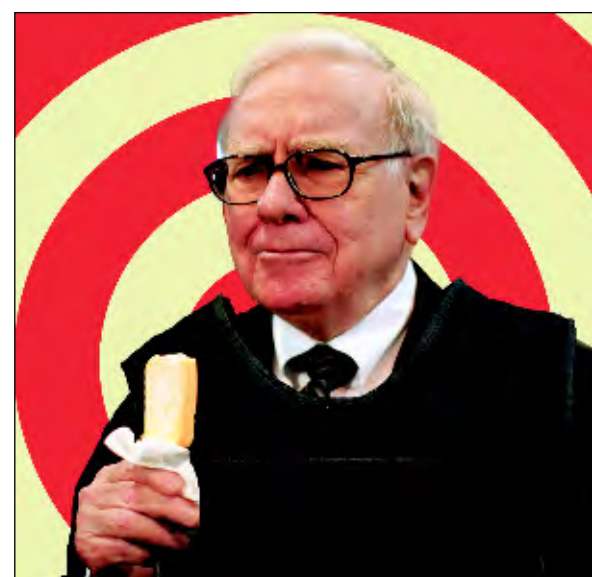
Contributing: Jeff Casale, Mark A. Hofmann, Rodd Zolkos

Security costs treble Buffett's modest salary

As billionaires go, Berkshire Hathaway Chairman and Chief Executive Officer Warren Buffett is a modest man.

He doesn't live in a mansion. He has no private jet. He doesn't even have a company car. His annual salary has been \$100,000 for years. However, he does pick up additional money from the fees he receives for serving on the boards of companies in which Berkshire Hathaway has significant holdings.

But, according to a recent proxy statement, Mr. Buffett received a little extra—well, given his salary, a lot extra—from Berkshire Hathaway this year. The



company paid him \$315,709 for "personal and home security services."

Although the proxy doesn't go into detail about why the company felt compelled to provide so much security for Mr. Buffett, the Oracle of Omaha was the target of an apparent robbery attempt in 2007 at a time when he already had a security guard at his home.

According to the Omaha World-Herald, a man in dark clothing and camouflage face paint showed up on Mr. Buffett's doorstep and rang the doorbell. Mr. Buffett's wife contacted a security guard, who overpowered the man and forced him to drop what turned out to be a fake gun. The man escaped.

Most executives wouldn't get three times as much for home security services as their salary but, then again, most major corporate executives draw salaries many multiples of what Mr. Buffett receives. Given Mr. Buffett's track record in rewarding his shareholders, an additional \$315,709 to provide security may be viewed as quite a bargain.

Italian court backs 'instinctive' retort

In Italy, according to the nation's supreme court, it's OK to say, "Who the (expletive) do you think you are?" to your boss as an "instinctive" reaction to being reprimanded.

According to Agenzia Nazionale Stampa Associata, the Italian news service known as ANSA, Italy's highest court ruled last week that the expression was "disrespectful but not threatening" and was not considered "full-blown insubordination" that would justify someone being fired.

The case stemmed from an employee at a rest home in Naples, who uttered the phrase to his boss after being scolded him for breaking some dishes. The worker was fired.

The decision is the latest in workplace-related rulings by Italy's supreme court, which has taken conflicting stances on such language, according to ANSA.

In July 2007, the court cleared an Abruzzo town councilman who told the mayor of the town to "(expletive) off" during an

argument. The court ruled the phrase was "common usage."

But 2008, the court ruled that bosses could not use that particular expletive on their staff, but later ruled they could use it on contractors, the news service reported.

The court also ruled in a 2006 case that it was permissible to trade abusive insults with someone as long as the other party was as good at giving the insults as it was in taking them, ANSA reported.



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BIG QUESTIONS, CHALLENGES

Buyers of insurance and reinsurance seek two fundamental capabilities from their carriers: a product at an acceptable price and a partner that has the strength and long-term commitment to pay claims.

Carriers must, therefore, be able to raise capital and manage that capital effectively so that business can be profitably underwritten, claims paid and adequate returns delivered to investors.

To meet more complex and higher-value business needs, insurance companies tend to gather together into markets. This enables buyers to use intermediaries to build capacity at a competitive price. This is why the Bermuda market exists.

Like London before it, Bermuda emerged to become a leading center of risk transfer because it was able to offer buyers badly needed coverage that would pay out when needed.

A turning point for Bermuda occurred in the mid-1980s, when ACE Ltd. and XL Capital Ltd. were formed by U.S. policyholders to fill a severe shortage of liability coverage. Mirroring the island's rise to prominence, those two companies have evolved into global leaders.

Bermuda has been chosen again and again as the place to build capacity after a crisis. In 1992, after Hurricane Andrew, property catastrophe reinsurers were established. In 2001, following the terror attacks on the United States, another wave of companies formed. And it happened again in 2005 after the record Hurricanes Katrina, Rita and Wilma. But the Bermuda market faces some big questions.

The global financial crisis and last year's catastrophes have

combined to erode its capital base (see story, page 8). During 2009, premium volumes will come under intense pressure as the global economy shrinks. But reduced capital and falling premiums are not a great combination when investment conditions remain poor.

At the back of everyone's minds lurks the question of what will happen if another big catastrophe hits this year? Where will the market find fresh capital to replenish the coffers and even take advantage of soaring rates this time (see story, page 10)?

Also, the market faces political pressure from interests in its U.S. core market.

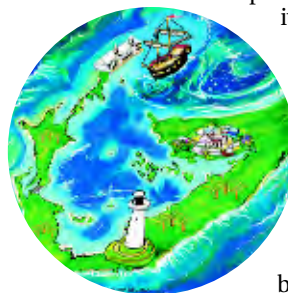
Bermuda is an attractive place to underwrite business, with formations relatively easy, low capital costs and low distribution costs due to a mature brokerage community.

But powerful forces within the U.S. insurance sector are seeking to close what they call a tax loophole that they argue gives Bermuda an unfair advantage.

Bermuda companies in turn have argued that they pay plenty of U.S. taxes for business written onshore. The market also points out that Bermuda companies have played a critical role in rebuilding the U.S. economy following disaster. Where would reconstruction capital come from, if not Bermuda, they ask?

Whether for everyday risks or big catastrophes, the last thing most insurance and reinsurance buyers want is a weak Bermuda market.

We hope that readers will find the following analysis of the Bermuda market informative and thought-provoking. As ever, we welcome your ideas.



FROM CATASTROPHES TO CAPITAL: Bermuda's challenges escalate

» Potential tax changes in the United States overlook 'valuable commodity'

By Adrian Ladbury

The Atlantic island of Bermuda has transformed itself into one of the most important insurance and reinsurance markets in the world in little more than 20 years.

Experts agree that this achievement has been built upon the market's ability to offer insurance and reinsurance buyers the capacity and security that they have required in a capital-efficient manner, particularly when other markets have failed to deliver.

As Kenneth LeStrange, chairman, president and chief executive officer of Pembroke, Bermuda-based Endurance Specialty Holdings Ltd., said: "Over time, capital will flow to where it is trusted best. Bermuda has been a very friendly place for capital and we decided seven years ago to have our headquarters here. Certainly the tax structure of the Bermuda headquarters is part of it; but from a regulatory point of view, we were able to receive approval to establish a \$1.2 billion company in a week. Some say this represents lax standards, but it is a very sensible regulatory structure."

Bermuda's growth has been spurred by its ability to react to major market dislocations such as the U.S. liability crisis in the mid-1980s that led to the formation of ACE Ltd. and XL Capital Ltd., Hurricane Andrew in 1992, the Northridge, Calif., earthquake in 1994, the terror attacks in the United States in 2001, and Hurricanes Katrina, Rita and Wilma that struck in 2005.

Each time the catastrophes have hit, Bermuda welcomed a wave of fresh capital, keen to cash in on the rapidly hardening conditions.

Market experts agree, however, that it is highly unlikely that the Bermuda market will be able to replicate its "knight in shining armor" impression if a big catastrophe occurs this year or even next.

Most credit and equity analysts agree that the recently published year-end results were not too bad, given that last year saw the second-worst year on record

for catastrophic losses (in Bermuda's back-yard of the United States) that combined with rapidly worsening investment income to produce sharply reduced profits (see story, page 16).

The good news for policyholders was that core capital among the main listed Bermuda companies was reduced, but not dangerously so. But, as all the market leaders that we interviewed for this report attested, there is little spare capital left in the tank and there is equally little prospect of rapid refueling as in the past if it is needed.

"There is little capital right now and the debt markets are non-existent—this is one reason why (Standard & Poor's Corp.) says we have to raise our prices. We may experience a normal insurance year; but if there are losses, it is unlikely that we would see the same level of first-party startups as we did in the past," said Rees Fletcher, president and CEO of Hamilton-based ACE Bermuda Insurance Ltd.

"The cost of capital is up. The availability of capital may have disappeared altogether at the moment. There is no free-market replacement," said Michael Butt, chairman of Pembroke, Bermuda-based AXIS Capital Holdings Ltd.

Don Kramer, CEO of Hamilton, Bermuda-based Ariel Holdings Ltd., agreed with Mr. Butt that a significant fresh wave of capital would be unlikely this year.

"In 1993, it seemed like it was such an easy deal. We raised \$500 million in capital and made a 20% return in the first year, and sold stock at 125% of book. Today, the market is more like 80% of book. Why would capital come in with these economics? These conditions will probably lead to a more sustained hard

"There is little capital right now and the debt markets are nonexistent—this is one reason why (Standard & Poor's Corp.) says we have to raise our prices. We may experience a normal insurance year; but if there are losses, it is unlikely that we would see the same level of first-party startups as we did in the past."

REES FLETCHER
ACE BERMUDA INSURANCE LTD.

market," he said.

Mr. LeStrange added: "In past market cycles, when you have sensed things are changing, new capital has flooded in... Now there is almost a complete absence of hedge funds and private equity money. The capital you have is the capital you have."

Experts agree that Bermuda's success to date has been built upon its ability to attract high-quality people and capital to its low-cost environment. Some ask whether the rise of recent alternative centers, such as Zurich and Dubai and even the re-emergence of the London market, will make it more difficult for Bermuda.

The Bermuda market leaders say, however, that they do not fear competition from other centers, even in this environment.

John Charman, CEO of AXIS, said: "We have modern business platforms (and

continued on page 6

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continued from page 4

very good technology. We do not have a plethora of legacy systems delivering bad and out-of-date data that the management has no real confidence in. And I do believe we have a better selection of management and underwriters located in Bermuda than most other centers—and that includes London...I think the development of the regional centers will be slowed (as a result of) global recession, their aspirations will be dampened over the next three or four years.”

Patrick Thiele, president and CEO of PartnerRe Ltd., said: “Last year we moved our non-U.S. reinsurance headquarters to Dublin because we want to be able to operate freely within the European Union under the EU Reinsurance Directive. But it is not a substitute for Bermuda. Our group headquarters remain in Bermuda and we have an operating entity here, as well as entities in Canada, the United States, Europe and Asia. For regulatory and tax purposes, this is the right structure for us.”

David Brown, CEO of Hamilton, Bermuda-based Flagstone Reinsurance Holdings Ltd., said that the markets are more complementary than competitive. “This is a big market and you can place an entire catastrophe program in half a day and other lines, increasingly. Important business stays here. Capital is only one part of it. When Lloyd’s business came to Bermuda, London did not lose it. Lloyd’s is great for some things; Switzerland for others. It is in no one’s interest for one market to be dominant.”

Konrad Rentrup, president and CEO of Hamilton-based Hannover Reinsurance (Bermuda) Ltd., was less bullish. “Zurich or Switzerland in general is in competition with Bermuda as a marketplace. Various reinsurers have relocated to Zurich since 2005 by moving their headquarters there or by setting up subsidiaries. Zurich has been a reinsurance center for a long time and by being in this location, companies hope to have better market access, especially the European market. Switzerland provides a tax-efficient environment. Companies are exempt from federal excise tax and writing business on a worldwide basis, including the U.S., with no legal barriers. Some of the Bermuda companies that set up over there just want to ensure they have an alternative to Bermuda,” he said.

The Bermuda government and market has recognized that its long-term health will be partly dependent upon the strength of its regulation. This is why Matthew Elderfield was hired in 2007 as CEO of the Bermuda Monetary Authority to upgrade

its supervisory system and meet the highest international standards. The market is impressed with what has been achieved.

“Matthew Elderfield is doing a good job. We were part of the working committee to develop the legislation and it is sensible. They are looking to position the domicile with a seat at the table with the major market. The BMA has good people and it regulates well. The Bermuda government fully understands the importance of international business and I believe that the public and private sector will move forward together,” said Graham Pewter, president and CEO of Hamilton, Bermuda-based Catlin Insurance Co. Ltd.

Despite the progress made on regulation in recent times and the market’s proven track record with claims payment, there remains a big threat from its core market in the United States.

In the United States, Congress is currently considering a proposal that would close a supposed loophole by which insurers avoid domestic taxes by reinsuring business in Bermuda-based subsidiaries.

The market fears that the U.S. politicians do not really understand the issue and that they risk throwing the proverbial “baby out with the bath water.”

Mr. Brown of Flagstone said: “Bermuda plays an important role for the U.S. industry. If there is an increasing cost of reinsurance as a result of any changes from the U.S. government, then that will increase the cost to the consumer. It may lead to a short-term inflow of cash but in the long-term, the cash comes from the policyholders.”

Stephen Catlin, CEO of Catlin Group Ltd., said the tax argument has been overplayed: “How the industry reacts to the global recession is more important than talking about tax. It can be an edge, but you can make far too much out of it. It is not going to make or break a business.”

James Few, chief underwriting officer and managing director of Aspen Re, part of Hamilton-based Aspen Insurance Holdings Ltd., said that the bill needs to be considered carefully: “The whole point is to keep capital in the United States. Whether it is passed or not is yet to be seen. One consideration will be that U.S. insurers rely on reinsurance from Bermuda and elsewhere. It is very

valuable capital. International capacity works and claims are paid. Another consideration for the U.S. government will be the fact that international companies covering U.S. exposures pay a premium tax regardless of profitability and cannot offset losses against taxes due. Recent reports have suggested the net increase in expected taxation should the Neal bill (legislation sponsored by U.S. Rep. Richard Neal, D-Mass., last September that seeks to reform the way non-U.S.-based reinsurers are taxed) pass is not significant.”

Mr. Kramer of Ariel Re said: “The U.S. is undergoing a massive fiscal problem; therefore, the U.S. authorities have identified revenue-generating opportunities. They are targeting

“Bermuda plays an important role for the U.S. industry. If there is an increasing cost of reinsurance as a result of any changes from the U.S. government, then that will increase the cost to the consumer. It may lead to a short-term inflow of cash but in the long-term, the cash comes from the policyholders.”

**DAVID BROWN
FLAGSTONE REINSURANCE HOLDINGS LTD.**

supposed tax havens and the perception is that we are one of those. Unfortunately, some in Congress do not understand that we supply a very valuable commodity that otherwise would not be available to them; and if we were shot down, then the cost would go up dramatically.”

But as Mr. Kramer and his peers are well aware, at times of crisis, such changes may be approved, at least partially.

On its own, experts agree that any U.S. legislation would not destroy the Bermuda market. But if it were to combine with another big catastrophe at a time of scarce capital, then the market would face its biggest challenge yet.

For buyers, the good news is that up until now, this market has proved itself intelligent and strong enough to overcome such challenges.



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Capital likely to be costly and in short supply after a catastrophe

» Replenishment of capital of major concern to investors

Judy Greenwald & Adrian Ladbury

A major catastrophe could leave Bermuda insurers and reinsurers in dire need of capital, which may be expensive if it is even available at all in the financial market turmoil, many observers say.

In fact, there are signs that some reinsurers already are preparing for just such a contingency, observers say (see story, page 10).

Observers also say any available capital is likely to go to well-established companies with strong track records, which means insurance and reinsurance buyers are less likely to see the formation of new companies after major catastrophes, which has happened in previous years.

But some observers believe a major catastrophe could harden the market and bring back capital that has been sitting on the sidelines.

Sea change

"Capital has always had a history of coming to Bermuda following a catastrophe," including Hurricane Andrew in 1992, the terrorist attacks of Sept. 11, 2001, and Hurricane Katrina in 2005, said Vincent McGeehan, executive vp and managing director at Willis (Bermuda) Ltd. in Hamilton, Bermuda.

But that may no longer hold true, some observers say.

"It is a major concern," said John Berger, chief executive officer of Hamilton, Bermuda-based Harbor Point Ltd. It was not that long ago that the conventional wisdom was that companies could replenish their capital whenever they needed to. "Now people are really scratching their heads" on this issue, Mr. Berger said.

"In today's environment, capital markets are substantially closed to all manner of financial institutions," including the insurance and reinsurance industry, said Kenneth LeStrange, chairman, president and CEO of Pembroke, Bermuda-based Endurance Specialty Holdings Ltd.

David Brown, chief executive officer of



Don Kramer, chairman and chief executive officer of Ariel Reinsurance Co. Ltd.

Hamilton, Bermuda-based Flagstone Reinsurance Holdings Ltd., said when his firm was formed in December 2005, "some \$20 billion of capital flowed in, particularly for peak zones, from hedge funds, direct sidecars, (industry loss warranties) and the like. Now these investors are all hiding under their desks. Therefore, the capacity crunch could be more severe, as in the past, after Katrina and 9/11 perhaps."

"I believe that the Bermuda markets could probably absorb a relatively large cat loss, but it is unlikely it could replenish its capacity with new capital in the short term, and that's the real issue," said John L. Ward, CEO of the Cincinnati-based Cincinnatus Partners L.L.C.

"With the capital markets completely frozen, the ability for companies to look at avenues such as catastrophe bonds and sidecars, and in general to reload capital with new capital raising, has been completely shut down, and only time will tell when the capital market and credit markets begin to loosen up a bit," Mr. Ward said.

"There is no longer a

significant prospect that fresh capital will come in to take advantage of rising rates, as in 2005 and 2006," said Don Kramer, chairman and CEO of Hamilton, Bermuda-based Ariel Reinsurance Co. Ltd. "The cost of capital is very high and the capital markets are very depressed."

Kevin O'Donnell, president of Pembroke, Bermuda-based Renaissance Reinsurance Ltd., said with demand increasing and supply decreasing simultaneously, "clients will continue to want to reduce risks and investors will remain on the sidelines until we see better conditions in the capital markets."

Not everyone will necessarily need to go out and raise capital after a catastrophe, though, including those with contingent capital arrangements already in place, depending upon the size of the event, said Enrico Leo, an analyst with Moody's Investors Service in New York.

But those that do will find it costly, observers say. "I think it would be more expensive, obviously," but the "right business model would be able to attract" additional capital, said Willis' Mr. McGeehan.

Many observers say the formation of new reinsurers, which came after past catastrophes, is unlikely to recur, though.

"I think it is unrealistic to think you would be able to have the number of new startups that you had following the 2001

continued on page 10

"I believe that the Bermuda markets could probably absorb a relatively large cat loss, but it is unlikely it could replenish its capacity with new capital in the short term, and that's the real issue."

JOHN L. WARD, CINцинATUS PARTNERS L.L.C.

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Capital likely to be costly, scarce

continued from page 8

and 2005 events,” said W. Marston Becker, chairman and chief executive officer of Hamilton, Bermuda-based Max Capital Group Ltd.

“I think the bias would be more towards existing entities being able to perhaps raise additional capital to take advantage of near-term opportunities,” Mr. Becker said.

Even among existing firms, it is only the more successful companies that are likely to attract capital, observers say.

Britt Newhouse, chairman of reinsurance intermediary Guy Carpenter & Co. L.L.C. in New York, said the days “where you can hire an investment banker, and they can go to 50 or 100 different hedge funds and equity funds” are gone.

But companies with “good, solid track records” will “be able to go to their original sponsors or their existing shareholders, who understand the business and raise some additional capital,” said Mr. Newhouse, who noted that the insurance and reinsurance industry has weathered the financial storm well, relative to other financial industry sectors.

Hard target

Some observers believe the harder market that could come after a major catastrophe will attract more capital back into the business. Much will depend on the size of the catastrophe, said Howard Mills, chief adviser of the global insurance industry practice at Deloitte & Touche U.S.A. L.L.P. in New York.

“If it were strong enough to harden (market) prices, that’s what would attract capital,” he said. “There is still money out there,” said Mr. Mills, who is a former New York insurance superintendent.

Bryon G. Ehrhart, chairman of Investment Banking Group and CEO of Aon Benfield Analytics at Aon Benfield in Chicago, said there are “now many investors on the sidelines that do not believe the returns—even with some additional hardening through the June 1 period—are sufficient (to devote capital to the insurance and reinsurance market).”

» STRATEGIES IN PLACE FOR ‘RELOADING’ CAPITAL

Judy Greenwald

Some Bermuda insurers and reinsurers already are preparing for a post-catastrophe shortage of capital by using strategies that include higher rates, conservative underwriting and more diversification, observers say.

Steven K. Bolland, president of New York-based reinsurance intermediary Gill & Roeser Inc., said a number of Bermuda company officials stated flatly during January renewals “that their inability to ‘reload,’ as they call it, means that, effectively, they have to push prices up” to receive a better return on capital under the circumstances.

“If reinsurers are not able to capitalize by issuing stock or some other mechanism that they’re used to, they really have a limited set of options, one of which is to restrict their writings” across the board or by underwriting more attractive lines of business, said Eric Brosius, senior vp and manager of reinsurance for Liberty Mutual Insurance Co. in Boston.

“Companies are keenly aware of the situation and, I think, reacting by being very conservative on their risk-taking activities,” said Robert DeRose, vp at Oldwick, N.J.-based rating agency A.M. Best Co. Inc. “They’re not providing as much capacity to various business segments as they had previously” and are suspending share buyback programs as well.

“They’re trying to keep their powder dry, because they realize they have to come through the event (in one piece) and must have capacity to redeploy to the market without necessarily relying on capital-raising,” Mr. DeRose said.

Don Kramer, chairman and chief executive officer of Hamilton, Bermuda-based Ariel Reinsurance Co. Ltd., said the reinsurer tries “to obtain a fair risk-adjusted return for each risk we assume.”

Kenneth LeStrange, chairman, president and CEO of Pembroke, Bermuda-based Endurance Specialty Holdings Ltd., said, the company’s management and capital position are driven by the belief that it would be “very challenging to replenish capital today.”

He said Endurance has structured its “balance sheet” so there is sufficient financial flexibility to “get us through any kind of event that I would anticipate,” although it might mean, for instance, that its debt-to-equity ratio may go up for a period of time, but remain comfortably within rating agency tolerance levels.

As for Max Capital Group Ltd., Chairman and CEO W. Marston Becker said the Hamilton, Bermuda-based company has always been a more conservative underwriter of catastrophe exposure than many of the other players. “We have always had a more diversified approach and a lower tolerance level of surplus (capital) at risk, so we are continuing to operate within our existing policy of no more than a range of 15% to 20% of our surplus being at risk for the classic one-in-250-(year) event.”

—Adrian Ladbury contributed to this article.

REASONS TO BE CHEERFUL: Bermuda's optimism for the future

» Though growth has slowed, future of island as insurance center secure

Colleen McCarthy

BERMUDA CONTINUES TO THRIVE AS AN important insurance and reinsurance center, and most observers say its future is secure despite competition from rival markets.

The island has succeeded as a jurisdiction over the past two decades, in part because of its attractive regulatory and tax environment that has encouraged the accumulation of investment capital in insurance operations, observers say. In addition, Bermuda has extensive underwriting talent and has carved out a niche in specialty reinsurance and captive insurance.

Bermuda is the world's third-largest supplier of reinsurance after the United States and Germany in terms of net

premiums written, according to an analysis by J. David Cummins of the University of Pennsylvania, and the largest captive insurance company domicile. Insurer startups and redemestications frequently have chosen Bermuda over other domiciles.

Quick response

Observers say the island offers distinct advantages including a flexible regulatory framework that allows insurers and reinsurers to respond quickly to new and emerging risks. Bermuda's proximity to the United States is another key advantage.

In addition, analysts say Bermuda appears to be well-positioned to withstand a downturn as Bermuda insurers and

reinsurers are "still well-capitalized" following two strong years of results.

"Bermuda remains a fundamental leg in a broader worldwide marketplace," said Paul Markey, chairman of insurance brokerage Aon (Bermuda) Ltd. But the island has been under pressure from various challenges, both internal and external, and many are watching the economic and political landscape closely for changes that could adversely affect Bermuda's position, said Steven Ader, an analyst with Standard & Poor's Corp. in New York.

"We are clearly aware of the outside influences," Aon's Mr. Markey said. "As in any circumstance, the landscape could change, but for now we think Bermuda is

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in a good position," he said.

Last year, S&P said Bermuda-domiciled insurers were facing increasing competition from other regions of the world. The report noted that Bermuda will remain important, but "insurers are also beating paths to Dublin, Zurich and Luxembourg in a bid to be closer to their customers."

Among insurers moving some of their operations from Bermuda last year were Flagstone Reinsurance Holdings Ltd. and ACE Ltd., which moved to Switzerland and boosted fears that other companies may follow suit.

More recently, Fitch Ratings Ltd. in New York highlighted significant challenges for the Bermuda market, including ongoing efforts to reduce or eliminate its tax advantages and difficulty coping with its unique demographic and infrastructure issues (see story page 4).

Defense is offense

But observers say Bermuda is keenly aware of its challenges and continually takes steps to maintain its position. For example, the Bermuda Monetary Authority has taken aggressive steps to strengthen the island's regulatory standards to attract more global insurers and reinsurers. A recent International Monetary Fund report said the island has made "impressive progress developing and implementing a risk-based approach" to regulation.

In addition, the government is working to address infrastructure issues, including work permits, term limits for noncitizens, housing and other concerns that have persisted on the 22-square-mile island, said Bradley Kading, president and executive director of the Hamilton, Bermuda-based Association of Bermuda Insurers and Reinsurers.

Despite the rise of regional-focused centers, such as Singapore and Dubai, as insurance and reinsurance markets, observers say the Bermuda market is unique among offshore domiciles in its ability to provide a complete package of products and services that accompany an established, mature jurisdiction—including a well-developed broker network, and legal, banking and audit. Others say alternative domiciles lack



**John Charman, CEO,
AXIS Capital Holdings Ltd.**

Bermuda's track record of success.

"Bermuda has been a longstanding leader in attracting capital. It has a very well-developed market and sophisticated regulatory system," said Kevin O'Donnell, president of Pembroke, Bermuda-based Renaissance Reinsurance Ltd., who said he is not worried about competition from other markets.

Evolutionary

In addition, the trend of companies redomesticating or setting up operations elsewhere, is "really just part of the ebb and flow that we see within global markets," said Julian James, chief executive officer of Lockton International, a unit of Lockton Cos. International Ltd. in London.

"We have seen Bermuda companies investing in centers like London and Singapore, and that is just a natural evolutionary stage of their own development," Mr. James said. "We view it as a positive, as it gives our clients more choice where they can go to access underwriting capacity."

Flagstone cited access to the European market as part of its motivation in moving to Switzerland last year as did Pembroke-based Partner Reinsurance Ltd. when it moved its non-U.S. reinsurance headquarters to Dublin, Ireland.

"But it's not a substitute for Bermuda and we have an operating entity here as

well as entities in Canada, the United States, Europe and Asia," said Patrick Thiele, president and CEO of Partner Re. "For regulatory and tax purposes, this is the right structure for us."

S&P's Mr. Ader said the so-called European passport, which enables insurers to conduct business throughout the European Union as long as they are regulated in one E.U. member state, was "very appealing."

Bermuda continues to attract a diverse range of startups, although not at the same pace as in the past.

In 2008, 40 insurers set up on the island compared with a record 82 startups in 2006, according to the BMA. The BMA's 2007 annual report indicates there were 1,481 registered insurers on the island writing gross premiums totaling \$115.80 billion in 2006.

Among those setting up shop in Bermuda last year was Torus Insurance Holdings (Bermuda) Ltd., a specialty insurers and reinsurer headed by Chief Executive Clive Tobin, who spent more than a decade at Bermuda-based XL Capital Ltd. Torus also has U.K.- and U.S.-based subsidiaries.

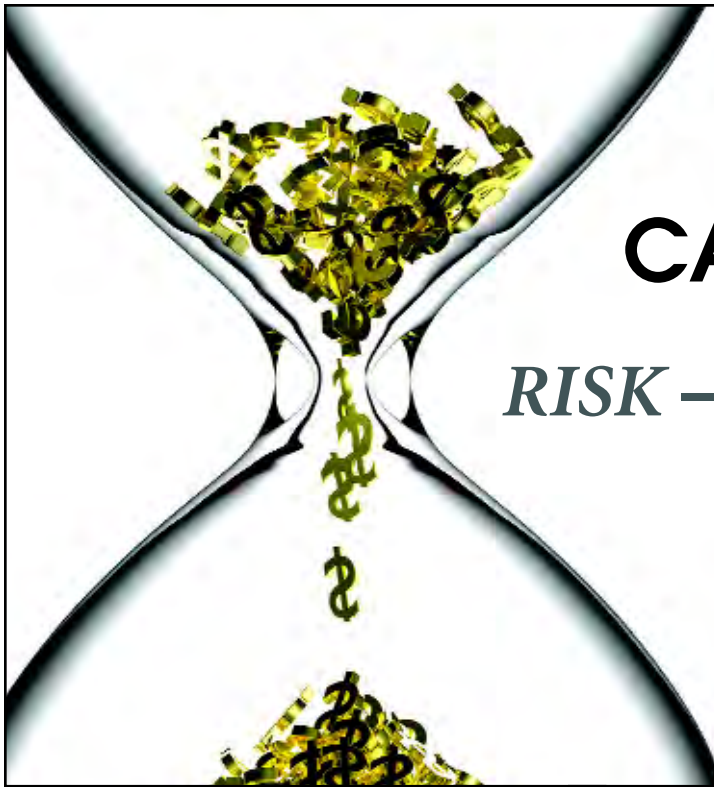
"For us, Bermuda is an extremely important market" for large commercial business, Mr. Tobin said. In addition, Bermuda's proximity to the United States "as the largest commercial marketplace," is another advantage, he said.

Fleet of foot

Others point to Bermuda's relatively rapid licensing procedure as another distinct advantage. "We were able to receive approval to establish a \$1.20 billion company in a week," said Kenneth LeStrange, president and chief executive officer of Endurance Specialty Holdings Ltd., which launched in 2001.

While many observers agree Bermuda's future is not at risk, some predict the island's period of major growth has ended.

"The issue is the industry will not be growing at anywhere near the rate that it has over the last seven or eight years. By that I mean new business and new capital, and that is going to impact all financial sectors. So naturally there will be a slowdown," said John Charman, CEO of Bermuda-based AXIS Capital Holdings Ltd.



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Staying ahead of the regulatory curve

Adrian Ladbury

Most experts agree that Bermuda is a great place to carry out the business of insurance because it has no corporate tax, and it is much quicker and easier to create a licensed company than in the mature onshore markets like London.

But while these basic factors contribute to the island's success, they also act as its fundamental Achilles' heel, the island's leading executives agree.

This is because rival centers find it all too easy to claim that it offers unfair competition because of the fiscal advantages. They also allege it has substandard security for policyholders because of its supposed "light touch" regulatory approach.

This is the primary reason why the island's insurance community currently finds itself having to fight off another threat to its long-term position from the United States, based upon its alleged tax advantage.

It is also the main reason why two years ago, the island hired Matthew Elderfield as chief executive officer of the Bermuda Monetary Authority from the U.K. Financial Services Authority and asked him to upgrade its supervisory system to bring it up to the highest possible international standards (see Q&A, next page).

In particular, Bermuda's regulation will need to be on a level with Europe's planned new capital adequacy regime Solvency II that will need to be met for those companies that wish to write European business.

His job has been made that much easier by the cooperation of the industry itself.

All the industry leaders polled by *Business Insurance* indicate they are fully behind Mr. Elderfield and are happy to pay the extra price required to

make it happen.

Regulation respect

"Five years ago, the perception was that the regulatory environment in Bermuda was not equivalent to the United States or Europe. It is a perception I do not hear anymore," said Patrick Thiele, chief executive officer of Pembroke, Bermuda-based reinsurer PartnerRe Ltd.

Mr. Elderfield and his team received a welcome boost last year when the Washington-based International Monetary Fund gave Bermuda its approval for the publication of its 2007 assessment of financial regulation and supervision on the island, "IMF Report—Assessment of Financial Sector Supervision and Regulation in Bermuda."

The report was conducted to determine how much progress Bermuda had achieved since the IMF's initial review of the island's regulatory framework in 2003.

The report noted that Bermuda has a "high level" of observance of the International Association of Insurance Supervisors Core Principles. It also said that the decision to restructure the island's supervisory system to create a risk-based framework enhanced the system beyond the recommendations it had made in 2003.

It did say, however, that the process would need to be completed, spread out to other markets and monitored constantly and that the BMA would need to hire more staff and build more experience and expertise.

Rees Fletcher, president and chief executive officer, ACE Bermuda Insurance Ltd., said that the IMF report was an important step forward, but stressed that further work is needed.

"The BMA has been working for some time on solidifying

our position as a well-regulated jurisdiction, meeting and exceeding international standards. (The) recent third party analysis of the market by the International Monetary Fund (on) Bermuda's insurance regulatory environment received very positive remarks. But there is still work to be done (for Bermuda and internationally) to reach the levels expected under Solvency II," said Mr. Fletcher.

Moving forward

The next big steps were clearly outlined in the BMA's "2009 Business Plan" that was published at its first annual meeting in January. The plan outlined four main areas of work for the BMA this year. These were: continued management of the effects of the global financial crisis; achievement of mutual recognition for its regulatory framework; implementation of new anti-money laundering standards; and continued improvement of operational efficiency.

For the insurance market, the key focus is on mutual recognition, and in particular with Europe and the United States.

Mutual recognition is a process through which a jurisdiction recognizes the regulatory frameworks of other jurisdictions as being broadly equivalent to their own.

Once a jurisdiction is assessed and achieves mutual recognition, it allows firms from that country to conduct business on nondiscriminatory terms and avoid duplicative regulation.

The discussion paper "Proposed Enhancements to Insurance Supervision and Enforcement Powers," published last month is a key part of this effort.

The basic aim of the paper is to identify whether there are any powers used by other regu-

lators that may enhance the capacity of the BMA to effectively regulate the insurance sector.

The points up for discussion are:

■ **PUBLICATION OF ENFORCEMENT ACTION**—The BMA said that "adverse inferences" could be drawn from too much secrecy and pointed out that other regulators are happy to publicize their actions. Why not Bermuda? It said it sees this as a matter of priority for the insurance sector and would look to extend it to other sectors.

■ **ENFORCEMENT POWERS CONCERNING INDIVIDUALS**—The BMA believes that if an individual is unfit to hold a senior position at one insurer, then surely they would be unfit for similar positions with other insurers. "Any power should extend to a banning from the industry generally, rather than from a specific entity."

■ **CIVIL FINES**—The BMA does not currently have the power to impose civil fines under insurance legislation, and believes it could be a simple and effective tool. It is faster than criminal proceedings and can be more accurately tailored for the size of the entity and importance of the breach, the BMA pointed out.

The BMA sought comments and suggestions to its paper by March 31 and suggested that it will not sit on the responses long.

The BMA said that it is particularly eager to move quickly on the publication of regulations because the importance has "increased at a time when there is significant scrutiny of the effectiveness and validity of regulatory regimes throughout the world."

It promised, therefore, to initiate the legislative process in the "immediate future" to enable it to publicize regulatory action when necessary.

BMA seeks to become top-tier regulator

Business Insurance International Editor Adrian Ladbury talked to Matthew Elderfield, chief executive officer of the Bermuda Monetary Authority, about his plan to create a new insurance supervisory system.

Q: Your latest annual business plan stressed the importance of mutual recognition and Bermuda's effort to become a top-tier regulator. How do you plan to achieve this?

A: The key medium-term goal is that Bermuda will be recognized under the mutual recognition framework in Europe and the United States. In Europe, Solvency II will require either a standardized model or economic capital models. We have learned lessons about the reliability of models and have set out how to recognize diversification effects, data and how to check the models. We (also) need more checks. Phase II of this project will commence midway through 2009. We want to approve a model in 24 hours flat.

Q: Has the recent global financial crisis underlined how important effective group and cross-border supervision is nowadays?

A: Group supervision is high on the agenda. We have seen some very large banking and insurance groups [find themselves in difficulty] and the challenges involved with managing these showed the importance of consolidated supervision. I think you will see a lot more emphasis on supervision on a group basis. Solvency needs to be consolidated to ensure that there are no unregulated units in a group. But group supervision will not mean a cast of thousands poring over all accounts worldwide. We require group level controls, governance and risk management and equally require consolidated solvency returns that show how well-capitalized the group is, shows whether it is double-gear, has intra-company reinsurance transactions, guarantees, letters of credit and so on. You need to look at the solvency position in the round and see if there are any contagion risks. If (there are) cross-border (risks), you need different tools.

Q: What about the practical problems? How do you coordinate all of this?

A: You have to work on a number of levels. You build relationships with the National Assn. of Insurance Commissioners in the United States, just as with the International Assn. of Insurance Commissioners. You also need supervisory cooperation with partner jurisdictions. We have significant working relationships with other supervisors.

The NAIC is carrying out solvency modernization to upgrade the rules in line with Solvency II and point of entry rules to reduce the collateral. This works so long as you have effective home country supervision. At some point in the future, we will have mutual recognition and have an international passport.

Q: What has the BMA done to update its insurance regulation since you took charge two years ago?

A: We already have a heightened interest in solvency regulation, levels of capital and how to handle tail events. Enhancements have been made to the regime. Work on the stress-based approach and economic capital models will open the door to allow the use of economic capital models. This will be phased in gradually.

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Batten down the hatches

» Buyers should expect more conservative reception in Bermuda this year

By Adrian Ladbury

Last year was a tricky one for the leading listed Bermuda insurance and reinsurance companies as they struggled to cope with continued soft underwriting markets, exceptionally high losses and a dreadful investment market. Prices are finally rising and the outlook looks healthier for 2009. But premium volumes are under threat as the recession bites and there is scant hope for fresh capital this year. In nautical terms, it looks like it is time to batten down the hatches and hope for the best. In insurance terms, buyers can expect a more conservative and dour reception in Hamilton, Bermuda, this year. The good news for buyers is that despite the exceptionally tough year, the market's capital base looks reasonably firm for now, even if capacity may be restricted.

Year-end profits hammered as catastrophe and investment losses wipe out premium growth

For the group of 19 listed Bermuda insurance and reinsurance companies that had reported 2008 results when this report was closed, net premiums were slightly up by 2%, from a total of \$49.95 billion in 2007 to \$50.98 billion last year. But this could not protect the loss and combined ratios. The group reported an average loss ratio last year of 60.88% against 51.13% in 2007, a deterioration of some 9.75 percentage points. The average combined ratio for last year was 94.13%



Kenneth LeStrange, chairman and chief executive officer of Endurance Specialty Holdings Ltd.

compared with 78.6% in 2007, an increase of 15.53 percentage points.

Largely as a result of this, the group of 19 companies reported a much-reduced combined operating profit of some \$5.94 billion last year compared with \$13.30 billion the year before—an average per company of \$312.4 million in 2008 against \$699.9 million in 2007.

This represents a fall of some 55% from year to year.

The group of companies reported a combined net loss of \$702.6 million last year, set against a net profit of \$10.84 billion in 2007.

Not surprisingly, the earnings per share for the group plummeted from an average in 2007 of \$7.38 per

share to a negative \$2.51 for last year.

Almost all the Bermuda companies were keen to stress that policyholders could rest relatively easy at night, despite the tough year.

Share repurchase programs ceased, capital levels remained relatively strong and the ratings agencies did not announce widespread downgrades of Bermudian companies. This was reflected in the 16.8% fall in total shareholders' equity for the group to \$64.55 billion last year, from \$75.39 billion in 2007.

John Charman, chief executive officer and president of AXIS Capital Holdings Ltd., summed up the year when he announced

the insurer's net profit of \$351 million for 2008 vs. \$1.06 billion in 2007.

"In 2008, we estimate that the insurance and reinsurance markets will digest more than \$60 billion insured catastrophe, property and energy losses worldwide," he said in a conference call to investors. "This was also a period that presented the most competitive market conditions we have experienced since the formation of AXIS."

Many of the results were boosted by the release of prior-year reserves. RenaissanceRe Holdings Ltd., Arch Capital Group Ltd., Partner Re Ltd. and ACE Ltd., all reported favorable developments on prior year losses for 2008.

But these releases were nowhere near big enough to offset the parlous investment conditions and those Bermudian companies with more aggressive alternative investments suffered worst.

Sara Street, chief investment officer of XL Capital Ltd., told investors that the group's net investment income on the property/casualty general portfolio for the final quarter was \$276 million, a drop of 16% against the equivalent 2007 quarter. The insurer's fourth quarter decline on investments—on a mark-to-market basis—was \$852 million.

Neill Currie, CEO of RenaissanceRe, reported that 2008 was the first year of negative investment returns in the company's history and blamed the losses on its "moderate" allocations to

high-yield private equity and hedge funds.

Kenneth LeStrange, chairman and CEO of Endurance Specialty Holdings Ltd., pointed out that the way in which companies account for investment losses can have a big effect on the way the numbers compare.

"It has been a confusing year to compare profits. If you look at net income, you see a significant impact at Endurance that is related to alternative investment results which (is accounted for in) our income statement, whereas two-thirds of our peers put it through the balance sheet as "Other Than Temporary Impairment" charges. So if you look at the balance sheet side, Endurance is comparatively well placed," he said. OTTI rules are U.S. accounting standards that force companies to report losses for investments that regulators deem to be impaired for the long term.

Mr. LeStrange also said last year was complicated by foreign exchange effects. He said Endurance lost \$41 million in the income statement from foreign exchange effects, but gained \$39 million in the balance sheet. A number of the Bermuda company leaders used the year-end conference calls with analysts to also point out that a significant portion of the investment losses are accounting driven losses that ultimately may recover.

Albert Benchimol, chief financial officer of PartnerRe, said: "We experienced more than \$531 million in realized and unrealized losses for the full year and since we adopted (accounting standard) FAS 159 on Jan. 1 of 2008, these are fully reflected in our income statement.

"We did incur losses and impairments during the year, but a larger portion of the decline in market values of our portfolio relate to increases in spreads that reflect the overall fear and illiquidity in the markets, rather than

meaningful declines in the quality of our assets.

"For example, at Dec. 31, 2008, we have approximately \$400 million in unrealized losses on various fixed-income assets. But close to 95% of this amount relates to investment grade securities that we expect will perform according to their original terms."

John Vollaro, executive vp and CFO of Arch Capital Group Ltd. said: "In my view, the accounting rules involved are not consistent with the economic reality in the current environment, because the OTTI rules are based on an implicit, but flawed, assumption that the market price of a security is always a reasonable proxy for its actual value or, if you will, that the markets are always efficient."

Impact on security—capital down but balance sheets still look safe

The catastrophes of last year, combined with the dreadful investment markets, may have rudely forced the Bermuda companies to stop handing capital back to investors and watch their book values, shareholders' equity and share prices tumble.

But there have so far been no insolvencies and the rating agencies seem to be reasonably comfortable with the market's capital position, apart from a few isolated cases.

Michael McGavick, CEO of XL, stressed that capital is not the issue. "We have no need to raise capital and the rating agencies tell us they agree. We have taken several steps to make that strength more obvious," he said.

One of those steps was a noncash charge that XL took against its acquisition of Mid Ocean Re in 1998. Mr. McGavick said that, under Generally Accepted Accounting Principles, XL had to recognize current market valuations in how it carried the goodwill for the company. XL, therefore, took a goodwill impairment of

\$990 million during the final quarter, mainly for the Mid Ocean business.

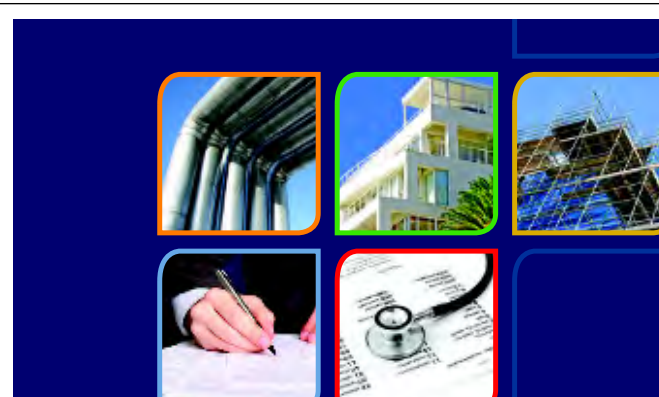
Fred Donner, CFO of RenaissanceRe Holdings Ltd., also felt moved to explain why things may not look as stretched as they appear on the surface. "For the quarter, our book value per share remained relatively flat—down less than 1%—and for the full year our book value per share declined by 5.6%. But about 5 points of that decline comes from the share repurchases we made towards the end of the year...we discontinued our share repurchases late in the second quarter of 2008," he explained.

Joseph Taranto, chairman and CEO of Everest Re Group Ltd., pointed out that the reinsurer ended 2008 with a surplus of \$5 billion—an amount that "amply supports" its business plans for 2009.

"When you consider the

hurricanes we experienced, the global financial meltdown and its impact on assets, the devaluation of foreign currencies which reduced surplus by \$193 million and factoring that we bought \$151 million back in stock, and \$119 million we have paid in dividends, the \$5 billion in surplus represents a solid result," he said.

Patrick Thiele, CEO and president of PartnerRe, was equally bullish: "Year over year, our balance sheet was stable, which is a significant achievement in a year like 2008. Invested assets and cash are up 1.3% to \$11.7 billion from \$11.6 billion at Dec. 31, 2007. Nonlife reserves increased 4% to \$7.5 billion and our common shareholders' equity was down only 3% to \$3.7 billion ... I can honestly say that our balance sheet is as strong as it has ever been," he added.



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Pricing at year end—soft market ends as recessionary fears bite

Last year was a good year for buyers of primary and reinsurance coverage, as prices continued to soften in many primary lines and remained stubbornly flat in reinsurance for most lines.

The mood changed at year end, however, as buyers appeared to accept that their carriers would be unable to continue to offer cheap coverage in such a difficult trading environment.

The most obvious change reported was in the retrocessional market that one leading player described as “harder than ever.” Almost all the Bermudian companies expect prices to harden as the year progresses.

Mr. LeStrange of Endurance summarized the market when he said: “In July 2008, our view on price monitoring information was that both insurance and reinsurance markets were softening. They stabilized at year end and we saw single-digit improvements across the portfolio at Jan. 1.”

Mr. LeStrange said he agrees with recent comments from Brian Duperreault, president and CEO of New York-based brokerage Marsh & McLennan Cos. Inc., that the environment looks healthy for insurers because of an “invisible hard market.”

“Because of the recession, everyone is under pressure. People will always look to minimize costs, but the risk is still there. The insurance and reinsurance industry tends to do pretty well sustaining demand for products in such an environment. Exposures are declining and this does have an effect on the premium to exposure equation. Mr. Duperreault has called it the invisible hard market in that exposures are reducing at a more significant pace than rates. Therefore, from a premium-to-exposure perspective, insurers and reinsurers should be doing

better.”

Mr. Charman of AXIS said that, as usual, the most capital-intensive lines, such as those with catastrophe exposures, in the insurance and reinsurance markets have responded first and most significantly. “As we anticipated, the generally weaker managed insurance markets are lagging the reinsurance market,” he added.

Mr. Thiele of PartnerRe said that, based on this renewal and the rapidly deteriorating economy in the United States and Europe, the recession will negatively impact exposure growth in many treaties. He said PartnerRe expects a “subdued” year for the industry for nonlife written premiums. “However, pricing remains by and large adequate and we feel we can participate in any opportunities that may present themselves as primary companies seek to shed risk,” he said.

Mr. Thiele agreed with Mr. Charman’s analysis that the opportunities for carriers first emerged in those areas that had experienced losses in 2008 such as catastrophe, offshore energy and credit.

He said this hardening hopefully would spread to the more stable lines. “The greatest uncertainty as to underlying profitability remains the U.S. casualty business,” he concluded.

Kevin O’Donnell, president of RenaissanceRe, told analysts during the group’s year-end conference call that the most profound impact on the reinsurance market emanates from the overall financial crisis.

“Market forces are curbing supply and increasing demand ... companies want to manage their risk down to reduce the probabilities that they need to access the capital markets. The buyers are buying more and sellers are selling less. Having supply and demand move in our favor at the same time is a unique

“Buyers today are not as likely to maintain large participations with a single reinsurer as they have in the past.”

CONSTANTINE IORDANOU, ARCH CAPITAL

situation for this market,” he said.

Pricing outlook—rates up but volumes under pressure

Looking forward, most Bermuda executives were confident that terms would improve for them as the year progresses.

Mr. Charman at AXIS said he believes the insurance markets will begin to respond “positively” from midyear onwards. However, he said the outlook could be hurt by defensive action taken by those insurance companies with stressed balance sheets.

“The least responsive areas of the insurance markets tend to be less capital-intensive and are constantly challenged by the competitive behavior of distressed market participants. We have not, cannot and will not abandon our underwriting and operational standards, which, in some areas, mean that we will continue to shrink our underwriting activity and our exposures,” he said.

Mr. Greenberg at ACE said overall rate to exposure is improving, rates are firming and would continue to firm as the year progresses. “How fast, what lines and where, I cannot predict with certainty, but as they do, we will gain share and that equals growth. On the other side of the coin, recession is impacting exposures and clients’ insurance budgets and this, along with foreign exchange, will negatively impact premium growth rates ... We remain optimistic about the

year,” said Mr. Greenberg.

Constantine Iordanou, president and CEO of Arch Capital Group Ltd., said conditions are improving, and in reinsurance in particular, Arch should benefit from a “flight to diversification” among buyers.

“We see buyers who are more willing to introduce new names to their treaties and who are a bit less loyal to their long-standing reinsurers irrespective of the share these reinsurers offered them in the past. Buyers today are not as likely to maintain large participations with a single reinsurer as they have in the past,” he explained.

As with many of his peers, however, Mr. Iordanou was keen to downplay the impact of improved shares and rates on volumes in 2009.

“Rate improvements will not necessarily translate into more premium revenue as the exposure base is negatively affected by reduced payroll and sales. In addition, some customers are limiting their purchases due to affordability by retaining more risk themselves or buying less limits.

“For the U.S. property/casualty industry, where premium revenue statistics exists going back to the beginning of last century, premiums for the industry were down 0.6% in 2007 and are projected to be 0.8% for 2008. This is the first time since 1932 and 1933 that the industry has experienced negative premium growth for two consecutive years. The last time premium growth was negative on a single year was 1943,” he said.

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Web site: www.acelimited.com

MAIN OPERATING OFFICE:

ACE Ltd.
Bärengasse 32
CH 8001 Zurich
Switzerland
Phone: 41-43-456-7600

BY THE NUMBERS

2008 NPW: \$13.10 billion
2008 combined ratio: 89.6%
2008 net income: \$1.20 billion
Staff: 16,000

SENIOR EXECUTIVES:

Chairman and Chief Executive Officer: Evan G. Greenberg
Chief Financial Officer: Philip V. Bancroft
Chief Risk Officer: Sean Ringsted

COMPANY PROFILE:

A consortium of 34 Fortune 500 companies established ACE in 1985 to provide excess liability and directors and officers insurance. The first ACE office opened in 1986 with six full-time employees.

In 1993, the company completed its initial public offering and was authorized to trade on the New York Stock Exchange. The next year, ACE diversified its product line by adding satellite insurance. In 1995, the company added financial lines, excess property and aviation product liability coverages. ACE's growth continued, and among its early acquisitions were Westchester Fire Insurance Co. and the property/casualty business of CIGNA Corp.

Mr. Greenberg was named president and CEO in 2004. Brian Duperreault retired as chairman in 2006, a position Mr. Greenberg filled the next year. In 2008, the insurer enhanced its personal lines business by acquiring the high-net worth personal lines business of Atlantic Cos. ACE also purchased Combined Insurance Co. of America for \$2.56 billion, expanding its ability to provide supplemental accident and health, life and disability insurance.

Last year, ACE redomiciled to Zurich, Switzerland. It now operates offices in more than 50 countries and jurisdictions, and with correspondent, or partner, insurers in about 90 others.

The largest portion of ACE's business comes from North America. Overseas general insurance is the next-most significant part of its writings. Global reinsurance and life business make up the remainder of ACE's business.

ALLIED WORLD ASSURANCE CO. HOLDINGS LTD.

EXECUTIVE OFFICES:

27 Richmond Road
Pembroke HM 08
Bermuda
Phone: 441-278-5400
Web site: www.awac.com

BY THE NUMBERS

2008 NPW: \$1.07 billion
2008 combined ratio: 84.2%
2008 net income: \$183.6 million
Staff: 578

SENIOR EXECUTIVES:

Chief Executive Officer: Scott A. Carmilani
Senior Vp and Chief Financial Officer: Joan H. Dillard

COMPANY PROFILE:

Allied World launched in 2001 as one of several Bermuda startups formed to provide capacity after the terrorist attacks in the United States. The company began with four employees in a small Bermuda office.

The Bermuda operation offers insurance products to Fortune 1000 and larger clients. Allied World also writes reinsurance coverages for a range of insurers in Bermuda, North America and other parts of the world.

As the company has grown, it opened offices in six U.S. cities as well as Dublin, Ireland; London and Zug, Switzerland.

The Bermuda operation writes reinsurance for standard-market companies as well as excess and surplus lines insurers. It writes a variety of treaty programs and some casualty facultative business.

Allied World expanded last year with the acquisition of Darwin Professional Underwriters Inc., a unit of New York-based Allegheny Corp. Darwin, based in Farmington, Conn., is a specialty insurer focusing on health care coverages.

ARCH CAPITAL GROUP LTD.

EXECUTIVE OFFICES:

Wessex House
4th Floor
45 Reid St.
Hamilton HM 12
Bermuda
Phone: 441-278-9250
Web site: www.archcapgroup.com

BY THE NUMBERS

2008 NPW: \$2.81 billion
2008 combined ratio: 95.0%
2008 net income: \$291.0 million
Staff: 990

SENIOR EXECUTIVES:

President and Chief Executive Officer: Constantine Iordanou
Executive Vp and Chief Financial Officer: John D. Vollaro

COMPANY PROFILE:

Arch Capital launched in October 2001 as demand for insurance and reinsurance grew after the Sept. 11, 2001, terrorist attacks in the United States. From its formation through May 2006, the company has raised more than \$1.8 billion to support its insurance and reinsurance underwriting.

Arch writes insurance and reinsurance with a focus on specialty lines from its operations in Bermuda, the United States, Europe and Canada.

The company's subsidiaries write reinsurance through Arch Reinsurance Ltd. in Bermuda and Arch Reinsurance Co. in Morristown, N.J.

Property facultative business is primarily handled by Arch Reinsurance Co., with some functions conducted through Arch Re Facultative

Underwriters Inc. in Farmington, Conn.

Arch Reinsurance Ltd. operates a branch office in Zurich, Switzerland.

The group's U.S. insurance operations are based in New York. European operations are conducted through Arch Insurance Co. (Europe) Ltd. in London. Arch Insurance (Bermuda) is a division of Arch Reinsurance Ltd.

In 2008, Arch Capital entered a \$400 million joint venture with Gulf Investment Corp. to form Gulf Reinsurance Ltd., a specialist reinsurer in Dubai, United Arab Emirates. The company writes property/casualty reinsurance for high-value oil and gas, industrial, utility and transportation risks in United Arab Emirates.

ARGO GROUP INTERNATIONAL HOLDINGS LTD.

EXECUTIVE OFFICES:

110 Pitts Bay Road
Pembroke HM08
Bermuda
Phone: 441-296-5858
Web site: www.argolimited.com

BY THE NUMBERS

2008 NPW: \$115 billion
2008 combined ratio: 100.4%
2008 net income: \$62.9 million
Staff: 181

SENIOR EXECUTIVES:

Chairman: Gary V. Woods
President and Chief Executive Officer: Mark E. Watson III
Chief Financial Officer: Jay Bullock

COMPANY PROFILE:

Argo Group's structure originates from a 2007 merger of Argonaut Group Inc. and PXRE Group Ltd. The group became the Bermuda holding company for Argo Group's existing insurance subsidiaries and Argonaut's operations in the United States. Included under the holding company was Peleus Reinsurance Ltd., Argo Group's Bermuda-based reinsurer.

Late in 2007, Argo Group restructured its Bermuda and U.S. operations. Under the new structure, all U.S. subsidiaries were merged into a single company called Argonaut Group Inc. In Bermuda, PXRE Reinsurance Ltd. was merged into Peleus Reinsurance Ltd., a company that continued Argo's reinsurance business plan.

Argo in 2008 acquired Heritage Underwriting Agency P.L.C., an underwriter of specialty business through a syndicate at Lloyd's of London. The acquisition gave Argo a larger distribution network.

Argo writes coverage in four areas: international specialty business, excess and surplus lines, commercial specialty coverages and reinsurance.

ASPEN INSURANCE HOLDINGS LTD.

EXECUTIVE OFFICES:

Maxwell Roberts Building
1 Church St.
Hamilton HM 11
Bermuda
Phone: 441-295-8201
Web site: www.aspenbm

BY THE NUMBERS

2008 NPW: \$1.84 billion
2008 combined ratio: 95.6%
2008 net income: \$103.8 million
Staff: 550 total employees

SENIOR EXECUTIVES:

Chairman: Glyn Jones
Chief Executive Officer: Chris O'Kane
Chief Operating Officer, Chairman and CEO AIL (Bermuda): Julian Cusack
Chief Financial Officer: Richard Houghton

COMPANY PROFILE:

Aspen, established in 2002, writes property/casualty insurance and reinsurance through a network of wholly owned subsidiaries and offices in Bermuda, France, Ireland, the United States, the United Kingdom, Singapore and Switzerland.

Aspen Insurance Ltd. (Bermuda), which does business as Aspen Re, writes treaty and facultative reinsurance as well as structured risk solutions. At Lloyd's of London, Aspen writes marine, energy and other risks through Syndicate 4711. Aspen also writes excess and surplus lines property/casualty business in the United States through two owned managing general agents.

ASSURED GUARANTY LTD.

EXECUTIVE OFFICES:

30 Woodbourne Ave.
Hamilton HM 08
Bermuda
Phone: 441-299-9375
Web site: www.assuredguaranty.com

BY THE NUMBERS

2008 NPW: \$604.6 million
2008 combined ratio: 120.1%
2008 net income: \$68.9 million
Staff: 158

SENIOR EXECUTIVES:

President and Chief Executive Officer: Dominic J. Frederico
Chief Financial Officer: Robert B. Mills
President of Assured Guaranty Corp.: Michael J. Schozer

COMPANY PROFILE:

Assured Guaranty Ltd. was established in 2003 as the holding company for its insurance subsidiaries. Its principle units are Assured Guaranty Corp., Assured Guaranty Re Ltd., Assured Guaranty (UK) Ltd. and Assured Guaranty Re Overseas Ltd.

Assured Guaranty Corp., a U.S.-domiciled financial guarantee insurer, began operations in 1988. The company, licensed in all states, the District of Columbia and Puerto Rico, is the group's principal direct financial guarantee company. It focuses on mortgage- and asset-backed securities, public finance, structured finance and structured credit markets.

Assured Guaranty (UK) is authorized to write financial guarantee business throughout the European Economic Area.

Assured Guaranty Re is a Bermuda company that provides financial guarantee reinsurance to AAA-rated bond insurers. Assured Guaranty Re Overseas also is based in Bermuda and writes financial guarantee and mortgage reinsurance.

AXIS CAPITAL HOLDINGS LTD.

EXECUTIVE OFFICES:

AXIS House
92 Pitts Bay Road
Pembroke HM 08
Bermuda
Phone: 441-405-2640
Web site: www.axiscapital.com

BY THE NUMBERS

2008 NPW: \$2.67 billion
2008 combined ratio: 89.8%
2008 net income: \$351.0 million
Staff: 700

SENIOR EXECUTIVES:

Chairman: Michael A. Butt
President and Chief Executive Officer: John R. Charman
Chief Financial Officer: David Greenfield

COMPANY PROFILE:

AXIS Capital started post-Sept. 11 startups, entering the marketplace when capacity was needed after the 2001 terrorist attacks in the United States. The company was capitalized with around \$1.7 billion in November 2001 and went public in 2003.

It has grown to become an insurer and reinsurer with more than a dozen locations in Bermuda, the United States, Europe and Singapore.

AXIS Capital provides specialty insurance and treaty reinsurance through its subsidiaries and branch networks across the world. Its two major businesses are AXIS Insurance and AXIS Re.

AXIS Re reinsures catastrophe coverages, traditional and specialty property/casualty, motor, credit and other risks. AXIS Re has offices in Pembroke, Bermuda; New York; Zurich, Switzerland; and Singapore.

AXIS Insurance operates from Alpharetta, Ga., and writes property, marine, terrorism, aviation, political risk, credit risk, liability and professional lines insurance. The company underwrites coverage in all states except New Hampshire.

CATLIN GROUP LTD.

EXECUTIVE OFFICES:

Cumberland House
6th Floor
1 Victoria St.
Hamilton
Bermuda HM 11
Phone: 441-296-6016
Web site: www.catlin.com

BY THE NUMBERS

2008 NPW: \$2.61 billion
2008 combined ratio: 95.0%
2008 net income: (\$12.6 million)
Staff: 1,051

SENIOR EXECUTIVES:

Chief Executive Officer: Stephen Catlin
Chief Financial Officer: Christopher Stooke
Group Chief Operating Officer: Paul Jardine
Chief Underwriting Officer: Paul Brand

COMPANY PROFILE:

Catlin Group is an international specialty property/casualty insurer and reinsurer. The group's underwriting

operations provide coverage for more than 30 classes of business. The underwriting operations include Catlin's Syndicate 2003 at Lloyd's of London, Catlin Insurance Co. (UK) Ltd. and Catlin U.S., which encompasses all the group's operations in the United States. Catlin also operates a network of international offices in Europe, North America, South America, Asia and Australia.

Catlin's history can be traced to 1984 when Catlin Underwriting Agencies was established at Lloyd's. Catlin Group Ltd. was incorporated in Bermuda in 1999 as a holding company. The first international offices were opened in Singapore, Kuala Lumpur, Malaysia, Houston, and New Orleans.

In 2002, private equity firms invested \$482 million in Catlin. An initial public offering in 2004 raised \$182 million. A further \$65 million in new capital was raised in 2006 from a stock placement.

Catlin acquired Wellington Underwriting P.L.C. in 2006, nearly doubling its size and substantially expanding its operations.

In 2007, a preferred share issue raised \$600 million.

Catlin aims to write a diversified book of specialty business, with significant amounts of uncorrelated risk, by class of business and geographic region.

ENDURANCE SPECIALTY HOLDINGS LTD.

EXECUTIVE OFFICES:

Wellesley House
90 Pitts Bay Road
Pembroke HM 08
Bermuda
Phone: 441-278-0400
Web site: www.endurance.bm

BY THE NUMBERS

2008 NPW: \$1.78 billion
2008 combined ratio: 93.5%
2008 net income: \$83.1 million
Staff: 700

SENIOR EXECUTIVES:

Chairman, President and Chief Executive Officer: Kenneth J. LeStrange
Chief Actuary and Chief Risk Officer: Michael Angelina
Chief Underwriting Officer: David S. Cash

COMPANY PROFILE:

Endurance launched in Bermuda near

the end of 2001 after raising about \$1.2 billion from a diverse group of investors that included Aon Corp., Zurich Financial Services Group and others. The next year, Endurance acquired the property catastrophe business of LaSalle Reinsurance Ltd. from Trenwick Group Ltd. As it grew, Endurance added operating units in the United Kingdom and United States.

Endurance raised \$202.3 million in an initial public offering of stock in 2003 and expanded further with the acquisition of most of the reinsurance business of HartRe, a unit of Hartford Financial Services Group Inc.

The Bermuda company continued its expansion in 2004 by acquiring the majority of XL Reinsurance America Inc.'s surety business. By this time, Endurance was writing specialty lines including marine, personal accident and agriculture risks.

Today, Endurance writes property/casualty insurance and reinsurance worldwide through principle underwriting operations in New York, Bermuda and London.

EVEREST RE GROUP LTD.

EXECUTIVE OFFICE:

Wessex House
45 Reid St.
2nd Floor
P.O. Box HM 845
Hamilton HM DX
Bermuda
Phone: 866-233-0686
Web site: www.everestre.com

BY THE NUMBERS

2008 NPW: \$3.51 billion
2008 combined ratio: 95.6%
2008 net income: (\$18.8 million)
Staff: 779

SENIOR EXECUTIVES:

Chairman and Chief Executive Officer: Joseph V. Taranto
Vice Chairman and Chief Underwriting Officer: Tom Gallagher
President and Chief Operating Officer: Ralph E. Jones III
Executive Vp and Chief Financial Officer: Craig E. Eisenacher

COMPANY PROFILE:

Everest Re Group Ltd. is a holding company that operates through several subsidiaries writing property/casualty reinsurance and insurance in the Bermuda, U.S. and

international markets.

The company's origins date to 1973, when Prudential Insurance Co. of America established Prudential Reinsurance Co. as a subsidiary. In 1995, Prudential completed an initial public offering of Prudential Re's stock and changed its name to Everest Reinsurance. In a corporate restructuring in 2000, Everest Re Group Ltd. was formed as the publicly traded parent of the Everest Re group of companies. Everest Reinsurance (Bermuda) Ltd. was formed that year. The Bermuda operation established a U.K. branch in 2004 and purchased sister company Everest Reinsurance Co.'s U.K. operations.

Today, Everest Reinsurance Co. underwrites nearly all classes and categories of business in treaty, facultative and specialty lines, through brokers and directly with ceding companies.

Everest Reinsurance (Bermuda) writes property/casualty and life reinsurance in Bermuda and international markets.

Subsidiaries Everest National Insurance Co. and Everest Security Insurance Co. write property/casualty insurance in the United States. Everest Indemnity Co. writes excess and surplus lines in the United States.

FLAGSTONE REINSURANCE HOLDINGS LTD.

EXECUTIVE OFFICES:

23 Church St.
Hamilton HM 11
Bermuda
Phone: 441-278-4300
Web site: www.flagstonere.bm

BY THE NUMBERS:

2008 NPW: \$694.7 million
2008 combined ratio: 89.4%
2008 net income: (\$187.3 million)
Staff: 431

SENIOR EXECUTIVES:

Chairman: Mark Byrne
Chief Executive Officer: David Brown
Group Chief Financial Officer: Patrick Boisvert

COMPANY PROFILE:

Flagstone was formed as a reinsurer in December 2005 in response to the market dislocation after catastrophic losses from that year's storm season. The company, which went public in

2007, now operates with offices in 10 countries.

Flagstone in 2008 merged its operating units in Bermuda and Switzerland into one Swiss company based in Marigny that operates with a Bermuda branch. The Swiss operation is Flagstone Réassurance Suisse S.A.

Through its subsidiaries, Flagstone offers specialty, property/casualty, catastrophe and short-tail casualty reinsurance and insurance. The bulk of Flagstone's premiums, around half, come from North America. The remainder are written in Europe, the Caribbean, Japan, Australasia and other parts of the world.

HISCOX LTD.

EXECUTIVE OFFICES:

Wessex House
4th Floor
45 Reid St.
Hamilton HM 12
Bermuda
Phone: 441-278-8300
Web site: www.hiscox.com

BY THE NUMBERS:

2008 NPW: \$1.36 billion
2008 combined ratio: 76.1%
2008 net income: \$103.6 million
Staff: 800

SENIOR EXECUTIVES:

Chairman: Robert Hiscox II
Chief Executive: Bronek Masojada
Group Finance Director: Stuart Bridges
Chief Underwriting Officer and Chief Executive Officer of Hiscox Bermuda: Robert Childs

COMPANY PROFILE:

Hiscox opened an office in Bermuda in 2005 as part of an insurance operation that traces its roots to the early 1900s as a marine underwriting agency at Lloyd's of London.

But it wasn't until 1987 that Hiscox Holdings Ltd. was formed with two main subsidiaries: Hiscox Syndicates Ltd. as a managing agency and Roberts & Hiscox Ltd. as a member agent. Two years later, Hiscox Underwriting Ltd. was formed to write business for syndicates managed by Hiscox.

Hiscox Holdings in 1994 spun off its nonmanaging agency interests, leaving Hiscox Syndicates and Hiscox Underwriting as its sole subsidiaries. The group opened offices in Munich, Germany, and Paris the following year. Hiscox Dedicated Insurance Fund, created in 1993 to support syndicates managed by Hiscox Syndicates, in 1996 purchased the remaining 75% of Hiscox Holdings it did not already own and changed the holding company's name to Hiscox P.L.C.

The group's expansion continued with opening of the Bermuda office in 2005 to write a mix of worldwide reinsurance and group retail business. In 2006, the Bermuda holding company Hiscox Ltd. was formed. The group now has 27 offices in 13 countries.

There are three main underwriting parts that make up the group:

■ Hiscox International includes offshore operations in Bermuda and Guernsey. It also includes Hiscox USA.

■ Hiscox Global Markets underwrites

generally large or complex accounts at Lloyd's.

■ Hiscox U.K. and Hiscox Europe offer a range of specialist insurance coverages for professionals, high-net-worth individuals and others.

LANCASHIRE HOLDINGS LTD.

EXECUTIVE OFFICES:

Mintflower Place
8 Par-la-Ville Road
Hamilton HM 08
Bermuda
Phone: 441-278-8950
Web site: www.lancashiregroup.com

BY THE NUMBERS:

2008 NPW: \$574.7 million
2008 combined ratio: 86.3%
2008 net income: \$97.5 million
Staff: 80

SENIOR EXECUTIVES:

Chief Executive Officer and Chairman of the Group Underwriting Committee: Richard Brindle
Deputy Chief Executive Officer: Simon Burton
Chief Financial Officer: Neil McConachie

COMPANY PROFILE:

Lancashire Holdings Ltd. was formed in 2005 as an insurance underwriter to write short-tail and specialty property insurance. Its four main business areas are aviation, energy, marine and property.

The company's subsidiaries operate in Bermuda, the United Kingdom and Dubai, United Arab Emirates.

Lancashire maintains underwriting offices in Bermuda and London.

MAX CAPITAL GROUP LTD.

EXECUTIVE OFFICES:

Max House
2 Front St.
Hamilton HM 11
Bermuda
Phone: 441-295-8800
Web site: www.maxcapgroup.com

BY THE NUMBERS:

2008 NPW: \$840.2 million
2008 combined ratio: 91.9%
2008 net income: (\$175.3 million)
Staff: 300

SENIOR EXECUTIVES:

Chairman and Chief Executive Officer: W. Marston Becker
Executive Vp and Chief Operating Officer: Peter A. Minton
Executive Vp and Chief Financial Officer: Joe Roberts
Executive Vp and Chief Risk Officer: Kevin Werle

COMPANY PROFILE:

Max Capital and IPC Holdings Ltd., a Bermuda-based competitor, will merge after IPC agreed to acquire its rival for about \$912 million in stock. After the transaction closes, which is expected in the third quarter, IPC shareholders would own 58% of the combined company.

Mr. Becker will be president and CEO of the combined company.

Max Capital formed in 1999 to write alternative risk reinsurance products.

TOP 5 Bermuda insurers ranked by net premiums, in billions of dollars

	NET PREMIUMS (IN BILLIONS)			NET INCOME (IN BILLIONS)			COMBINED RATIO	
	2008	2007	% CHANGE	2008	2007	% CHANGE	2008	2007
ACE	\$13.10	\$12.00	\$8.00	\$1.20	\$2.60	-54.00	89.6%	87.9%
XL Capital	6.39	7.13	-10.40	(2.55)	0.275	NM	95.7	88.7
Partner Re	3.99	3.76	6.20	0.046	0.717	-93.50	94.1	80.4
White Mountains	3.72	3.76	-1.06	(0.555)	0.407	NM	106.0	94.0
Everest Re	3.51	3.92	-10.60	(0.018)	0.839	NM	95.6	91.6

Note: All Figures in U.S. dollars; White Mountains' combined ratio is for White Mountains Re; results are for companies that have reported. NM not meaningful.

Bermuda's 20 Largest Insurers

based on net premiums written

Today, the company's units write specialty insurance and reinsurance risks through facilities in Bermuda; Dublin, Ireland; six U.S. cities; and at Lloyd's of London.

Max's reinsurance portfolio comprises nine core classes: property, marine and energy, aviation and space, terrorism, agriculture, professional liability, medical malpractice, workers compensation and general casualty.

Max offers excess-of-loss and quota-share reinsurance. Property business includes catastrophe, marine, energy and aviation. Casualty coverages includes excess liability, medical malpractice, professional liability and workers compensation risks. Max also writes excess liability, professional lines, aviation and property insurance products. Its excess and surplus lines business was established two years ago.

In 2007, Max Specialty Insurance Co. was established in Richmond, Va., to write excess and surplus lines coverages and operates on a nonadmitted basis in 47 states.

Max Managers USA Ltd. formed in late 2007 as a managing general underwriter focusing on casualty coverages for health care clients.

Max Capital in November 2008 acquired Lloyd's agent Imagine Group (UK) Ltd. and renamed it Max at Lloyd's Ltd. Through three syndicates, the agency underwrites property catastrophe insurance, financial institution lines, personal accident coverages, employers and public liability lines and professional indemnity business.

PARTNER RE LTD.

EXECUTIVE AND MAIN OPERATING OFFICES:

Wellesley House
90 Pitts Bay Road
Pembroke HM 08
Bermuda
Phone: 441-292-0888
Web site: www.partnerre.com

BY THE NUMBERS:

2008 NPW: \$3.99 billion
2008 combined ratio: 94.1%
2008 net income: \$46.6 million
Staff: 935

SENIOR EXECUTIVES:

President and Chief Executive Officer: Patrick Thiele
Executive Vp and Chief Financial Officer: Albert Benchimol

COMPANY PROFILE:

PartnerRe Ltd. was formed as a specialized catastrophe reinsurer in 1993 by Herbert Haag, the company's first president and chief executive officer. The company started operations with capital of about \$1 billion.

In 1997, PartnerRe expanded with the acquisition of Paris-based reinsurer Société Anonyme Française de Réassurance. The next year, PartnerRe increase its size by acquiring Winterthur Re, the reinsurance operations of Winterthur Insurance Group. PartnerRe U.S. was established in 1998 as was a department dedicated to alternative risk transfer. Patrick Thiele was appointed president and chief executive

officer in 2000 after Mr. Haag retired. In 2001, PartnerRe U.S. began writing specialty casualty business.

A geographic breakdown of PartnerRe's business, based on gross premiums, shows 46% is written in Europe; 41% in North America; 8% in Latin America, the Caribbean and Africa; and 5% in Asia, Australia and New Zealand. Based on net premiums written, 16% of PartnerRe's business is property coverage, 15% is casualty, 14% life business, 10% catastrophe coverages and the remainder is in various lines. Partner Reinsurance Europe Ltd. employs the largest percentage of PartnerRe's staff. There are more than 300 staffers at the Zurich, Switzerland, operation and about 250 at its Paris location.

In Greenwich, Conn., PartnerRe U.S. has a staff of about 260. About 65 staff members work at PartnerRe's Bermuda operation.

PLATINUM UNDERWRITERS HOLDINGS LTD.

EXECUTIVE OFFICES:

The Belvedere Building
69 Pitts Bay Road
Pembroke HM 08
Bermuda
Phone: 441-295-3700
Web site: www.platinumre.com

BY THE NUMBERS:

2008 NPW: \$1.04 billion
2008 combined ratio: 92.0%
2008 net income: \$226.2 million
Staff: 154

SENIOR EXECUTIVES:

President and Chief Executive Officer: Michael D. Price
Executive Vp and Chief Financial Officer: James A. Krantz
Executive Vp and Chief Risk Officer, Platinum Administrative Services: Kenneth A. Kurtzman

COMPANY PROFILE:

Platinum Underwriters was formed in 2002 as a reinsurer spinoff of Minneapolis-based St. Paul Cos. Inc. St. Paul transferred its ongoing reinsurance business into the Bermuda company.

At its formation, Platinum raised \$639 million of capital in a public offering. It also raised \$120 million in an offering of equity security units and \$207 million through the private placement of common shares with St. Paul and RenaissanceRe Holdings Ltd.

Today, Platinum operates through two reinsurance subsidiaries: Platinum Bermuda and Platinum U.S. In 2007, the company ceased its reinsurance business in Platinum U.K. The U.S. operation had been inactive before Jan. 1, 2002, and the Bermuda and U.K. underwriters were formed that year. Consequently, none of Platinum's reinsurance units has any underwriting operations or loss reserves subject to development before 2002.

Platinum's worldwide reinsurance business is organized into three operating segments: property and marine, casualty and finite risk. In each of those segments, Platinum offers reinsurance to commercial and personal lines insurers.

RENAISSANCE RE HOLDINGS LTD.

EXECUTIVE OFFICES:

Renaissance House
8-20 East Broadway
Pembroke HM 19
Bermuda
Phone: 441-295-4513
Web site: www.renre.com

BY THE NUMBERS:

2008 NPW: \$1.35 billion
2008 combined ratio: 79.0%
2008 net income: \$29.0 million
Staff: 374

SENIOR EXECUTIVES:

President and Chief Executive Officer: Neil A. Currie
Executive Vp and Chief Financial Officer: Fred R. Donner
Senior Vp, Chief Risk Officer and Chief Investment Officer: Todd R. Fonner

COMPANY PROFILE:

RenaissanceRe Holdings Ltd. and its Renaissance Reinsurance Ltd. unit were formed in 1993 to write property catastrophe reinsurance. Throughout the years, Renaissance Reinsurance has expanded to write a range of specialty coverages. Renaissance Holdings went public in 1995.

Among RenaissanceRe's reinsurance ventures are DaVinci Reinsurance Ltd. and Top Layer Reinsurance Ltd., both based in Bermuda. DaVinci Re writes property catastrophe reinsurance for natural and man-made risks. It also provides specialty reinsurance for certain other risks.

Top Layer is a 10-year-old underwriter of reinsurance and retrocessional reinsurance for very high layers of catastrophe programs. These layers generally are higher than those written by Renaissance Reinsurance.

Top Layer is 50% owned by Renaissance Reinsurance and 50% by Bloomington, Ill.-based State Farm Mutual Automobile Insurance Co.

Renaissance Reinsurance of Europe, formed in 1998, in based in Dublin, Ireland. The reinsurer also serves as a modeling software development and marketing base for the group.

The group also owns RenaissanceRe Ventures Ltd., which structures joint ventures and other strategic relationships that include customized reinsurance transactions and strategic equity and/or debt investments.

Renaissance Underwriting Managers Ltd. is a Bermuda-based unit that acts as an underwriting manager for the group's joint ventures. It also develops structured reinsurance solutions.

RenaissanceRe also provides property/casualty insurance and quota-share reinsurance through its Glencoe Group. Four insurers that are part of the Glencoe Group write surplus lines insurance and admitted business in the United States.

VALIDUS HOLDINGS LTD.

EXECUTIVE OFFICES:

19 Par-La-Ville Road
Hamilton HM 11
Bermuda

Phone: 441-278-9000
Web site: www.validusre.com

BY THE NUMBERS:

2008 NPW: \$1.24 billion
2008 combined ratio: 92.2%
2008 net income: \$53.1 million
Staff: 228

SENIOR EXECUTIVES:

Chairman and Chief Executive Officer: Ed Noonan
Deputy Chairman and President: George Reeth
Chief Financial Officer: Jeff Consolino
Chief Risk Officer: Stuart Mercer
Chief Underwriting Officer: Conan Ward

COMPANY PROFILE:

Validus was formed in 2005 with \$1 billion in capital after a spate of natural catastrophes that left insurers and reinsurers with significant claims. Its subsidiary, Validus Reinsurance Ltd., writes short-tail lines of reinsurance including property catastrophe, property prorata, marine and energy, and other specialty lines.

In 2007, Validus Holdings acquired Talbot Holdings Ltd., which operates Syndicate 1183 at Lloyd's of London and is an insurer of a range of mostly short-tail lines of business.

WHITE MOUNTAINS INSURANCE GROUP LTD.

CORPORATE HEADQUARTERS:

Bank of Butterfield Building
42 Reid St.
Hamilton HM 12
Bermuda
Phone: 441-278-3160
Web site: www.wtmre.com

PRINCIPAL EXECUTIVE OFFICE:

White Mountains Insurance Group Ltd.
80 S. Main St.
Hanover, N.H. 03755
Phone: 603-640-2200

BY THE NUMBERS:

2008 NPW: \$3.72 billion
2008 combined ratio: 106.0%
2008 net income: (\$555.3 million)
Staff: 5,155

SENIOR EXECUTIVES:

Chairman and Chief Executive Officer: Ray Barrette
Executive Vp and Chief Financial Officer: David Foy

COMPANY PROFILE:

White Mountains Insurance Group was born in 1999 when Fund American Enterprises Holdings changed its name and redomesticated to Bermuda.

The insurance group writes property/casualty insurance through several subsidiaries. Its wholly owned insurance subsidiaries are global reinsurer White Mountains Re Group Ltd. in Hamilton, Bermuda; Esurance Holdings Inc., an Internet-based automobile insurer; White Mountains Reinsurance Co. of America in New York; White Mountains Re Solutions Ltd. in Simsbury, Conn.; and Sirius International Insurance Corp. in Stockholm, Sweden.

White Mountains Re America writes mainly P/C and accident and health insurance in the United States, Canada, Latin America and the Caribbean. It

formed in 1980 and was acquired by White Mountains Insurance Group in 1986.

White Mountain Re Solutions specializes in insurance and reinsurance runoff business.

Sirius International, acquired in 2004, writes P/C, aviation and space, accident and health reinsurance in Europe and Asia.

XL CAPITAL LTD.

EXECUTIVE AND MAIN OPERATING OFFICES:

XL House
One Bermudiana Road
Hamilton HM 11
Bermuda
Phone: 441-292-8515
Web site: www.xlre.com

BY THE NUMBERS:

2008 NPW: \$6.39 billion
2008 combined ratio: 95.7%
2008 net income: (\$2.55 billion)
Staff: 4,000

SENIOR EXECUTIVES:

Chairman: Brian M. O'Hara
Chief Executive Officer: Michael S. McGavick
Executive Vp and Chief Financial Officer: Brian Nocco
Executive Vp and Chief Enterprise Risk Officer: Jacob D. Rosengarten

COMPANY PROFILE:

XL Capital, founded in 1986 as EXEL Ltd. by dozens of companies responding to a shortage of liability capacity in the United States, today has more than 90 operating subsidiaries in 27 countries and provides insurance and reinsurance to industrial, commercial and professional services companies, insurers and others. XL writes business in more than 100 countries through its subsidiaries and fronting partners.

XL focuses on large-risk Fortune 5000 companies in all of its product groups, mainly property/casualty, professional and specialty lines.

XL Insurance is the global brand used by XL Capital's P/C insurance companies and specialty underwriting divisions. XL Insurance companies provide property coverage, primary and excess casualty coverages and risk management services for large organizations.

Specialty business includes aerospace, environmental, equine, marine and offshore energy. XL Insurance companies also partner with insurance program administrators to offer specialized programs to certain market segments.

Professional liability lines written by XL Insurance companies include directors and officers, errors and omissions and employment practices liability, among others.

David Duclos is executive vp and chief executive of insurance operations for XL Insurance.

XL Re is the brand name for XL Capital's global reinsurance companies. Those companies write all lines of P/C and life reinsurance.

James H. Veghte is executive vp and chief executive of reinsurance operations and chief executive officer of XL Reinsurance America Inc.

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