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Insurers greet Heath Lambert compensation changes with skepticism

By SARAH VEYSEY

LONDON—Heath Lambert Group last week became the latest brokerage to announce a plan to revamp its compensation structure, and that plan, like others before it, has drawn mixed reviews in its home London market.

Heath Lambert said last Monday that it soon would start charging insurers a flat fee of 1% of premium for services it provides to insurers, such as risk surveys and credit control on premiums Heath collects for insurers.

■ Heath announced a flat fee of 1% of premium for services it provides to insurers.

The flat-rate model will apply across all lines of business except for some specialized cases, such as captive insurance and public authority business, said Adrian Colosso, chief executive of Heath Lambert in London.

While risk managers welcomed the increased transparency the change would bring, insurers have questioned whether Heath Lambert's proposal is the right approach. A number of insurers, however, have signed agreements in principle to adopt Heath's new compensation model, a spokesman for the broker said.

Heath Lambert, like many other large insurance brokers, stopped accepting contingent commissions late last year in the wake of New York Attorney General Eliot

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AIG UNDER PRESSURE

Execs fired for refusing to answer probe queries

Drastic move to appear cooperative a sign of the times

By SALLY ROBERTS

American International Group Inc.'s dismissal last week of two executives who declined to answer investigators' questions is a reflection of what companies today must do to show law enforcement officials that they are cooperating with an investigation, observers say.

As the number of high-profile corporate criminal probes grows, law enforcement officials increasingly are playing hardball with companies under investigation, defense attorneys say. And in order to be seen as cooperative, such companies more often are turning over otherwise privileged information, distancing themselves from individual wrongdoers and, as in the case of AIG, firing employees for declining to answer questions.

Companies hope that by taking these drastic measures, they will receive leniency from prosecutors, attorneys say.

"The vast majority of corporate targets are taking whatever steps they think they need to take to make sure that whoever that prosecutor is believes they're cooperating," said Howard Schiffman, head of the securities and corporate litigation and regulation practice of Dickstein, Shapiro, Morin & Oshinsky L.L.P. in Washington.

"At the end of the day…corporations can't afford to be indicted. You saw what happened to Arthur Andersen when it was indicted," he said. Arthur Andersen L.L.P., which was convicted in 2002 of obstruction of justice for shredding audit

See **AIG/page 34**

Labor secretary outlines plan for pension funding reform

By JERRY GEISEL

WASHINGTON—The Bush administration is stepping up its efforts to drum up employer support for its pension funding reform package.

Reaching out to employers, Labor Secretary Elaine Chao, in an interview last week with *Business Insurance* and other media, said employers will benefit in several ways if the package, unveiled by the administration last month, is enacted.

The package, Ms. Chao said, will replace what she described as the current "maze" of funding rules with simpler ones.

"The maze of confusing rules is a deterrent for employers to maintain plans," she said. The administration's proposal will provide "clarity and certainty" to a very "muddled area," Ms. Chao said, referring to current pension funding rules.

PHOTO: UPI NEWSPICTURES

Secretary of Labor Elaine Chao says the administration's pension reforms will help employers.

Under the administration's plan, pension plan liabilities would be defined as 100% of benefits accrued to date. Plan liabilities would be funded over a seven-year period.

Ms. Chao noted that the package does not expand employers' pension plan liabilities but will increase the likelihood that employers keep and pay for the pension promises they make.

Ms. Chao said a key goal of the legislation is to shore up the financial base of the Pension Benefit Guaranty Corp., the federal agency that guarantees pension benefits through an employer-funded insurance program and that now is running a record $23 billion deficit.

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Late News

PHOTO: REUTERS

Motorola to phase out defined benefit plan

Motorola Inc. is phasing out its $3.5 billion pension plan covering U.S. employees, as the exodus of big employers from the defined benefit plan system continues. Effective Jan. 1, new employees are covered only by Motorola's 401(k) plan, which the company has sweetened for new hires. Motorola disclosed the change in its annual report filed with the Securities and Exchange Commission. Other well-known U.S. employers that have phased out defined benefit plans include IBM Corp., Aon Corp. and Sears Roebuck & Co., now known as Sears Holding Corp.

ABB ups funding for asbestos trust

Swiss engineering company ABB Group has agreed to pay an additional $232 million to a $1.20 billion trust fund established to settle asbestos claims against subsidiaries ABB Combustion Engineering Inc. and ABB Lummus Global Inc. ABB had earlier agreed to contribute the $1.20 billion as part of a bankruptcy plan for Combustion Engineering. That deal hit a snag in December, though, when a panel of the 3rd U.S. Circuit Court of Appeals in Philadelphia overturned a lower court's approval of the plan, citing concerns about its fairness to certain asbestos claimants. The additional contribution is expected to "fully address" those issues, ABB said.

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NEWSPAPER

Benefits Management

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Ranking of the largest benefit consultants

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WorldCom director to settle claims from personal funds

Overall settlement exceeds $6 billion

By MICHAEL BRADFORD

NEW YORK—Former WorldCom Inc. Chairman Bert Roberts, the final director defendant in the securities class action against the failed telecommunications giant, will pay $4.5 million from his personal assets to settle claims by investors.

The settlement follows one reached March 18 in which 11 other directors and officers of WorldCom pledged $20.25 million from their own pockets to end charges of lax oversight of activities blamed for WorldCom's 2002 bankruptcy.

WorldCom was sued by investors after revealing it had falsified financial records for years to make the company appear profitable.

The settlement with Mr. Roberts was announced March 21 by New York State Comptroller Alan G. Hevesi, sole trustee of the New York State Common Retirement Fund and court-appointed lead plaintiff. The two agreements bring the total settlement in the WorldCom litigation to more than $6 billion.

PHOTO: ZUMA PRESS

Ex-WorldCom Chairman Bert Roberts will tap his personal assets to pay a settlement.

WorldCom's former auditor, Arthur Andersen L.L.P., remains a defendant and faces trial beginning March 23.

As part of the settlement with Mr. Roberts, WorldCom's directors and officers liability insurance companies will contribute an additional $1 million.

Those same insurers agreed late last week to add $35 million to the $20.25 million agreed to by the 11 former directors and officers, bringing the total of that settlement to $55.25 million.

The insurers are Associated Electric & Gas Insurance Services Ltd., Continental Casualty Co., SR International Business Insurance Co., Twin City Fire Insurance Co., Starr Excess Liability Insurance International Ltd. and National Union Fire Insurance Co. of Pittsburgh, Pa.

Under a previous settlement offer, 10 of the former WorldCom directors would have contributed $18 million—or 20%—of their personal net worth in addition to the $36 million that their directors and officers liability insurers agreed to pay WorldCom investors. That deal was scuttled in February, though, after the lead plaintiff objected to a federal judge's decision to scrap one of the settlement provisions (*BI*, Feb. 7).

Tyco insurer allowed to recoup some costs

NEW YORK—Federal Insurance Co. must continue to pay the legal bills of former Tyco International Ltd. Chief Executive Officer L. Dennis Kozlowski, an appellate court ruled last week.

Federal, a unit of Chubb Group, may be able to recoup some of the legal fees later under the unanimous March 22 decision by the Appellate Division of the New York State Supreme Court. The decision says Federal's obligations are limited to "defense costs incurred" in criminal and securities actions against Mr. Kozlowski, and fees related to noncovered claims may be reimbursed.

Federal provided directors and officers liability insurance to Tyco that covered Mr. Kozlowski. A "personal profit exclusion" in the coverage will allow the insurer to recover payments for noncovered claims "when Kozlowski's liabilities, if any, are determined," the judge wrote. The exclusion is for claims related to actions in which the policyholder profited from unentitled gains.

PHOTO: ZUMA PRESS

A judge ordered Tyco's D&O insurer to continue paying the legal bills of L. Dennis Kozlowski but let the insurer seek recovery of some payments.

The decision modifies a lower court ruling that found Federal was responsible for legal fees but did not leave open the possibility that the insurer could recover some of those amounts.

Mr. Kozlowski, Mark Swartz, Tyco's former chief financial officer, and Mark Belnick, the company's former general counsel, are facing lawsuits accusing them of misstating Tyco's finances and misappropriating hundreds of millions of dollars from Tyco through improper bonuses and interest-free loans.

—By Michael Bradford

After strong 2004 earnings, P/C market faces uncertainties

By JUDY GREENWALD

Although the commercial property/casualty insurance industry recorded strong earnings in 2004, insurers face a host of uncertainties in the months ahead.

One unknown is the ultimate effect of the continued softened market on earnings, with commercial insurance buyers expected to enjoy such market conditions for at least the short term.

Furthermore, insurers must also contend with ongoing investigations into industry practices, as well as with uncertainty as to whether the federal terrorism coverage backstop will be renewed, and the possibility of additional reserve shortfalls that must be addressed.

"It's going to be a tough couple of years, to work through all these issues," said John L. Ward, a Cincinnati-based independent insurance analyst.

Last year, though, was a strong one for major commercial property/casualty insurers. According to a *Business Insurance* survey of 14 major insurers, net income for the year increased 33.3% to $20.71 billion. Among other survey results:

- All 14 insurers reported an aggregate weighted combined ratio of 98.2%, vs. 99.8% for 2003 and 107.7% for 2002.
- Net premiums written increased 17.1% to $129.86 billion. This compares with a 14.2% increase in 2003.
- Policyholder surplus for the 13 insurers that report this data increased 27.3% to $68.89 billion.

Property/Casualty Insurers
2004 RESULTS
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Generally, "the industry had a very strong fourth quarter and a full year," said John Iten, an analyst with New York-based Standard & Poor's Corp. The exception was St. Paul Travelers Cos. Inc., which reported a 43.7% decline in 2004 net income to $955 million, after posting a fourth-quarter $1.01 billion increase in asbestos and environmental liability reserves (*BI*, Feb. 7).

"Underwriting results and profits were generally strong in '04 in comparison to '03, and that's really despite some sharp increases in cat losses related to the hurricanes that hit Florida in the third quarter," said Mark Rouck, senior director at Fitch Ratings in Chicago.

"By most financial measures, the fourth quarter of 2004 and 2004 overall was excellent," said Mr. Ward. Although it was a record year for catastrophe losses, those events primarily affected personal lines insurers, he noted. "Meanwhile, the commercial carriers continued to benefit from the fairly strong pricing and underwriting environment" for much of last year, he said.

"While we are looking at the prospects for a soft market ahead, it didn't really start in most lines until late in 2004," Mr. Ward noted.

Gary Ransom, managing director

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Inside Business Insurance

Online

- The **Datebook** calendar lists upcoming industry seminars and meetings and allows you to add info about your own event.
- Searchable **directories** provide access to all the listings of industry vendors found in *BI*'s Market Sourcebook.
- New **Opinion Poll** for readers: Do you think regulators' investigations of American International Group's financial transactions will uncover wrongdoing by AIG?

Departments

REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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Risk retention groups gain ground in North Dakota

By JERRY GEISEL

BISMARCK, N.D.—Following a change in direction by state legislators, risk retention groups operating in North Dakota now may avoid a legal battle they have waged in other states.

North Dakota lawmakers, responding to arguments raised by the risk retention group industry, are moving away from an earlier state Senate-passed bill that RRGs said discriminates against them and violates the federal law that created risk retention groups.

Instead, legislators and the state insurance department are backing a new measure—unanimously approved last week by the North Dakota House of Representatives—that would require automobile dealers and distributors selling vehicle service contracts to purchase reimbursement policies from insurance companies, including RRGs, that meet certain financial standards. The state Senate is now expected to accept the House bill, observers say.

"This is clearly a step in the right direction," said Robert "Skip" Myers, general counsel for the National Risk Retention Assn., which earlier warned North Dakota insurance regulators that the original proposal violated the federal Risk Retention Act.

That warning clearly was heard by state regulators. "We felt it would avoid litigation," said Charles Johnson, general counsel with the North Dakota Insurance Department, referring to the House bill. The insurance department had developed the Senate bill but now backs the House proposal.

The controversy in North Dakota is reminiscent of another a few years ago in Oregon. But the North Dakota controversy, by avoiding litigation, now is likely to end differently.

The Oregon controversy also involved the reimbursement policies auto dealers and distributors must purchase from insurers to cover a portion of the liability they face from the service contracts they sell to buyers of motor vehicles.

Under one Oregon law, insurers have to be "authorized" by the North Dakota Department of Consumer & Business Services to do business in the state. To be authorized, an insurer has to be a member of the state's guaranty association. Under the Risk Retention Act, though, RRGs cannot be members of state guaranty associations. Thus, they cannot be authorized insurers in Oregon. Under another Oregon law, automobile dealers, in order to sell vehicle service contracts, had to purchase reimbursement policies

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PHOTO: ZUMA PRESS

An employee of Wal-Mart Stores Inc. stocks shelves in Southern California.

Wal-Mart fine spurs compliance scrutiny

Contractors' hiring practices eyed

By RUPAL PAREKH

Wal-Mart Stores Inc.'s recent agreement to pay $11 million to settle charges that it had illegal immigrants working in its stores should prompt companies to scrutinize their subcontractors to make sure they are following immigration laws, observers say.

As part of the settlement, the government dropped criminal charges against Wal-Mart, which admitted no wrongdoing.

The Bentonville, Ark.-based retail giant maintains that it was not aware that its janitorial subcontractors were employing undocumented workers. Twelve firms that contracted with Wal-Mart stores between 1998 and 2001 to provide janitorial services also agreed to pay a total of $4 million related to the immigration probe.

The agreements stemmed from a four-year investigation that discovered nearly 350 undocumented workers hired by independent contractors to clean floors at approximately 60 Wal-Mart stores in 22 states.

"This case breaks new ground not only because this is a record dollar amount for a civil immigration settlement but because this settlement requires Wal-Mart to create an internal program to ensure future compliance with immigration laws by Wal-Mart contractors and by Wal-Mart itself," Michael J. Garcia, assistant secretary for the U.S. Immigration and Customs Enforcement, said in a statement.

Under the settlement terms, Wal-Mart must take steps to ensure that employees are authorized to work in the United States; develop a way to verify that independent contractors are also working to comply with federal immigration law; and provide training to all current and future store managers to prevent the hiring, recruitment, or continued employment of unauthorized workers.

The office of Immigration and Customs Enforcement, meanwhile, announced plans to use the Wal-Mart settlement as a model for future immigration

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NAIC letter rips SMART Act

Association calls provisions 'impractical, unworkable'

By MEG FLETCHER

WASHINGTON—The strongly worded criticisms in a letter the National Assn. of Insurance Commissioners sent to congressional leaders seeking to streamline and modernize state insurance regulation may have diminished state regulators' ability to influence future debate.

NAIC President Diane Koken wrote the leadership of the House Financial Services Committee, summarizing the NAIC's recent extensive review of the draft State Modernization and Regulatory Transparency Act.

"The SMART Act is not a concept that (the) NAIC would suggest to Congress," Ms. Koken wrote to Rep. Michael Oxley, R-Ohio, and Rep. Richard Baker, R-La., in a March 16 letter that was released last week.

"We do not believe that tweaking the language of the SMART Act discussion draft can resolve these basic conflicts," she said. The letter elaborated on the NAIC's previously stated concerns about the federal pre-emption of state laws and regulations, the imposition of federal supervision and the complete deregulation of rates.

Ms. Koken

Ms. Koken also criticized many SMART provisions that seem "impractical, unworkable or detrimental to state consumer protection efforts," as well as the "unhealthy regulatory confusion" and litigation that could result from the proposed State-National Insurance Coordination Partnership.

Despite her negative comments, Ms. Koken pledged to present the committee members with the NAIC's extensive analysis of each of 16 sections during their review of the draft, which is scheduled from April 6 to June 7. Congressional leaders outlined those plans in a March 9 letter to the NAIC and asked for the NAIC to "re-engage" on the issue.

A spokesman for the Property Casualty Insurers Assn. of America said, "I was a little surprised by the NAIC's black-and-white approach. There is a lot of gray in this issue."

"I think the leadership and the GOP won't be enamored by the tone (of the letter)," the spokesman said. As a result, the NAIC may not be as big a player in the drafting process going forward, he said.

With Congress in recess, committee spokesmen were unavailable for comment.

NBGH issues battle cry to reform 'unsustainable' health care system

By JOANNE WOJCIK

WASHINGTON–Employers' patience with waiting for the health care system to heal itself has run out.

With conservative estimates projecting that the cost of health care in this country will reach $3.6 trillion in eight years—twice today's cost—it really is an unsustainable model, according to Helen Darling, president of the National Business Group on Health, a Washington-based nonprofit coalition of 220 large employers that provide health care coverage for more than 40 million workers, retirees and their dependents.

"In addition, we know that we have millions—and they will grow—who have absolutely no health care coverage. So we have Cadillac care for a shrinking number of people. Wildly expensive, wildly inefficient and estimated at somewhere between 20% and 30% of which is not only waste—that's not the worst of it—a significant amount of it actually causes harm to patients, sometimes deadly harm," she said.

Helen Darling, president of the National Business Group on Health, led the 2005 Business Health Agenda.

More conference coverage on page 24

This poor track record can no longer be tolerated, Ms. Darling asserted during a speech that served as the battle cry that opened the group's 2005 Business Health Agenda, held March 16-18 in Washington.

Ms. Darling said she believes that employers can, and should, do something about the health care industry's problems, and that they need to move quickly or risk a government takeover. "We know we can't wait for others to do this job. We've waited, in a way, for others to do this job," she said.

"We have a lot to do together, and we can make a difference. That is the message of the National Business Group on Health, and that is the message of our meeting. We cannot change the world, but we can change the part of the world that we fit in and we can make a real difference," she said.

In fact, the objective of this year's

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Wal-Mart: Hiring process tightened

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enforcement actions at worksites.

"Employers for a very long time have not paid enough attention to their hiring practices, and those of their contractors," said Richard S. Betterley, president of Sterling, Mass.-based Betterley Risk Consultants Inc. This lack of due diligence, he said, may put some companies at increased risk of problems.

According to ICE, employers that knowingly hire unauthorized workers face criminal prosecution, as well as fines for management of up to $11,000 per illegal worker.

But employers trying to identify illegal workers can find themselves in a difficult situation, said Randel Johnson, vp of labor, immigration, and employee benefits for the U.S. Chamber of Commerce.

"People come in, the documents look good, and the law doesn't allow them to question further," he said.

Under the Immigration and Reform Act of 1986, new hires are required to accurately complete an I-9 form and produce documents proving employment eligibility. But the law prohibits, on the basis of discrimination, the refusal to honor documents that on their face reasonably appear to be genuine. In addition, it does not legally require that the ICE be notified of documents that do not appear to be real.

Still, Mr. Johnson noted, "some employers may want to go the extra mile," in order to improve controls over third-party vendors to potentially protect themselves from liability.

For example, he said, when outsourcing services to independent contractors, employers can include in their contracts clauses to personally screen all third-party employees, or inflict penalties upon contractors and their officers for violating federal law.

In addition, the office of U.S. Citizenship and Immigration Services last year introduced nationwide a Web-based application—the Systematic Alien Verification for Entitlements program—that employers can use to verify the employment eligibility of newly hired workers.

"Any company that's worked hard to develop a good corporate image gets placed at risk when somebody on your premises does something wrong," said Paul J. Siegel, an employment lawyer and partner at Jackson Lewis L.L.P. in Melville, N.Y.

Risk managers, therefore, would do well to ensure subcontracted firms provide certification that they are compliant with any applicable laws, and that they verify their own insurance coverage for a subcontractor's misconduct, Mr. Siegel said.

A spokeswoman for Wal-Mart would not comment on whether any insurance was available to cover its settlement.

But according to Mr. Betterley, employment practices liability insurance policies typically exclude such acts under their coverage, which makes proper vetting of employees and risk management efforts more important.

For Wal-Mart, "This is a painful experience," said Mr. Betterley. "But probably a necessary one for all of us."

Paul Winston

Industry's silent defense offensive

Where is the outrage to the depressing portrait that Eliot Spitzer has painted of the entire insurance industry?

I would expect a much stronger rebuttal to the crusading New York attorney general's depiction of the industry as "rife with corruption" and his ongoing effort to change the way the commercial insurance business is done. I would, at the least, expect people to stand up to Spitzer's bullying if they disagreed with his characterization as unfair. And yet the silence is deafening.

Surely that cannot mean that the majority of those in the industry agree with his characterization, can it? I, for one, do not believe that the insurance industry is rife with corruption, or else I would not be working in it, and I presume I am not alone in that sentiment. But until more stakeholders in the industry stand up to deliver a forceful rebuttal, we are left with only one perspective, and it is an ugly one.

Paul Winston

There is a nervous, ostrichlike mentality prevalent in the insurance industry at the moment, as company and association executives keep their heads down for fear of being targeted by Mr. Spitzer or other regulatory gunslingers looking to make a name for themselves. Mr. Spitzer already has several big notches in his gun belt, but, as in the proverbial Western morality play, perhaps now is the time for the honest townsfolk to defend themselves and make a stand. The timid response to date does not do the many trustworthy and hardworking people in the insurance industry credit.

Where are the brokers who would defend their entire profession from being tarred by association with several corrupt individuals and practices? Where are the insurers who would defend themselves against the aspersions cast their way for participating in these alleged schemes? Where are the state insurance regulators to rebut the argument that they have all the power and importance of toll booth operators and now may be at risk of losing even that role? And, yes, where are the buyers who endorsed the current business model and have long partnered with the brokers now depicted as deceitful?

You may as well also ask where is the fourth estate's defense of the industry? Why doesn't *Business Insurance* write about the industry's position rather than simply reporting every new fallen executive and each new phase of the regulatory probe? The answer to that is that if no one is talking, there is little we can do. Apart from editorial opinions like this, we are in the business of objectively reporting the facts. Our reporters strive to tell both sides of every story, but, as noted above, if no one is talking, there is little for us to write.

It is time for the industry to start talking and standing up for itself if it wants to preserve jobs, companies and its way of doing business built on strong relationships. Some of the actions targeted in the probe are not defensible, but there's still plenty of good in the industry. It's a shame no one is talking about it.

Who loves ya, baby?

Evidence of insurance industry people doing the right thing was in abundance earlier this month, as part of the St. Baldrick's fundraiser for researching a cure for childhood cancer. I am happy to report that the Republic of Winstonia team—and I am including shavees who were honorary citizens of the republic but shaving elsewhere—raised more than $37,000, much of it from donations by people in the insurance industry. Chuck Chamness, president of the National Assn. of Mutual Insurance Companies, single-handedly raised nearly $29,000, which is one of the highest totals throughout this year's effort. This was Chuck's first year in the St. Baldrick's fundraiser, made all the more meaningful by the recent diagnosis of one of his sons, Joey, with a form of bone cancer.

Overall, the St. Baldrick's Foundation in 2005 is on track to meet or exceed last year's $3.5 million raised for cancer research.

My hat is off—which is no mean feat with no hair in a chilly March—to all the members of my extended team and to all the participants in this effort. We were all supported by friends, family and caring people in the industry, for which we are surely grateful.

I also want to thank the many insurance industry people who supported this year's effort by volunteering their time, particularly Heather Kash and colleagues at Towers Perrin Re in Chicago who organized our local event.

For more information about St. Baldrick's, visit *www.stbaldricks.org.*

Editorial Director Paul Winston's commentary appears fortnightly. He can be reached at pwinston@businessinsurance.com.

Chao: Administration pushes pension fund reform

Continued from page 1

Premiums now paid by employers do not always represent the financial risk their pension plans pose to the PBGC, whose board Ms. Chao chairs. Ms. Chao cited Bethlehem Steel Corp., the now-defunct steelmaker, as an example of the current mismatch between premium charges and the PBGC's exposure.

Over the course of nearly three decades, Bethlehem paid about $60 million in premiums to the PBGC. In December 2002, the PBGC took over the Bethlehem plan at a cost of $3.7 billion, the biggest loss the PBGC has incurred from a single pension plan.

Under the administration package, the base PBGC premium would be boosted to $30 per plan participant from $19, while the PBGC would have authority to adjust the premium paid by underfunded plans—now $9 for each $1,000 of plan underfunding—to reflect changes in the agency's financial condition.

Ms. Chao defended what many say is the most controversial aspect of the administration package: the use of a yield curve to value pension plan liabilities.

Under the administration package, the interest rate would be tied to the yields of corporate bonds of varying maturities and to plan demographics. Plans with many older workers and retirees would use an interest rate tied to shorter-term bonds, whose yields are lower than longer-term bonds, a methodology that would boost the value of plan liabilities.

While employer groups have criticized the yield curve approach as overly complex, Ms. Chao said it is the most accurate approach to measure liabilities.

"We would not have put it in had we not thought it was" the best approach to measure liabilities, Ms. Chao said. Still, she didn't entirely close the door to modification of the yield curve.

Perhaps, she said, there could be some "fine-tuning" of the approach after further discussions with employers and others.

Ms. Chao said a better-funded pension plan system and a healthier PBGC is better for workers, retirees, taxpayers and responsible plan sponsors.

Ms. Chao's comments come as employers have yet to line up behind the administration's package. Indeed, some groups are staunchly opposed.

"There is nothing here that will encourage employers to maintain their defined benefit plans," said Mark Ugoretz, president of the ERISA Industry Committee in Washington.

The package, Mr. Ugoretz maintains, will artificially boost some employers' pension costs to the point that they will exit the system.

James Klein, president of the American Benefits Council in Washington, has similar misgivings. He worries there the measure is too skewed in favor of shoring up the PBGC, with a lack of encouragement for employers to keep their plans.

It would be a poor tradeoff to save the PBGC at the "expense of the broader defined benefit plan system," he said.

What path Congress will take is not yet clear, but all agree that finding a common ground for reform will be difficult.

"While there is a genuine bipartisan desire to enact a pension reform bill this year, there are a lot of obstacles along the way," Mr. Klein said. In fact the last time Congress got involved in a pension issue, it was tied up in knots for months trying to pass a temporary measure to change the interest rate methodology in valuing plan liabilities.

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Editorial

Consider policyholders in M&A deals

WITH THE INSURANCE industry under fire for not acting in clients' best interest, we think insurance regulators need to look especially closely, going forward, at how proposed mergers or acquisitions may hurt policyholders.

For example, ACE Ltd. has proposed to sell runoff reinsurance operations it acquired from CIGNA Corp. in 1999, and the Pennsylvania Insurance Department's deadline for receiving public comments on this transaction is approaching. Specifically, ACE intends to sell assumed reinsurance runoff entities within its Brandywine Holdings Corp. unit: ACE American Reinsurance Co., Brandywine Reinsurance Co. (UK) Ltd. and Brandywine Reinsurance Co. S.A.-N.V. (*BI*, Jan. 10)

A group of insurers—Allstate Corp., American International Group Inc., Chubb & Son Inc. and St. Paul Travelers Cos.—oppose the sale, contending it would put them as cedents and, by extension, their policyholders, at a disadvantage.

Decisions are only as good as the information on which they are based, and nobody in the insurance industry or in state insurance departments has a crystal ball.

Not least among their concerns is that the Pennsylvania Insurance Department, in approving CIGNA's creation of Brandywine in 1996, set certain conditions to ensure that claims could be paid. Other insurers, including AIG, fought CIGNA's action, saying at the time that it would set a bad precedent and let CIGNA walk away from its obligations. Similar arguments are being made today, but ACE denies that is the case.

To be fair, ACE acquired the asbestos and environmental liabilities in the runoff entities when it bought CIGNA's property/casualty operations. But it's also true that selling an insurance company does not remove the underlying obligations. The ceding companies are concerned that the U.K. insurance runoff firm that intends to acquire the Brandywine units will not be able to strengthen A&E reserves if liabilities increase and will seek to commute claims. Don't forget that these are asbestos and environmental liabilities, which have in the past decade gone in only one direction: up. Many property/casualty insurers, including ACE, have repeatedly had to bolster such reserves.

Decisions are only as good as the information on which they are based, and nobody in the insurance industry or in state insurance departments has a crystal ball. Regulators therefore should demand detailed information on this and other transactions, to clearly understand what they may mean for cedents and policyholders long term.

RRGs again battle unfair requirements

HOW MANY TIMES will risk retention groups have to fight the same legal battles with state regulators?

That is a reasonable question to ask in light of a controversy that recently developed in North Dakota.

As we report on page 4, the North Dakota Senate, at the behest of the state insurance department, passed legislation in blatant disregard of rules laid down by the Risk Retention Act.

That measure would require car dealers and distributors selling service warranties to purchase reimbursement policies from an insurer that is a member of the North Dakota guaranty association.

That requirement would automatically knock out risk retention groups as a market for this type of coverage. That is because under the Risk Retention Act, risk retention groups cannot be members of guaranty associations.

Anyone taking the time—no more than a few minutes—to read the Risk Retention Act would quickly understand that the federal act pre-empts state laws that discriminate against risk retention groups as a class.

And if the Risk Retention Act wasn't clear enough, a five-year-old federal appeals court decision—involving the same type of coverage North Dakota wants to set rules for and locking risk retention groups out of a market in the same way—certainly should have been.

While states have the authority to prevent a financially unsound risk retention group from writing coverage, they cannot categorically exclude groups from a market, the 9th U.S. Circuit Court of Appeals ruled in a case involving Oregon's financial responsibility requirements.

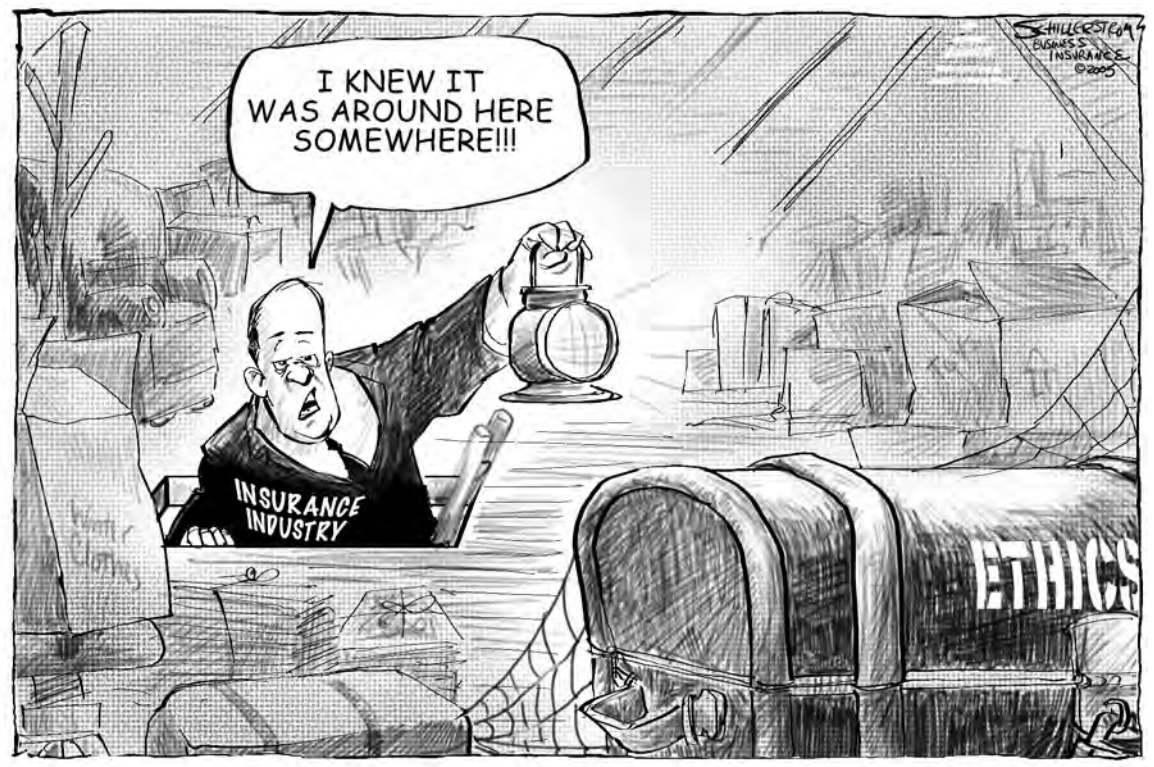
Fortunately, thanks to lobbying by risk retention groups and commercial insurers, North Dakota legislators appear likely to go in a different direction. They are expected to require that reimbursement policies for auto dealers and distributors be purchased from insurers that meet certain solvency standards.

Clearly, the Risk Retention Act gives state legislators the authority to impose such requirements. If regulators are concerned that certain types of policies can be sold by financially weak insurers, then they should strengthen their standards.

But a requirement that would allow a financially weak insurer to write coverage just because it is a member of a guaranty association—while simultaneously denying the same right to a risk retention group, regardless of the financial strength of the RRG—is clearly illegal, to say nothing of being illogical.

We hope other state regulators take note and North Dakota is the last place this issue will come up.

Schillerstrom



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IN-DEPTH COVERAGE OF TRENDS AND DEVELOPMENTS IN EMPLOYEE BENEFITS

Benefits Management

Special section to *Business Insurance*

Benefit Consulting & Outsourcing

Inside

Benefits Management Editor: Jerry Geisel

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Responses vary for consultants riding outsource 'tidal wave'

Firms moving beyond traditional areas to address broadening field

By JUDY GREENWALD

It can't be ignored.

All benefit consultants are addressing the fast-paced growth of the outsourcing market in one way or another, with each of the major firms fashioning its own response. These vary from providing outsourcing capabilities that now account for a significant part of their revenues, to creating joint ventures to provide outsourcing services, to acting solely in a consulting capacity to help clients make decisions about how to meet their outsourcing needs.

There has been "kind of a tidal wave of HR outsourcing," said Roger L. Vaughn, president of Aon Consulting U.S. in Chicago. More benefit consultants are aligning themselves with technology firms, either through alliances or joint ventures, he noted, "to provide infrastructure and intellectual content to be in position to be a player in the new world of outsourcing."

"I don't see it slowing down," said Mr. Vaughn. He pointed to Hewitt Associates Inc.'s acquisition of Exult Inc., an Irvine, Calif.-based leader in the human resources business process field; a joint venture between Towers Perrin and Plano, Texas-based EDS Corp. that combines Towers Perrin's benefits administration services and EDS' existing payroll and HR-related outsourcing business; and the acquisition of Mellon Financial Corp.'s benefit consulting and administrative services unit by Dallas-based Affiliated Computer Services Co., a business process and information technology outsourcing giant (*BI*, March 21). Mr. Vaughn noted that Aon's own "go-to" market partner is El Segundo, Calif.-based Computer Sciences Corp.

Consulting firms are moving beyond outsourcing in the traditional benefit areas. Dale M. Gifford, chairman and chief executive officer of Lincolnshire, Ill.-based Hewitt, said broader HR outsourcing, in which Hewitt is involved as well, is "clearly a key area." A variety of both service providers and potential clients has shown a great deal of interest in the broadening field, he noted. That may be why the market has seen a fair number of joint ventures and acquisitions and mergers within this competitive environment, he said, "as people are jockeying for position for that next wave of broader outsourcing."

The challenge in outsourcing, as well as in benefits consulting generally, Mr. Gifford said, "is to try to anticipate, be ahead of the curve, but not so far ahead of the curve that nobody's interested in what you're doing."

See **OUTSOURCING**/page 14

A single HR vendor: one-stop bargain or conflict of interest?

By JOANNE WOJCIK

As more and more benefit consulting and technology firms expand their expertise into other areas of human resources, benefit and HR managers now have the option of hiring a single vendor to handle all of the functions that had previously been parceled out piecemeal to numerous outside vendors.

While many benefit and HR managers view total HR business process outsourcing as a way to cut costs and improve efficiency, others remain wary, concerned about potential conflicts of interest that might develop as a result of using a single vendor for all of their human resource needs.

Still others, unconvinced that any total HRO vendor is superior in all areas of human resource and benefits administration, prefer to use multiple vendors that, by reputation, are considered the best in each of their respective fields.

But this trend toward offloading more and more human resource and benefits administration to a single vendor is likely to continue, outsourcing experts say.

In fact, in most cases, the decision to outsource all of HR often comes from high up in an organization—usually at the level of the chief financial officer—as part of a long-term strategy to cut costs and boost profitability.

According to research by Gartner Inc., an IT research and advisory firm based in Stamford, Conn., HR is the one business process most likely to be outsourced, with 2004 HR BPO revenue topping $51 billion, representing 39% of all BPO revenue worldwide.

Payroll and benefits administration services are the most popular functions to be outsourced, and they have been driving the growth of this market. But now other HR functions—including workforce administration, recruiting, compensation administration, performance

See **SINGLE VENDOR**/page 16

Smaller shops deliver big-firm know-how

By JERRY GEISEL

Sometimes, a small benefit consulting company is exactly the right size.

For a range of projects, they can deliver big-firm know-how while showering clients with small-firm attention at a scaled-down cost.

These benefit shops, with staffs of 10 and under, generally have been launched by consultants who've left the industry giants. The principals of the smaller firms say they wanted more control over projects and schedules and less time spent on management and administration.

Their transition has been helped in no small part by technological advancements, especially the development of the Internet, which has put a world of information at their fingertips.

"World-class research can be just three clicks away," said Maureen Cotter, who in 2003 formed her own health care consulting and strategy firm—Maureen Cotter & Associates Inc. in Dearborn, Mich.—after many years with Watson Wyatt Worldwide.

One obvious advantage for employers working with these new-style mom-and-pop firms—the lower cost—reflects the overhead. Charges typically are one-quarter to one-third less than those of the big consultants.

Yet, drawing on their many years of experience and unencumbered by the internal distractions of a big operation, these benefit entrepreneurs say they are delivering services and ideas that are equal to, if not better than, those provided by the nation's benefit behemoths.

"I have as much experience as anyone in a big firm," said Brendan Ryan, a principal and founder of Brendan Ryan Employee Benefits Consulting in Rockville, Md., which he started more than a decade ago, after 20 years of working for major consultants.

For employers, lower cost isn't the only attraction of working with small consultants. They say they value the one-on-one attention they receive and the opportunity to work with the same individual for long periods of time.

"We are dealing with the same person, who knows our culture and our business. We value that," said Ann Lamson, director of human resources at Clark Construction

See **NICHE**/next page

Niche: When being small is exactly the right size

Continued from previous page

Group L.L.C., a big commercial builder based in Bethesda, Md. Clark Construction has used Mr. Ryan for a variety of benefit consulting projects.

"The responsiveness is very important," said David Daugherty, manager of benefit plans for The Kiplinger Washington Editors Inc., the venerable Washington-based publishing company, which recently used Mr. Ryan to consult on retiree health care plan design issues related to the upcoming expansion of Medicare to cover prescription drug costs.

While these benefit Lilliputians are meeting a market need, they acknowledge that a wide range of consulting and administrative services are out of their range. For example, running a call center or administering a health care program's open-enrollment period requires investments in technology that only the largest consultants can make.

"The large consultants can offer a whole suite of services," Ms. Cotter said.

Still, there are many benefit consulting projects—health care plan design, benefit communications, health plan and 401(k) plan vendor selection advice—that small firms say they can handle as well as the giants can.

"When I worked at Watson Wyatt, I was brought in on projects for my health care strategy expertise. Obviously, that is something I also can offer on my own," Ms. Cotter said.

Many of the small consultants say a key reason for going out on their own was the desire to focus more on consulting and less on management and administration.

"I enjoyed working with clients. But by the time I left, more than 50% of my time was spent on management," said Wendy Wallach, who left a major consultant in the mid-1990s to start her own defined contribution plan consulting firm—Wallach & Associates Inc.—in Edgewater, N.J.

"With each promotion, I got more and more into management. There was less and less client involvement," said Marjorie Gross, who left the old Johnson & Higgins, a big broker and benefit consultant that was later acquired by Marsh & McLennan Cos. Inc., in the mid-1980s to form her own benefits communications firm, Marjorie Gross & Co.

On their own, small consultants say they can focus far more on client projects—and less on administration and management—compared to working at the consulting industry's titans.

"I loved being free from the supervision of employees. I could focus exclusively on client problems that needed to be solved," Mr. Ryan said.

There are other advantages as well, small consultants say, most notably the ability to make decisions quickly and not have to go through what can be the cumbersome committee processes they say are common at the biggest firms.

"We can turn things around on a dime and not be encumbered by process," Ms. Gross said.

"You don't have all those committees and red tape. You can take chances and move in new directions," said Don Gasparro, president of APEX Management Group, a Princeton, N.J.-based health care actuarial firm that Mr. Gasparro, a former Foster Higgins consultant, launched more than a decade ago.

Similarly, Ms. Cotter cites the satisfaction—since going out on her own—of being part of a consulting project from start to finish.

"At Watson Wyatt, I provided the oversight. I rarely was there after the blueprint was prepared. Now, I can develop the strategy and fulfill it," she said.

Others say the freedom to work solely on the consulting jobs they want to do is another big plus of being independent.

"You have the ability to take on assignments only if you are interested," said Jeremy Gold, the proprietor of Jeremy Gold Pensions, a pension plan financial consultant in New York.

Small consultants acknowledge that they lack the internal research capabilities typical of the big firms. Conversely, they say they have more freedom to use publicly available research than when they worked for big firms.

"You could get a bit insulated. You wouldn't want to bring in research done by a competitor. On my own, I can bring in the best of what is out there," Ms. Cotter said.

Still, the small consultants acknowledge that there are aspects of working for big firms they miss, chiefly the interaction of working with other talented individuals.

"I was surrounded by the highest caliber of professionals," said Ms. Gross, referring to her years with Johnson & Higgins.

Others say that the staff resources of the big firms were, at times, a significant advantage in making contact with potential clients.

Referring to Morgan Stanley, the huge New York-based global financial services firm where he once worked, Mr. Gold said: "Their research was remarkable. They knew who the decision makers were in a firm and how to reach them."

And as much as they may have valued the freedom of going out on their own, some of the small consultants—through acquisition—are once again working for large firms. In so doing, the small consultants say, they have tried to maintain their autonomy, while reaping the advantages of working within a larger organization.

"We feel we have the best of both worlds. We continue to think and act like an entrepreneur" but enjoy access to new markets, said Ms. Gross, whose firm was acquired several years ago by The Segal Co., which dominates the multiemployer consulting field.

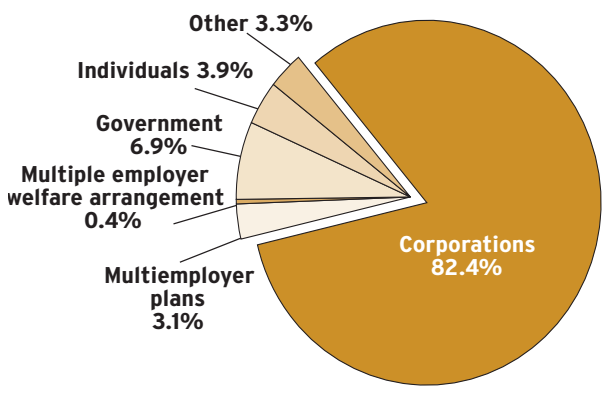
"We continue to operate as before, but we have access to their expertise," said Mr. Gasparro, whose APEX Management Group in 2002 became a division of Gallagher Benefit Services Inc., the benefit consulting and administrative services unit of insurance broker Arthur J. Gallagher & Co.

Other independents, though, cannot imagine returning to be part of a larger firm.

"I enjoy being on my own too much to ever go back," said Ms. Wallach, the defined contribution plan consultant.

BENEFIT CONSULTING CLIENTS

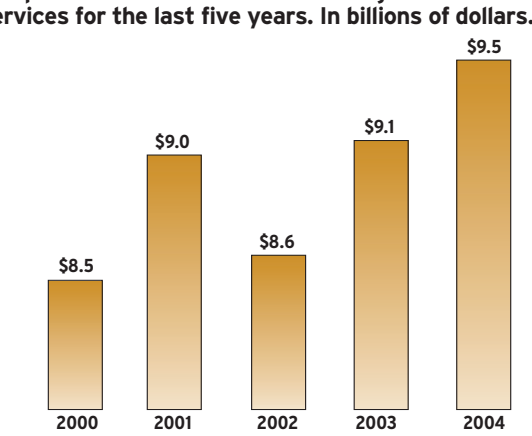
Percentage of clients by type



Source: *BI* survey

CONSULTING REVENUES

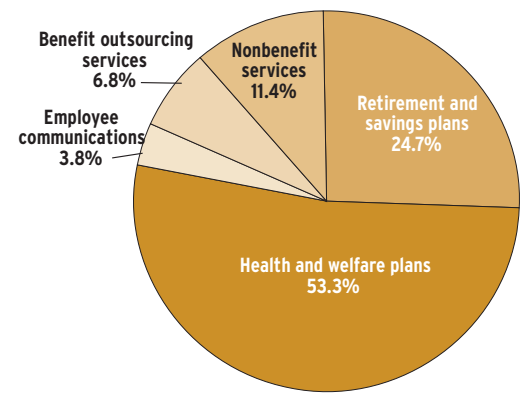
Total employee benefit revenues for the 10 largest companies for both benefit consulting and outsourcing services for the last five years. In billions of dollars.



Source: *BI* survey

SERVICES PROVIDED

For firms that derive a majority of their revenues from benefit consulting



Source: *BI* survey

World's largest employee benefit consultants

Ranked by worldwide benefit consulting revenues*

Rank	Company/Address	Phone/Fax/ Web site	2004 benefit consulting revenues	2003 benefit consulting revenues	% change	% of gross revenues from benefit consulting	2004 gross revenues outsourcing from benefit services	Principal officers
1	Mercer Human Resource Consulting L.L.C. 1166 Ave. of the Americas New York, N.Y. 10036	212-345-7000 Fax: 212-345-7414 *www.mercerhr.com, www.merceric.com*	$1,500,000,000	$1,400,000,000	7.1%	49%	$426,000,000	Brian M. Storms, president/CEO
2	Watson Wyatt Worldwide 1717 H St., N.W. Washington, D.C. 20006	202-715-7000 Fax: 202-715-7700 *www.watsonwyatt.com*	$936,800,000 [1]	$898,000,000	4.3%	80%	–	John Haley, president/CEO
3	Aon Consulting Worldwide 200 E. Randolph St., Suite 1000 Chicago, Ill. 60601	800-438-6487 Fax: 312-381-0240 *www.aon.com*	$869,000,000	$829,000,000	4.8%	70%	$298,000,000	Donald C. Ingram, chairman/CEO
4	Towers Perrin 1 Stamford Plaza, 263 Tresser Blvd. Stamford, Conn. 06901	203-326-5400 Fax: 203-326-5499 *www.towersperrin.com*	$728,100,000	$703,400,000	3.5%	44.9%	$325,400,000	Mark V. Mactas, chairman/CEO
5	PricewaterhouseCoopers Human Resource Services 300 Madison Ave. New York, N.Y. 10017	646-471-3000 Fax: 813-286-6000 *www.pwc.com/hrs*	$630,000,000 [2]	$630,000,000 [2]	0.0%	70%	–	John Caplan, Sandy Pepper, global co-leaders, human resource services
6	Deloitte & Touche USA L.L.P. 1633 Broadway New York, N.Y. 10019	510-273-2371 Fax: 213-688-3358 *www.deloitte.com*	$621,000,000 [3]	$607,000,000 [3]	2.3%	42%	–	Ainar Aijala, vice chairman-Deloitte Consulting L.L.P./global service area leader-Human Capital
7	Hewitt Associates Inc. 100 Half Day Road Lincolnshire, Ill. 60069	847-295-5000 Fax: 847-883-9019 *www.hewitt.com*	$572,000,000 [1,4]	$536,400,000 [1,4]	6.6%	26% [5]	$1,430,000,000	Dale Gifford, chairman/CEO
8	Mellon's Human Resources & Investor Solutions 85 Challenger Road Ridgefield Park, N.J. 07660	201-296-4000 Fax: 201-296-4004 *www.mellon.com/hris*	$447,226,000	$445,500,000	0.4%	49%	$308,886,000	James D. Aramanda, vice chairman-Mellon Financial Corp.
9	Ernst & Young L.L.P. - Human Capital 1225 Connecticut Ave. N.W. Washington, D.C. 20036	202-327-6000 Fax: 202-327-6714 *www.ey.com*	$204,000,000	$254,000,000 [6]	-19.7%	80%	–	James Bosserman, director-Americas Performance & Reward
10	The Segal Co. 1 Park Ave. New York, N.Y. 10016-5895	212-251-5000 Fax: 212-251-5490 *www.segalco.com*	$152,900,000	$148,300,000	3.1%	86%	–	Howard Fluhr, president/CEO

* Excludes revenues from claims administration, compensation consulting, insurance commissions and other nonbenefit consulting. 1 *BI* estimate 2 Fiscal year ending 6/30 3 Fiscal year ending 5/31 4 Fiscal year ending 9/30 5 Estimated 6 Restated

Source: *BI* survey

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Outsourcing: Firms' responses vary

Continued from page 9

Brian M. Storms, president and CEO of New York-based Mercer Human Resource Consulting, said Mercer's focus on human resource outsourcing includes the administration of group health and pension plans as well as broader HR areas such as employee relations, absentee management, compensation management and talent development.

While Mr. Storms acknowledged that it has become "such a cliché" for companies to say they are meeting client demands, he said that Mercer, which deals with some of the biggest, most sophisticated companies in the world, is "just trying to keep up with market needs."

About 40% of the revenues of the business sold by Mellon to Affiliated Computer Services comes from outsourcing, estimated Howard Fine, managing director-retirement at Mellon Human Resources & Investor Solutions in New York. "However, we do view the growth area, growth opportunities to be much more significant on the outsourcing side, so we expect outsourcing to grow much faster than consulting in that regard," he said.

Robert G. Hogan, managing director at Stamford, Conn.-based Towers Perrin, said the development of ExcellerateHRO, the company's joint venture with EDS, "is in direct response to the demand we're seeing. We now have a very comprehensive, full-range offering that's global in scope."

The creation of ExcellerateHRO followed the sale of Towers Perrin's outsourcing business to EDS, amid recognition that it lacked the financial resources to make the investment needed to stay competitive in the outsourcing field.

Gene Wickes, Denver-based global director of retirement consulting for Watson Wyatt Worldwide, said that while Washington-based Watson Wyatt does outsourcing, it does so on a "much more customized basis...where our relationships can bring more value." Mr. Wickes said that approach stands in contrast to some outsourcers, who say they can create more efficiency by using the same process for everybody.

Watson Wyatt's outsourcing business, which accounts for about 20% of its global revenues, is "really an adjunct to our consulting, as opposed to the focus of our business," Mr. Wickes said. "You'll see it grow as a percentage, but not dramatically," he said.

Others retain their role solely as consultants. At New York-based PricewaterhouseCoopers Human Resource Services, "we did have an outsourcing capability a few years ago, and we made the decision to exit that to emphasize consulting," which is "more aligned with the overall Pricewaterhouse capabilities than the outsourcing business," said John Caplan, U.S. human resources services leader. This approach also permits the company to be "totally independent," he said. "We're not selling a product; we're helping (clients) make the right decisions."

Similarly, The Segal Co. sees its interest in outsourcing as a consultant, said Howard Fluor, president and CEO of The Segal Co. in New York. "Our role is to help clients figure out" if they should outsource, and if so, how to monitor performance, he said.

LARGEST U.S. BENEFIT CONSULTANTS

Based on 2004 U.S. benefit consulting revenues

Mercer Human Resource Consulting L.L.C.	$705,000,000
Aon Consulting Worldwide	$521,400,000 *
Towers Perrin	$510,398,100
Watson Wyatt Worldwide	$468,400,000 *
Hewitt Associates Inc.	$463,320,000 *
Deloitte & Touche USA L.L.P.	$329,130,000 **
Mellon's Human Resources & Investor Solutions	$313,058,200
PricewaterhouseCoopers Human Resource Services	$252,000,000
The Segal Co.	$149,842,000
Gallagher Benefit Services Inc.	$130,400,000

* *BI* estimate
** Fiscal year ending 5/31
Source: *BI* survey

Benefit consultants adapt to changing client needs

Lines blurring between traditional benefits consulting, other HR areas

By JUDY GREENWALD

Benefit consultants are responding to meet the changing needs of clients.

Outsourcing services, which once were only a small part, if any, of their business, now make up an increasingly large portion of some consultants' revenues as demand for the services grows.

Additionally, other firms, while not directly in the outsourcing business, now provide a variety of outsourcing-related services, such as preparing and evaluating bids from outsourcing vendors.

The demand for outsourcing services—and the need to make financial investments to be a leading player in the field—has led to a flurry of deals over the last year.

For example, last year Hewitt Associates Inc. acquired Exult Inc., a big player in the human resources business process outsourcing field, to give Hewitt a toehold in that market, while this month Affiliated Computer Services Inc., a Dallas-based business processing and information technology outsourcing company, announced it is buying the benefit consulting and services unit of Mellon Financial Corp.

Observers say the ACS-Mellon deal reflects, in part, ACS's desire to gain expertise in benefit consulting and health and pension plan administration to enable it to offer a full range of HR-related services.

Much of the ongoing change among benefit consultants is being driven by a blurring of the lines between traditional benefit consulting and other HR areas, such as compensation management and training development.

The work Towers Perrin has been getting in benefits consulting "is often linked to broader issues," as clients seek to explore how benefits work in terms of their workforce management, said Robert G. Hogan, managing director at the Stamford, Conn.-based benefit consultant.

Most companies have already "dealt with and made tactical and strategic change within their core employee benefit programs," noted Roger L. Vaughn, president of Aon Consulting U.S. in Chicago. "We're client-responsive, and we go where the work is. The core business has much slower growth than we've experienced in a long time—positive growth, but nominal."

Other major drivers in these changes comes from employers' desire to reduce costs, adapt to the changing legislative and regulatory environment and recruit and retain personnel, as well as from their increasing globalization.

'There's been a lot of focus on being efficient in the programs, making sure that the dollars that are spent are spent in the most cost-effective manner.'

Gene Wickes
Watson Wyatt Worldwide

Recently, "there's been a lot of focus on being efficient in the programs, making sure that the dollars that are spent are spent in the most cost-efficient manner," said Gene Wickes, global director of retirement consulting for Washington-based Watson Wyatt Worldwide.

Benefit consultants note that there is increased interest in their areas of expertise. Articles appear in newspapers every day on issues that include pension, compensation and health and welfare, which are "uppermost in the minds of our clients," said John Caplan, U.S. human resources services leader for PricewaterhouseCoopers Human Resource Services in New York.

"I think we're seeing a resurgence of interest around these programs, not just for the incentive or benefit components but as much for the financial consequences" and the governance and risk management aspects of these programs, he said.

The market "has changed in terms of what (clients) are demanding from us," said Howard Fine, managing director-retirement at Mellon Human Resources & Investor Solutions in New York. "They are demanding services that are operationally efficient," that offer high quality to their employees "and that mitigate the risks associated with managing their benefits and HR programs."

"We're doing some of what I'd call creative development of products and services," said Mr. Fine. "For example, we've got the whole advent of (health savings accounts) that are associated with employer sponsored medical plans and we are positioned as a leader" in this area. "We're also building up some bundled retirement plan solutions that I think will play very, very well in the market," he said.

Consultants say they are shifting their focus in response. Brian M.

See CONSULTANTS/next page

Consultants: Adapting to change

Continued from previous page

Storms, president and chief executive officer of New York-based Mercer Human Resource Consulting, said, "Obviously, there have been substantial changes within Mercer's business, which I'd like to think are a direct reflection of the changes that are taking place with our clients and are a reflection of the sort of market changes we're seeing."

Mr. Storms said, for instance, that "HR departments are beginning largely to think about what services they perform, what really constitutes best practice for HR in big and midsized companies." Mercer is "helping companies rethink how HR departments work," he said. Helping them become more effective and efficient has "become a large part of what we're doing" and has become one of Mercer's "fastest-growing areas," he said.

Dale L. Gifford, chairman and CEO of Lincolnshire, Ill.-based Hewitt, said, "I think there's a pretty good mix of responding to the needs that clients have today and trying to anticipate those needs they'll have down the road at various points in time."

Howard Fluhr, president and CEO of The Segal Co., based in New York, said he likes to think of this issue "within the context of not changing who we are at our core but responding to changes in the world."

Meanwhile, the benefits consulting business remains highly competitive, said Aon's Mr. Vaughn. Companies more readily shop their business around to ensure they are getting what they are paying for, he said. This trend is accentuated by the increasing role and activity of purchasing officers inside corporations, who are "taking a more active role in employee benefits and how they're delivered and how they're purchased," he said.

Single vendor: Setup has pros and cons

Continued from page 9

management and training—are also being provided by outside vendors.

In response to employers' increasing desire to outsource these other HR functions, some benefit consultants have acquired technology companies to expand the breadth of services they can provide. At the same time, technology firms are gobbling up benefits expertise, also via acquisition.

For example, last year, Lincolnshire, Ill.-based Hewitt Associates Inc. purchased Exult Inc., an Irvine, Calif.-based leader in the HR business process field, to give Hewitt entry in the HR BPO market. And, earlier this year, Towers Perrin sold its benefits consulting and administration unit to technology vendor EDS Corp. of Plano, Texas, to form a separate entity called Excellerate HRO, of which Towers Perrin will remain part owner. More recently, Affiliated Computer Services Inc., a Dallas-based business process and information technology outsourcing company, is acquiring the benefit consulting and administrative services unit of Mellon Financial Corp. to offer a full range of human resources-related services.

While some consultants and technology firms are consolidating to provide one-stop shopping for human resource outsourcing, at least one broker that had dabbled in the field has decided to get out and has sold that side of its business to a firm whose focus is HRO.

Palmer & Cay Inc. sold its Grand Rapids, Mich.-based Outsourcing Solutions Group to HR XCEL L.L.C. of Charlotte, N.C., this month.

The reason for the Palmer & Cay divestiture was "they entered the business thinking it would give them a competitive advantage. But they realized they weren't the experts in providing those services. They're great at consulting and brokerage, but not at HR outsourcing," said Jeff Mortland, vp at HR XCEL.

"I think that all of the companies competing in the BPO space will either continue to consolidate or people will drop out of the competition," said Rick Hubbard, global director of the technology solutions practice at Watson Wyatt Worldwide in Cleveland.

"If we had this conversation 12 months ago, there may have been 30 players in the total HRO market, now we're down to a dozen or so. Conversely, there are hundreds of vendors that perform one or more of the functions—but not all."

Watson Wyatt, for example, continues to concentrate primarily on health and welfare and defined benefits outsourcing.

The two forces driving employers toward total HRO are cost and efficiency.

"That's a big part of the attractiveness for HR BPO, getting more service, better service, for a lower cost. Our clients typically receive between 10% and 25% of the cost," said Bryan Doyle, president of Hewitt's HR outsourcing business in Lincolnshire, Ill.

"There's a real push in the U.S. to have a single place for employees and managers to go for HR administration," said Dave Carlson, U.S. business leader for outsourcing for Mercer HR Services in Houston.

"Today, in most HR departments, if I've got 10 different places to call for health care, retirement, FMLA, etc., there's a desire to have one phone number and one portal. It doesn't mean that every person sits in the same place, but rather that

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Single vendor: One-stop bargain or conflict of interest?

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there's a single place to call," he said.

"The most difficult part of a piecemeal approach is data movement and consistency among multiple systems," said Jim Corcoran, senior vp for Ceridian Corp. in St. Petersburg, Fla. "Are you getting the right data? Can the information be changed uniformly among providers?" he asked.

"It's not just a one-stop shop, it's also a better service for the employee because they now have a single point of entry and it becomes the provider's function to keep everything in sync. The kink comes in the 'bidirectional,' or going in multiple directions. Transfer of data between systems is easy, but if you want to go back and forth and share with multiple systems, it can be harder," he said.

But the idea of one-stop shopping, particularly when it's the benefit consultant providing all of the outsourcing services, doesn't sit too well with Kip Wall, chief executive officer of the Office of Employee Benefits for the State of Louisiana in Baton Rouge.

"In a perfect world, consultants should be detached and unbiased. It is difficult to give unbiased advice if you have a financial interest at stake," he said. "I refused to hire a consultant this year because the consultant was offering a pilot health program. You cannot provide advice to me and sell me an associated service at the same time."

"There are some that are concerned about all this being in one place; that's the downside of it," said Mr. Carlson.

"We don't feel that it is a service delivery model that will fit all employers all the time. Many employers have looked at the BPO space, did the financial analysis and decided it was not for them," observed Mr. Hubbard of Watson Wyatt.

In some cases, consolidating all HR functions with a single vendor can preclude an employer from seeking out the best vendors for each specific function, Daryl Ashley, vp-strategy and solutions at Workscape Inc. in Framingham, Mass.

But nearly every HRO vendor says it would be willing to allow employers to choose other vendors for certain functions, if they so desire. As for the vendors that have consolidated, they say they did it to become "the best of breed."

"One of the things that drove our relationship with EDS is that we were looking for someone who was a leading player in some of these areas that we could partner with, as opposed to building that from scratch," said Bob Hogan, managing director at Towers Perrin in Stamford, Conn. "For example, Towers Perrin didn't do payroll processing. If we're going to offer the full range of HR outsourcing services, that was one of the things we needed to add to our benefits outsourcing business. We believe that with Excellerate HRO, there is now best of breed across all the main services."

'I refused to hire a consultant this year because the consultant was offering a pilot health program. You cannot provide advice to to me and sell me an associated service at the same time.'

Kip Wall
State of Louisiana
Office of Employee Benefits

Regardless of any misgivings benefit and HR managers may have about the growing move toward total HRO, a decision to outsource to a single vendor very likely will be out of their hands, industry observers say.

"Companies are trying to reduce the number of suppliers they have. It's a general management issue. In some cases, it's a quality issue. It's the same thing that happened in manufacturing 20 years ago. The administrative side of the business is trying to do the same thing now," said Mr. Corcoran.

"There's usually some event that takes place, like being unable to hold an HR person. Others do it to save money. In still other cases, the controller or CFO may be responsible for the function, and they don't have expertise and they realize this so they outsource it," said Mr. Mortland of HR XCEL.

"These decisions—to outsource an entire organization like HR—has to be made at the very top of an organization," Mr. Mortland said. "It's not something middle management decides."

Debit cards gaining popularity for benefit expenses

Future growth in market expected to parallel predicted rise in use of HSAs

By GLORIA GONZALEZ

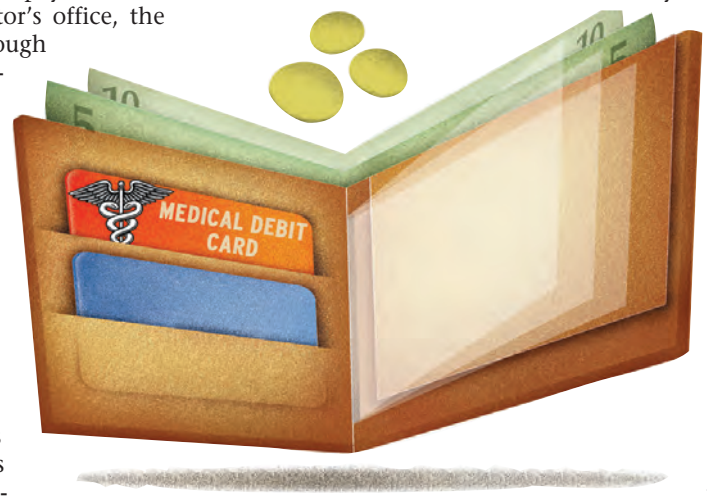
It was a big improvement for both workers and management when LaSalle Bank Corp. last year began offering medical debit cards.

Before that, the Chicago-based bank's medical reimbursement account programs operated on a cash basis—an employee paid out of pocket, then submitted a claim and then waited for a reimbursement check—which could take anywhere from eight days to four weeks to arrive.

"We found the process to be fairly laborious," said Jim McInerney, manager of compensation and benefits for LaSalle Bank, a unit of ABN AMRO.

A debit card allows an employee to have qualified medical expenses, like a deductible or a co-payment for a physician's office visit, to be automatically taken out of either a flexible spending account, a health reimbursement arrangement or a health savings account.

An employee with a debit card associated with one of these accounts uses the card in the same way he or she would use a regular debit card. For example, when he or she uses the card to pay for a co-payment at a doctor's office, the card is swiped through the credit card machine and the amount of the co-payment is taken out of the account associated with the card. The cards eliminate the need for employees to pay out of pocket for office visit co-payments and over-the-counter drugs and file claim forms seeking reimbursement from their accounts.



LaSalle Bank employees have embraced the debit cards—provided by San Mateo, Calif.-based WageWorks—with close to 3,000 of the company's 19,000 employees already using them because they provide quick access to pretax dollars, Mr. McInerney said. "We've had an extremely popular reaction over the past 15 months to the card itself," he said. "I think we'll see over half of our population will be in (the program) in another five years."

Along with WageWorks, the main players in the debit card market are Avon, Conn.-based Evolution Benefits Inc.; Waltham, Mass.-based MBI; and New York-based Motivano Inc.

Currently, the use of debit cards is associated primarily with FSAs; all the major card providers report that between 80% to 90% of their cards are used in conjunction with FSAs.

Most of the future growth in the debit card market, though, is expected to occur alongside the growth in the HSA market now that federal regulations governing the use of these accounts have been finalized.

"I think the debit card is pretty much a required component of HSAs," said Steve Hooper, director, HSA product management at Mellon Human Resources & Investor Solutions in Pittsburgh. "As HSAs take off, so will the number of cards."

Debit cards are also used for non-medical pretax accounts related to dependent care and transportation expenses. The transit programs are popular in major cities such as Boston, New York, San Francisco and Washington. While transit cards currently comprise less than 5% of debit cards, "it seems to be a benefit plan that's gaining popularity with employers, so I think you'll see robust growth in that area," said Chris Byrd, executive vp for Evolution Benefits.

Debit cards are not often used for dependent care, though, because many child- and adult-care services do not accept credit cards, noted Rob Butler, executive vp and chief revenue officer of MBI.

Enhancements in technology have played a big role in the development of the debit card market in recent years. A key improvement is the ability to use one debit card for

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Debit cards: Gaining in popularity

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multiple accounts. The technology has enabled card providers to track the value of each account and route transactions to the appropriate accounts.

About 20% to 25% of Evolution Benefits' cards are distributed by employers who offer multiple accounts. The emergence of the HSA, Mr. Byrd noted, "has made the multiple-pursing abilities very important, because many employers want to give employees the opportunity to fund FSAs alongside HSAs."

In addition, MBI is now working on a debit card that would offer credit card functionality—the ability to use the cards to deduct medical account transactions and perform credit card transactions. For example, a consumer who buys a $150 prescription drug and has only $100 left on his or her HSA could have the $100 deducted from the HSA account and the remaining $50 billed to a credit card account.

The technology has also helped streamline the verification and authorization process. The Internal Revenue Service has strict regulations on what the funds in these pretax medical accounts can be used to purchase and the technology has developed to ensure compliance with these regulations, observers say. Vendor codes, for example, provide protection to ensure the appropriate use of the debit cards at approved facilities—at doctor offices and pharmacies rather than restaurants and gas stations.

Card providers are also working with major pharmacy retail outlets such as Deerfield, Ill.-based Walgreen Co. to provide additional verification capabilities, because consumers can purchase items other than drugs at these pharmacies. MBI's Mr. Butler cited the ability to capture retail chain data as one of the most important technological advancements, because FSA dollars are used for pharmacy co-payments more than half the time.

The long-term technological challenge is to develop an electronic system that would connect doctors with insurers so doctor claims could be processed on a real-time basis as are pharmacy claims, said Scott Keyes, a senior consultant with Watson Wyatt Worldwide in Minneapolis. "The administration of health care is archaic—the debit card doesn't link with everything," he said. "It's a whole structure change to make it work."

NBGH: Battle cry for reform

Continued from page 4

gathering of the nation's largest employers was to explore solutions to the nation's health care crisis and to identify measures employers can take individually and collectively, she said. Employers attending this year's conference also declared war on medical errors and rallied in support of the use of evidence-based medicine through changes in benefit plan design.

"We also hope that we will not just slow down the rate of cost increases but, much more importantly, get much more real health, health outcomes, improved health out of our tremendous investment. And right now, we're not doing very well on those fronts," she said.

"We have to say the status quo is intolerable," Ms. Darling said, pointing to a report by the Washington-based Institute of Medicine estimating that 100,000 lives are lost each year due to preventable medical errors and to other studies that show the actual loss of life may be double that when intentional medical errors—such as the failure to prescribe beta blockers after heart attacks and antibiotics after surgeries—are added in.

Other speakers at this year's NBGH conference shared Ms. Darling's sense of urgency.

"Fine-tuning the current system will not get us where we need to go, especially in the time frame we're working with," concurred George Halvorson, chairman and chief executive officer of Kaiser Foundation Health Plan Inc. and Kaiser Foundation Hospitals in Oakland, Calif. "We need an industrial revolution in health care."

"If the restaurant industry killed 400 people a day, they couldn't get away with saying, 'We're studying the problem and looking for solutions,' " which is what the health care industry has been saying, Mr. Halvorson said. "It's time to re-engineer major aspects of American health care."

'Fine-tuning the current system will not get us where we need to go, especially in the time frame we're working with. ... We need an industrial revolution in health care.'

George Halvorson
Kaiser Foundation Health Plan Inc. and Kaiser Foundation Hospitals

Mr. Halvorson, author of the book "Epidemic of Care," gave one of three keynote addresses during the conference. Also providing keynote speeches were David Scherb, vp of compensation and benefits at PepsiCo Inc., and Susan Chambers, executive vp of risk management, benefits and administration at Wal-Mart Stores Inc.

PepsiCo's Mr. Scherb stressed that his company's corporate culture is changing to promote healthy eating and exercise not only among its own employees but among its customers. As a result of that shift, 40% of the company's revenues this year will be derived, he said, from "healthier foods" such as Aquafina water, Tropicana juices, Diet Pepsi, Gatorade and Quaker Oats oatmeal.

During her closing keynote, Wal-Mart's Ms. Chambers countered the criticism that her company has received with respect to its provision or lack of provision of health care benefits to its employees. "Eighty-six percent of our associates have health insurance, more than half through Wal-Mart," she said. Others receive benefits from Medicare, the military or their spouses' programs, she noted. The cost of this coverage to the employee is as little as $40 per month for single coverage and $150 for family coverage, she said, "and there's no cap on benefits after the first year of employment."

Ms. Chambers also pointed out that "Wal-Mart's low prices are helping the economics for working families so they can better afford health care."

"Health care doesn't exist in a vacuum, not for families. It exists in a context," she said.

Ms. Chambers added that the Bentonville, Ark.-based retailer also is working with a local hospital to develop a high-tech state-of-the-art facility based on the Wal-Mart model.

"We, as employers, need to step it up. Let's not wait for someone else to take the lead, and let's not limit ourselves to incremental change," she said. "A lot of people are counting on us to figure this out. Let's get about it."

Employers promoting push for evidence-based medical care

By JOANNE WOJCIK

WASHINGTON—For consumerism to work in health care, employers need to teach their employees that their doctors are fallible, health care cost containment experts say.

Unfortunately, most employees and their dependents blindly trust their doctors' advice, often suffering through expensive, unnecessary and even harmful treatment without question, according to Peter Hayes, health benefits strategist at Hannaford Bros. Co., a supermarket chain based in Portland, Maine.

"If you ask patients and consumers, 'Who do they trust today for health care?', 88% trust their physicians," and, "71% trust the Internet. They do not trust insurance companies, and employers are even below insurance companies," Mr. Hayes said during a session on pay for performance during the National Business Group on Health's Business Health Agenda 2005, held March 16-18 in Washington.

"We need to promote a healthy skepticism of doctors' advice among employees. It takes 10 to 15 years for a recently discovered treatment to make its way into mainstream medical practice," said Ned Holland, vp of compensation, benefits, labor and employee relations for Sprint Corp. in Overland Park, Kan.

'Most doctors think they're practicing evidence-based medicine. Most patients think they're getting it. But, unfortunately, the doctors and the patients are wrong.'

Susan Chambers
Wal-Mart Stores Inc.

Doctors don't always know what's best, concurred Susan Chambers, executive vp of risk management, benefits and administration at Bentonville, Ark.-based Wal-Mart Stores Inc., during a keynote speech during the conference.

"Most doctors think they're practicing evidence-based medicine. Most patients think they're getting it. But, unfortunately, the doctors and the patients are wrong," she said, pointing to research conducted by the Vanderbilt Center for Evidence-Based Medicine.

"Only 40% of the prevention and treatment recommendations in a private-practice setting are supported by strong evidence," she said. "I can only imagine how frustrating this must be for people in this room," Ms. Chambers said, addressing an audience comprised mostly of employers.

"We've all seen alarming increases in health care premiums in recent years. Now we're told we don't know if more than half of the services we pay for even work," she said.

Equally alarming was a 2004 survey published in a peer-reviewed medical journal that asked physicians about the prevalence of medical errors, recounted Helen Darling, NBGH president. The survey found that while most physicians acknowledged there is a problem, they said they shouldn't do anything to remedy it.

Another survey published earlier this month in a peer-reviewed medical journal found that a majority of hospital executives didn't think

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NBGH calls for government data to enhance evidence-based medicine

By JOANNE WOJCIK

WASHINGTON—A group of the nation's largest employers is sitting down with the federal government to tap into its huge health care data warehouse as part of a larger effort to redesign benefit plans so they provide incentives to encourage the use of evidence-based medicine.

The National Business Group on Health's Committee on Evidence-Based Benefit Design decided to reach out to the U.S. Centers for Medicare & Medicaid Services after realizing there was a "stunning" lack of data on the efficacy of health care treatments available in the private sector, said Ned Holland, vp of compensation, benefits, labor and employee relations at Sprint Corp. in Overland Park, Kan.

"Health care lacks data," he asserted. "I always thought medicine was a science. Apparently not. We can't afford to be spending trillions of dollars on a system that lacks data."

Mining the data

But the Centers for Medicare & Medicaid Services is the "motherlode" of data, and the agency's recent initiative to create a national health care registry for implantable cardiac defibrillators will only add to it, Mr. Holland explained during a session on evidence-based benefit design during the NBGH's Business Health Agenda 2005, held March 16-18 in Washington.

'Health care lacks data, I always thought medicine was a science. Apparently not. We can't afford to be spending trillions of dollars on a system that lacks data.'

Ned Holland
Sprint Corp.

For example, now that CMS is requiring that the providers that implant the defibrillators in patients submit demographic, clinical and device information to the agency at the time of the procedures, CMS can track the effectiveness of the devices.

"We have, for perhaps the first time, CMS beginning to act like a purchaser, rather than like a payer," Mr. Holland said.

"Who would argue with the notion that if something's on the cutting edge and not entirely clear of its efficacy, that we ought to be tracking it, we ought to monitor it, and then make these decisions based on what we've learned?" he asked.

"I do believe that we need to make common cause with CMS," Mr. Holland said. "They're doing the same thing we're doing."

Improving quality, cost

Mr. Holland said he believes that if employers have sufficient data to support their coverage decisions, their efforts should lead not only to better-quality health care but a reduction in the overall cost of health care.

"Employers in the past were focused more on the bottom line than on good health care quality," Mr. Holland said. "But they're beginning to learn that good-quality health care leads to an improved bottom line."

"We do think we can use coverage policy to improve care. We ought to cover what works, not cover what doesn't work," Mr. Holland said.

But "only with the collective purchasing power can we drive change in the system that is long overdue," he said.

Medicare drug subsidy at risk for some firms

By JOANNE WOJCIK

WASHINGTON—Employers that plan to continue providing retiree drug benefits need to move fast to make sure their plan members don't sign up for Medicare Part D or they'll risk losing their 28% subsidy for 2006, retiree medical experts warn.

The U.S. Centers for Medicaid & Medicare Services will be sending out notices as early as April telling Medicare beneficiaries about the new drug benefit. Some retirees, if they are not made aware that their employer-sponsored plans provide such coverage, may sign up for the new benefit anyway, said Chris Moss, manager of benefits strategy and design at Verizon Communications in Irving, Texas.

While employers will be eligible to receive the government subsidy—estimated at $1,300 per retiree—only if they offer prescription drug coverage that is at "actuarially equivalent to" or better than that which will be available under Medicare Part D, the majority of those that already provide prescription drug coverage to retirees are likely to meet the threshold.

"We expect most employers to meet that test," said Kevin Shanklin, executive director, senior markets, at the Blue Cross & Blue Shield Assn. in Chicago.

Despite declines in recent years, today about one-third of all U.S. employers still provide retiree health care coverage, according to statistics collected by the BC/BS Assn.

And about half of the nation's large employers continue to offer such benefits, according to a show of hands at the National Business Group on Health's Business Health Agenda 2005, held March 16-18 in Washington.

About one-third of the employers that offer retiree coverage have completed their research into the impact of the new prescription drug benefit on their plans, Mr. Shanklin reported.

Those employers estimate that Medicare Part D will save them "at least 6%" on their retiree health care costs, he said.

"It's a subject that we quickly need to get a handle on, so that you can maximize what the opportunity may be for some of your organizations in terms of increasing savings," Mr. Shanklin said.

The deadline for filing an actuarial attestation to receive the subsidy for 2006 is Sept. 30.

NBGH honors employers for health care efforts

WASHINGTON—Honeywell Corp., Union Pacific Railroad and General Electric Energy were recognized by the National Business Group on Health for their outstanding performance and commitment to providing high-quality health care benefits to their employees.

Morristown, N.J.-based Honeywell was awarded the President's Health Benefits Communication Award for its HealthResource program, which empowers employees and their dependents to make the right health care decisions by providing them with educational resources.

The President's Health Improvement Award was given to Atlanta-based GE Energy for its Diabetes at Work program, which identifies employees who either already have diabetes or are likely to get it due to being overweight, using voluntary on-site screenings and inviting them to participate in a six-month diabetes disease management program.

Omaha, Neb.-based Union Pacific received the President's Healthy Weight, Healthy Lifestyles Award for its Health Track program, which aims to improve its employees' physical and mental health through lifestyle change and risk reduction.

Four hundred and fifty employers and health care industry executives attended this year's Business Health Agenda in Washington. Next year's event, which also will be held in the nation's capital, is scheduled for March 15-17, 2006.

For more information about the organization and its conferences and initiatives, visit *www.businessgrouphealth.org*.

Evidence-based: Matter of trust

Continued from page 24

there is a problem with medical errors and, therefore, they didn't need to do anything about it, she said.

"These are the people who sit on the data. These are the people who know it's happening. These are the people who have had the responsibility since the 1930s for the safety and quality of health care," Ms. Darling said.

"When we walk into a hospital, unfortunately, most of us actually believe that we're going to be taken care of. And, unfortunately, much of the time, we not only aren't going to be taken care of, or our loved one, sometimes our own child, which is particularly heartbreaking, is, in fact, going to be hurt," she said.

Doctors and hospitals "tolerate systems that can identify these problems if they look at the data, but they don't want to look at the data, and they don't look at it," Ms. Darling said. "We have to insist on data, and we have to do everything we can to make that happen as fast as possible."

But for employees to become true health care consumers, they need to know about their doctors' and other medical providers' shortcomings, these and others attending the NBGH meeting concurred.

"They have to have complete information, which means they have to be informed about all of their treatment choices. They have to have information that tells them the outcome and quality of the choices that they're making," said Mr. Hayes.

Cost information—something that is rarely available to patients—also is essential to fostering consumerism in health care, he added.

If supermarkets operated the way doctors and hospitals did in terms of pricing, rather than putting prices on individual items, they would charge by the basket, Mr. Hayes said.

Ms. Chambers agreed.

"Today we know customers benefit if we do the things that we know will work. We don't do things at Wal-Mart simply because that's the way they've always been done," she said.

Commentary

'Madness' makes business sense

As I write this, March Madness is in full swing, captivating the attention—and the imagination—of even casual sports fans across the country.

The NCAA men's basketball tournament has become an amazing force in the United States. People who might not watch a game all season long suddenly find themselves hanging on every jump shot, living and dying with the successes and failures of a bunch of 20-year-olds, finding themselves positively sickened by accounts of twisted ankles or sprained thumbs.

It's amazing what a few bucks in an office pool will do.

I love college basketball. And I love the tournament. In the days before the Internet, I was flying to London the Friday night of the regional finals weekend. This was pre-Internet, so by midday Sunday, with no access to any tournament coverage by way of the International Herald-Tribune or the international edition of USA Today until at least Monday morning, I did the only logical thing—I made my way to the U.S. embassy.


Rodd Zolkos

Being Sunday, the embassy was closed. And the English police officer on the stairs, while polite, seemed less convinced than I that mine was the logical course. Initially, he displayed genuine concern in asking whether my visit was an emergency matter. After I explained the nature of my business, though, he advised me, politely still but now, I believe, with concern for my sanity, that the embassy would reopen Monday.

If there were a year that I might not be excited about the tournament, you might expect it to be this one. My home state of Indiana went 0 for Selection Sunday this year (amazingly but deservedly), making March gloomier than normal in the ancestral homeland.

But March Madness has a way of drawing you in and always giving you someone to cheer for. And for me this year, the only possible choice (and this will anger a couple of former bosses—Syracuse alums) was the University of Vermont.

I was in Vermont toward the end of the regular college basketball season, working on *BI's* annual captive insurance report. There was no avoiding getting caught up in the excitement over the Catamounts and their excellent season. And the real beauty, I found, was that this wasn't a North Carolina or a Kentucky or a Kansas, where a trip to the tournament each year is considered a God-given right. No, this was Vermont, where seeing the UVM basketball team in the national spotlight was truly something special and a cause for local celebration.

Caught up in the excitement over Taylor Coppenrath, T.J. Sorrentine, retiring Coach Tom Brennan and the rest of the Catamounts, I came home from that February trip with a Vermont Basketball T-shirt, though nobody around here is going to believe I bought it before the Syracuse upset.

So anyway, I get pretty into the whole March Madness thing. But I'm still kind of overwhelmed by what a massive event it's become and all the attention that is paid to it. The news media coverage surrounding the tournament each year has become overwhelming. And a regular feature of the tournament coverage in recent years seems to be the stories about office pools and the impact of workday first-round games on U.S. productivity.

As it turns out, a study by the Society of Human Resource Management in 1999 concluded that workplace gambling has little effect on productivity. The survey then found that 30% of the workplaces responding had NCAA basketball tournament pools. I'd bet (pun intended) it's double that now. Not only did respondents suggest that office gambling doesn't have a negative impact on office productivity, 13% of those responding to the SHRM survey said, in fact, that gambling had a positive impact on productivity!

And now it seems there might be other workplace benefits as well. I read a couple of stories this month in which various human resources experts and corporate executives suggested that office NCAA pools are actually good for employee morale. They bring workers together, these experts suggest, and they wouldn't think of eliminating them in their offices.

Who would've thought that what some might shortsightedly see as illegal gambling activity is actually part of an enlightened employee wellness program.

In a week, the madness will be over for this year, but, according to these experts at least, businesses will reap the benefits all year long in the form of happier, more close knit, more productive employees.

You've got to love March Madness.

Senior Editor Rodd Zolkos can be reached at rzolkos@businessinsurance.com.

Comings & Goings-Buyers

Luis G. Pereira has been promoted to insurance director for Rohm & Haas Co., a Philadelphia-based specialty chemical manufacturing company.

He replaces Henry Good, who recently retired from the company and joined ABD Insurance & Financial Services, an insurance brokerage based in Redwood City, Calif., as a risk management consultant.


Mr. Pereira

Mr. Pereira is responsible for managing the company's insurance coverage and risk portfolios.

Before his promotion, he served as applications and data architect in corporate information technology.

Mr. Pereira earned a bachelor of accountancy at The George Washington University in Washington. He also received a master of business administration degree at Duke University's Fuqua School of Business in Durham, N.C.

***

Sara Hart has been promoted to director of corporate benefits for CNF Inc., a Palo Alto, Calif.-based supply chain service provider.

Ms. Hart directs the company's corporate benefit professionals in developing strategy, formulating policies and implementing procedures for the corporate employee benefits programs. She provides strategic leadership in health, welfare and retirement programs, as well as serving as principal adviser and senior internal consultant to company management on employee benefits programs, including design, development, implementation and maintenance.


Ms. Hart

Previously, she was manager of corporate benefits.

Ms. Hart received a bachelor of science degree from Portland State University in Portland, Ore.

***

Richard Krolak has been promoted to chief of the office of health policy and plan administration for the California Public Employees' Retirement System, based in Sacramento, Calif.

Mr. Krolak is responsible for overseeing administration of the self-funded plans and directing the health benefits branch's health policy unit and HMO contracts and compliance division.

This position previously was held by Terri Westbrook, who was promoted to assistant executive officer of the health benefits branch.

Before his promotion, Mr. Krolak served as chief of the long-term care program and chief of self-funded health plans and will continue to hold these positions.

Mr. Krolak earned a bachelor's degree from California State University, Sonoma, and a master's degree from Pullman, Wash.-based Washington State University, both in political science. He also received a Ph.D. in political science from the University of California, Riverside.

***

Kathleen A. McEndy has been appointed senior vp-human resources and administration for Philadelphia-based Independence Blue Cross.

Ms. McEndy will oversee human resources, employee benefits, business development, corporate planning and administrative services.


Ms. McEndy

She replaces Joseph A. Frick, who was elected president/CEO earlier in the year.

Previously, she served as senior vp-human resources and administration at Philadelphia-based Keystone Mercy Health Plan.

Ms. McEndy holds a bachelor of arts degree in psychology from Fairfield University in Fairfield, Conn., and a master of business administration degree from St. Joseph's University based in Philadelphia.

We'd like to report on staff changes in your risk management, safety and employee benefits departments. Contact Carrie A. Peinado, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; phone: 312-649-5313; fax: 312-649-7801; e-mail: cpeinado @businessinsurance.com.

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Aviation market moves toward greater transparency

London insurers agree to changes sought by European Union

By SARAH VEYSEY

LONDON—Aviation insurers in London have agreed to ensure greater transparency and competition following a European Commission investigation, the commission announced Wednesday.

E.U. competition authorities began investigating the London aviation market in December 2001, after a complaint by the Paris-based Fédération Nationale de l'Aviation Marchande, which represents the French aviation industry. The Sept. 11, 2001, terrorist attacks led many aviation insurers to withdraw from the market or revise coverage terms.

The European Commission in a statement said that London aviation insurers had agreed to reform their practices, but the commission did not say whether it had found evidence of wrongdoing. The reforms include more transparency in the workings of joint aviation committees that comprise underwriters from both Lloyd's of London and the London company insurance market.

A new committee, the Aviation Insurance Clauses Group, will be formed and consult with buyers of aviation insurance on proposed policy wording and clauses in contracts, the European Commission said.

In a statement, the International Underwriting Assn. said the members of that new group will be announced shortly.

In addition, London aviation insurers have agreed that in the event of an unforeseeable crisis such as war or terrorism, insurers will "limit any coordinated action to that which is indispensable to ensure that capacity continues to be available and customers can continue to buy insurance, and the effects on competition from the coordinated action are kept to a minimum."

E.U. investigators focused on London because it is the largest single market for aviation insurance and operates on a subscription basis, where multiple underwriters typically participate on aviation risks.

In a statement, the IUA, which represented London company market aviation insurers in discussions with the European Commission, said it welcomed the agreement.

"We believe that the reforms agreed with the Commission represent a constructive basis for the future operation of aviation insurance," it said.

Rod Dampier, aviation underwriter at Amlin P.L.C. in London, who represented the Lloyd's Market Assn. aviation committee in the talks, welcomed the agreement.

"These measures which, whilst recognizing the highly competitive nature of the global market within which we work, will strengthen transparency and good governance in the aviation insurance market for the benefit of both our customers and, ultimately, individual travelers," he said in a statement.

E.U. forces changes in London aviation market

- An Aviation Insurance Clauses Group will consult buyers on proposed policy wording and clauses in contracts.
- An Aviation Liaison Forum will reduce the risk of excessive coordination among the two leading aviation insurers' associations.
- A Crisis Response Protocol will ensure that competition is maintained even in crisis situations.

German insurers fined for alleged price fixing; some to appeal ruling

By SARAH VEYSEY

BONN, Germany—Germany's competition regulator has fined 10 insurers a total of 130 million euros ($171.7 million) for engaging in anti-competitive practices.

The Bonn-based Bundeskartellamt said last week that it had found evidence that the 10 insurers had, in some cases, agreed not to compete with one another on commercial insurance business for industrial risks.

10 insurers face fines

- Allianz Versicherungs A.G.
- AXA Versicherung A.G.
- Gerling-Konzern Allgemeine Versicherungs A.G.
- HDI Haftpflichtverband der Deutschen Industrie Versicherungsverein auf Gegenseitigkeit
- Aachner und Münchener Versicherung
- Gothaer Allgemeine Versicherung A.G.
- Mannheimer Versicherung A.G.
- R&V Allgemeine Versicherung A.G.
- Victoria Versicherung A.G.
- Württembergische Versicherung A.G.

The anti-competitive practices date back to 1999, the Bundeskartellamt said.

The investigation began in 2002, when German authorities raided the offices of 13 insurers across the country, looking for evidence of price fixing following steep increases in commercial insurance premiums (*BI*, Aug. 5, 2002). A year later, the Bundeskartellamt wrote to several insurers to request an explanation for certain practices discovered during the investigation.

Following the completion of its probe, the Bundeskartellamt said it imposed fines on 10 of the insurers it had investigated. They are: Allianz Versicherungs A.G.; AXA Versicherung A.G.; Gerling-Konzern Allgemeine Versicherungs A.G.; HDI Haftpflichtverband der Deutschen Industrie Versicherungsverein auf Gegenseitigkeit; Aachner und Münchener Versicherung; Gothaer Allgemeine Versicherung A.G.; Mannheimer Versicherung A.G.; R&V Allgemeine Versicherung A.G.; Victoria Versicherung A.G.; and Württembergische Versicherung A.G.

Individual amounts of fines were not disclosed, and the insurers have two weeks to appeal.

Allianz said in a statement that it intends to appeal the fine.

Several others insurers also have indicated that they intend to appeal, the Bundeskartellamt spokeswoman noted.

Mexican risk managers adapt to U.S. practices

Expansion means new challenges

By ROBERTO CENICEROS

MONTERREY, Mexico—Risk managers located in and around Monterrey, Mexico, are already adept at coping with the risks associated with enterprises doing business near the U.S. border, but more and more are having to develop their risk management skills as their organizations expand into the United States.

Workers compensation, pollution liability and other liability coverages are all being added to a list of coverages that the Monterrey-based policyholders must now purchase, they say.

Monterrey is home to many large, Mexican-owned multinational corporations, said Arturo W. Gutierrez, regional director for broker Alexander Forbes Monterrey, a unit of London-based Alexander Forbes Ltd.

Therefore, the business center in the northern state of Nuevo Leon, about two hours' drive from the U.S. border, is an important market for commercial insurers and the emergence of risk management techniques in Mexico, Mr. Gutierrez said.

Several of Monterrey's risk managers say that, until a few years ago, they purchased mostly just property coverage for their Mexican operations. Because Mexico's legal and regulatory systems imposed few liabilities on them, they had no incentive to consider the various casualty insurance arrangements familiar to their counterparts in the United States.

But five years ago, Grupo IMSA S.A. de C.V. began acquiring business units in the United States, said Jesus Rodriguez Trevino, international risk manager for the company based in San Pedro Garza Garcia, Nuevo Leon.

Now Mr. Rodriguez purchases pollution liability coverage for a steel processing facility located alongside a river in Kalama, Wash., and earthquake insurance for another facility in Rancho Cucamonga, Calif. He buys the insurance from ACE International, a unit of Hamilton, Bermuda-based ACE Ltd., which also insures IMSA facilities in Mexico and Europe.

Mr. Rodriguez also buys product liability insurance for a ladder manufacturing unit in Louisville, Ky. With more than 3,000 employees in the United States, Mr. Rodriguez said he also obtains employee benefit products for the group from companies such as Philadelphia-based CIGNA Corp.

While IMSA spends about $400 per employee per year on health care costs in Mexico, it spends about $7,000 per employee in the Untied States.

In Mexico, most insurance ser-

See MEXICO/next page

World Updates

Through Transport posts 2004 surplus

The Through Transport Mutual Insurance Assn. Ltd. posted a surplus of $32.2 million for 2004, up from $7.1 million in 2003. The Bermuda-based mutual company, which insures port operators and transport and logistics operators, among others, said its combined ratio was 74.9% in 2004, compared with 95.7% in 2003.

Bill would update corporate killing law

A new draft corporate manslaughter bill has been introduced by Charles Clarke MP, the U.K. Home Secretary. Under the draft proposals, the offense of corporate manslaughter will be deemed to be committed by organizations, not individuals. Under current corporate manslaughter law, a person considered to be a "controlling mind" of a company must be found guilty of negligence for a prosecution to succeed.

PHOTO: GETTY

Mr. Clarke

Two stand for election to Converium board

Markus Dennler, former chief executive of Credit Suisse Group's life and pensions operations, and Rudolf Kellenberger, former deputy CEO of Swiss Reinsurance Co., are standing for election to Converium Holding Ltd.'s board of directors. Zug, Switzerland-based Converium in a statement said the board elections will take place at the company's annual general meeting April 12.

FSA OKs Catlin to begin underwriting

The U.K. Financial Services Authority has approved Catlin Insurance Co. (UK) Ltd. to begin underwriting. In addition, A.M. Best Co. has assigned a financial strength rating of A to Catlin UK, the London-based insurance unit of Bermuda-based Catlin Insurance Co. Ltd. The newly formed insurer will underwrite U.K. business formerly written by Catlin's U.K. branch.

Claims management regulations introduced

Lord Charles Falconer, the Lord Chancellor, said Tuesday that the U.K. government will introduce legislation to regulate claims management companies. Currently claims management companies in the United Kingdom are self-regulated.

Mexico: Risk managers adapting to U.S. practices

Continued from previous page

vices such as claims adjusting are still provided by generalists, Mr. Rodriguez said. But for U.S. operations, there has been a range of specialty insurance services he has had to acquaint himself with. For example, Mr. Rodriguez contracts with Atlanta-based Crawford & Co. for workers compensation third-party administration service for his U.S. risks.

Workers comp TPA services were not an issue before IMSA entered the United States. Now for Mr. Rodriguez, as for most U.S. risk managers, workers compensation is one of his most difficult challenges, he said.

Most work-related injuries in Mexico are handled by corporate human resources professionals rather than risk management departments, said Jose E. Castro, founder of Enterprise Risk Solutions S.C., a consultant based in San Pedro Garza Garcia. Injured Mexican workers receive treatment from the Instituto Mexicano Del Seguro Social, Mexico's public health system, Mr. Castro said.

Participation in RIMS will lend local risk managers greater clout, so they can convince upper management of the value of concepts such as enterprise risk management.

Judith Palacios Castell Blanch
Corporativo Copamex S.A. de C.V.

IMSA's story about expansion into the United States is not unique around Monterrey.

A risk manager for a Monterrey home cleaning products company who asked not to be identified by name explained that with many Mexicans migrating north of the border, her company has opened a U.S. manufacturing facility to continue providing to the expatriates the goods they were familiar with in Mexico.

To help risk managers around Monterrey gain a broader understanding of insurance products, services and risk management techniques in the United States, several of them launched the Mexico chapter of the Risk and Insurance Management Society Inc. nearly a year ago.

The chapter emerged from the Asociacion de Administradores de Riesgos del Noreste A.C., a risk manager organization formed three years earlier. ARNAC now exists alongside the Mexico RIMS chapter. The two organizations sponsored a risk management conference March 3-4 that attracted about 300 participants.

Participation in RIMS will lend local risk managers greater clout, so they can convince upper management in Monterrey companies of the value of concepts such as enterprise risk management, said Judith Palacios Castell Blanch. Ms. Palacios is president of ARNAC and director of risk management for Corporativo Copamex S.A. de C.V., a Monterrey-based paper products company.

Some Monterrey-area companies, though, already employ enterprise risk management and other sophisticated risk management techniques that they are spreading to their operations in other parts of the world.

CEMEX S.A. de C.V., for example, uses ERM, owns a Bermuda-based captive and maps and measures all aspects of its risks and risk prevention efforts, said Rene A. Martinez, CEMEX director of risk management.

CEMEX is the world's third-largest cement producer, with operations in 30 countries and business dealings in dozens more, Mr. Martinez said. Its risk management practices are replicated across regions of Asia, Europe, the Middle East, Latin America, and other areas as it acquires new business units.

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Products & Services

Program aids compliance with Sarbanes-Oxley

CONSHOHOCKEN, Pa.—RippleTech, a provider of systems management, compliance, security and audit software, is offering a Sarbanes-Oxley compliance program that gives access to audit data and provides the ability to report on controls to meet the act's requirements.

The LogCaster for Sarbanes-Oxley is an event log consolidation product that simplifies Section 404 compliance. It provides event log management, audit policy change details and file and object access control. The Conshohocken, Pa.-based RippleTech's "SOX in a Box" system provides proof of compliance by producing reports on the control of financial data.

For more information, contact Peter Senescu, vp-sales, at 610-862-4000, ext. 325, or visit *www.rippletech.com*.

Zurich offers hospitality, leisure coverage package

SCHAUMBURG, Ill.—Zurich Financial Services is offering specialized hospitality and leisure coverages in a combined endorsement targeted to limited-service, full-service and resort companies in the hospitality and leisure business.

Schaumburg, Ill.-based Zurich's Hospitality/Leisure Industries Coverage Endorsement addresses specific coverage needs by

combining separate coverage endorsements into a single package. The product offers the following coverages: computer fraud; customer inconvenience; employee dishonesty; expediting expenses; extortion; food contamination; lost master key; spoilage; and trees, shrubs and plants.

Limits of up to $100,000 are available.

For more information, contact James Merva, chief property underwriter, at 847-413-5410. More information can also be found by visiting *www.zurich.com*.

IFEBP issues edition of benefits glossary

BROOKFIELD, Wis.—The International Foundation of Employee Benefit Plans has published the 11th edition of its Benefits and Compensation Glossary, which defines employee benefits and compensation terminology.

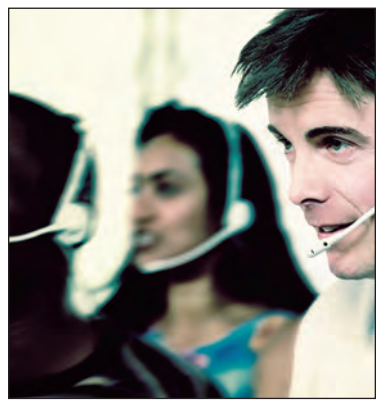
The guide includes an updated list of almost 800 acronyms and abbreviations and more than 2,200 definitions. The Brookfield, Wis.-based IFEBP's glossary includes definitions in topic areas such as HIPAA privacy legislation, health care cost containment strategies, labor law and labor relations, among others.

To obtain a copy of the book, contact the organization's publications department at 888-334-3327, option 4, or at *books@ifebp.org*. To learn more, visit *www.ifebp.org/bookstore*.

MetLife issues report on call center absences

NEW YORK—MetLife has released a report on the absence trends of call center employees, which is intended to help employers with call centers better understand the factors that contribute to absences and find workplace solutions.

New York-based MetLife's "The Call Center: Absence, Lost Productivity and Seven Solutions" guide is based on industry data and analysis of the company's short-term disability data from industries that rely on call centers, which include finance, mobile technology, telecommunications and travel.



The report consists of data on three subjects, including observations about the typical call center, which discusses job functions, worker demographics and work environment; problems that affect the call center productivity, which presents problems and analyzes disability condition statistics; and solutions that positively affect productivity, which provides employers with ways to improve productivity.

To obtain a copy of the report, visit *www.metlifeiseasier.com/disabilityalmanac/archive.asp*.

Philadelphia Insurance targets golf, country clubs

BALA CYNWYD, Pa.—Philadelphia Insurance Cos. is offering a golf and country club insurance program targeted to high-end daily fee golf facilities and private country clubs.

The Bala Cynwyd-based Philadelphia Insurance's program includes property, auto, general liability, liquor and crime coverage. Some of the other benefits include coverage provided for pro shops, swimming pools and tennis courts and tee-to-green coverage for golf courses.

The available general liability limits are up to $1 million per occurrence and $3 million aggregate. Umbrella liability limits are up to $10 million.

More information can be obtained by visiting the company's Web site at *www.phly.com*.

Best releases 2005 underwriting guide

OLDWICK, N.J.—A.M. Best Co. Inc. has released the first 2005 version of Best's Underwriting Guide, which is updated four times a year.

This latest version features updated and revised risk classifications. The guide includes descriptions of over 575 risk classifications and also provides relevant hazards and safety measures, lines of liability to consider and Standard Industrial Classification and Insurance Services Office codes. Some of the revised classifications include adoption agencies, camera stores, direct-selling organizations, tanneries and skateboard parks. Also, other classifications have been updated to include new information, including catering, motorcycle dealers, sporting good stores and tailors, among others.

The Best's Underwriting Guide is available on CD-ROM or online. To learn more, contact Best's customer service at 908-439-2200, ext. 5742, or visit *www.ambest.com/buglcm*.

We'd like to report on new risk management and employee benefit products and services offered by your company. Please send information about your new offerings to: Carrie A. Peinado, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; telephone: 312-649-5313; fax: 312-649-7801; e-mail: cpeinado@businessinsurance.com.

N.Y. appeals court rules domestic partner exclusion constitutional

By ROBERTO CENICEROS

ALBANY, N.Y.—A workers compensation law that excludes death benefits for domestic partners passes constitutional muster, a New York appeals court ruled last week.

The claimant in *Valentine vs. American Airlines* was a New York City-registered domestic partner for 21 years with a man who died in November 2001 while working as a flight attendant. The two owned a home together, jointly held bank accounts and designated each other as executors and beneficiaries in legal documents, court records show.

But New York's Workers Compensation Board in July 2003 found that the claimant was not entitled to death benefits because he did not meet the definition of a "surviving spouse," which applies only to a spouse in a legally valid marriage.

The appeals court on March 17 upheld the ruling, finding that "permitting only legal spouses to receive workers' compensation death benefits is rationally related to the state's legitimate interest in providing for the efficient, swift, and consistent processing and payment of such benefits."

Furthermore, a law that New York legislators passed to provide workers comp death benefits to survivors of the Sept. 11, 2001, terrorist attacks only applies to that incident, the appeals court said.

Valentine vs. American Airlines; State of New York Supreme Court, Appellate Division, 3rd Judicial Department, No. 95874.

North Dakota: RRGs gain ground, avoid legal battle

Continued from page 4
from authorized insurers.

Oregon regulators said RRGs could not offer reimbursement policies to dealers because RRGs are not authorized insurers.

The finding of the Oregon regulators was challenged by an RRG, which said Oregon's requirement violated the Risk Retention Act, which permits an RRG to operate nationwide after meeting the licensing requirements of one state. The act also pre-empts state laws that discriminate against RRGs.

That assessment was affirmed by two courts, including the 9th U.S. Circuit Court of Appeals, which ruled that while Oregon has the authority under the Risk Retention Act to prevent a financially unsound RRG from writing coverage, "it may not categorically exclude coverage from all RRGs" (*BI*, June 12, 2000).

Initially, North Dakota legislators took an approach similar to that of Oregon. The Senate bill, S.B. 2096, would require reimbursement policies purchased by auto dealers or distributors on the service contracts they sell to be issued by insurers that are members of the state guaranty association, a requirement au-

S.B. 2096 'would have eliminated the ability of RRGs' to write dealer reimbursement policies.

Don Griffin
Property Casualty Insurers Assn.

tomatically knocking RRGs out of the reimbursement policy market.

RRGs, along with insurers, protested, warning that the North Dakota Senate's approach violated federal law and ran afoul of the appellate court ruling in the Oregon case. The Senate bill "would have eliminated the ability of RRGs to do this kind of business," said Don Griffin, vp-personal lines at the Property Casualty Insurers Assn. in Des Plaines, Ill.

RRGs and insurers, working with House legislators, fashioned a new approach—incorporated in the House-passed bill—that details what criteria a reimbursement policy would have to meet to be considered eligible coverage for auto dealers and distributors that provide service contracts.

Among other things, the policy would have to be issued by an insurer that maintains capital and surplus of at least $15 million or maintain capital and surplus of at least $10 million and a ratio of net written premium to capital and surplus of no greater than three to one.

The House approach "preserves the ability of RRGs to compete for business and provide financial solvency standards that will work for all entities," Mr. Griffin said.

Property/casualty insurers' 2004 year-end results

Ranked by net income. All amounts are in thousands of dollars.

	Corporate			Property/casualty operations					
	Net income	Percent increase (decrease) 2003-2004	Consolidated revenues 2004	Combined ratio 2004[1]	Combined ratio 2003[1]	Net premiums written 2004	Percent increase (decrease) 2003-2004	Policyholder surplus 2004	Percent increase (decrease) 2003-2004
American International Group Inc.	$11,047,800[3]	19.1%	$98,610,000	95.0%[2]	92.4%[2]	$41,902,100[2]	15.5%	N/A	N/A
Hartford Financial Services Group Inc.	2,115,000	N/M[4]	22,693,000	95.3	96.5	9,904,000[2]	12.0	$6,400,000	8.5%
Chubb Corp.	1,548,400	91.4	13,177,200	92.3	98.0	12,052,900	8.9	7,800,000	22.5
Liberty Mutual Insurance Co.	1,245,000	46.3	19,641,000	105.5[2]	106.4[2]	13,205,000[2]	15.4	8,739,000	21.1
ACE Ltd.	1,139,089	(19.6)	12,332,125	96.6	91.5	11,528,346	12.9	9,835,812	11.3
The St. Paul Travelers Cos. Inc.	955,000	(43.7)	22,934,000	107.7	96.3	18,936,000	43.4	15,112,000	79.0
Cincinnati Financial Corp.	584,021	56.0	3,614,355	89.8	94.8	2,996,999	6.5	4,191,159	50.8
SAFECO Corp.	562,400	65.8	6,195,400	91.5	100.1	5,675,800	11.0	3,430,900	23.0
CNA Financial Corp.	441,000	N/M[4]	9,930,000	106.1[2]	153.9[2]	7,090,000[2]	1.4	7,100,000	15.1
Old Republic International	435,010	(5.4)	3,491,699	90.7	93.3	1,701,150[2]	16.5	2,006,919	8.1
American Financial Group	359,900	24.2	3,906,300	94.8	98.9	2,229,300	10.8	2,071,000	14.2
Ohio Casualty Corp.	128,400	69.4	1,671,000	98.4[2]	106.1[2]	1,453,900[2]	0.8	972,000	12.0
RLI Corp.	73,036	2.4	578,800	92.2	92.0	511,212	7.8	623,661	12.5
Argonaut Group Inc.	71,800	(34.1)	704,200	99.8	104.2	669,500	13.0	603,400	11.9
Cumulative	$20,705,856	33.3%	$219,479,079	98.2%	99.8%	$129,856,207	17.1%	$68,885,851	27.3%

1 Includes dividends 2 Statutory 3 Results may be restated 4 Comparison not meaningful due to 2003 loss. N/A Company did not provide data
Source: *BI* survey

Results: Strong earnings in 2004, future uncertain

Continued from page 3
at Fox-Pitt Kelton Inc. in Hartford, Conn., said, "We had several companies that had to up their third-quarter Florida estimates, but I think, generally speaking, when you strip that away, there really wasn't that much on the cat front and…a lot of companies had good underlying underwriting numbers now on the premium side."

Earnings are likely to continue to be strong this year as well, say observers. "We think it's going to be another very strong year for earnings in the commercial lines sector," said S&P's Mr. Iten. Even in the second half of 2004, when prices started to fall, "the margins were still quite good, so we expect a lot of that to carry over into 2005," he said.

"There will inevitably be some reserve strengthening, but not to where it materially impacts the overall industry results," he said.

While premium growth will be lower in 2005, "underwriting margins, which are still benefiting from the strong pricing environment of the last couple for years," will remain positive, if somewhat less so than in 2004, said Peter C. Streit, an analyst with Williams Capital Group in New York.

"So far, so good," said J. Paul Newsome, vp and senior equity analyst with A.G. Edwards & Sons Inc. in St. Louis.

"We haven't seen a ton of weather catastrophes so far," said Mr. Newsome. While 2005 results will look favorable in comparison to 2004's because of last year's third-quarter hurricane losses, "I'd expect you're going to see a deterioration in their underwriting margins."

Softer market to last

Insurance buyers will continue to see rates softening, say observers.

"Rates seem to be softening across the board, although not dramatically in most cases," said Mr. Iten.

"You keep hearing about (directors and officers liability), but that seems to be mostly in the upper layers of the D&O program, and, overall, the market seems to be behaving pretty well at this point," he said. Furthermore, "the reinsurers have been basically staying disciplined" and have not given the primary companies any incentive to compete aggressively, said Mr. Iten.

'It doesn't look like the insurance industry is falling apart. Instead, it looks like a relentless, incremental increase in competition, day by day, month by month.'

J. Paul Newsome
A.G. Edwards & Sons Inc.

Mr. Newsome said, "It doesn't look like the insurance industry is falling apart. Instead, it looks like a relentless, incremental increase in competition, day by day, month by month."

Jeffrey Berg, an analyst with Moody's Investors Service in New York, said, "We have concerns here about the potential here to have a long downward spike" in the P/C cycle.

Karen Horvath, vp with Oldwick, N.J.-based A.M. Best Co., said that her rating agency is concerned that "we're moving very quickly into a softening market. And although we still expect '05 to have good results as the rates for 2004 are earned, we are concerned about 2006 and beyond."

Last year was "probably the peak year for the underwriting results in the current cycle, and we think that in '05 things could be a little tougher" for insurers, said Mr. Rouck of Fitch Ratings.

Meanwhile, other concerns remain, including whether the Terrorism Risk Insurance Act will be renewed beyond its Dec. 31 sunset. Bills to extend TRIA have been introduced in both chambers of Congress but there has been little action on the bills.

"We expect, when all is said and done, that it will be renewed," said Ms. Horvath. She added, though, "I'm a little bit concerned at this point that some companies may not be proactively managing their underlying exposure and are really just banking on TRIA being renewed at reasonably similar terms that it has now."

There is also concern about the outcome of investigations by New York Attorney General Eliot Spitzer and other state attorneys general, as well as those by the U.S. Securities and Exchange Commission and the Justice Department, much of which now seem to be focused on insurers' use of finite risk reinsurance.

Mark Lane, principal and research analyst with William Blair & Co. in Chicago, said these could result in restrictions on the subjectivity that is now associated with insurance accounting. "I think, from a stock perspective, that could potentially have some impact on valuation for the group," Mr. Lane said. But "from a buyer's perspective," he said, "I'm not so sure it changes that much, at least in the near term."

AIG UNDER PRESSURE

AIG: Execs fired for refusal to answer questions

Continued from page 1

documents related to Enron Corp., has since sold its assets to other accounting firms.

"The consequences of not cooperating can be very severe," said Lowell Peterson, an attorney with Meyer, Suozzi, English & Klein P.C. in New York. "Arthur Andersen didn't go down because of bad advice it gave to Enron; it went down because of shredding in the face of an investigation," he said. Likewise, "Martha Stewart didn't go to jail because of insider trading; she went to jail because of misrepresenting things during a government investigation," he said.

Aggressive investigators

The more aggressive stance by federal prosecutors can be traced, in part, to the Department of Justice, which in 2003 issued a revised memorandum to assist federal prosecutors in their decision on whether to prosecute a corporation.

"In gauging the extent of the corporation's cooperation, the prosecutor may consider the corporation's willingness to identify the culprits within the corporation, including senior executives; to make witnesses available; to disclose the complete results of its internal investigation; and to waive attorney-client and work product protection," former U.S. Deputy Attorney General Larry Thompson wrote in the memo.

While state attorneys general do not have to follow the federal guidelines, attorneys agree that most generally do.

Accordingly, AIG's decision to terminate two employees involved in a probe was not surprising, attorneys say.

New York Attorney General Eliot Spitzer and the U.S. Securities and Exchange Commission are investigating AIG's accounting treatment of various reinsurance contracts, including a retrocessional loss portfolio transfer contract assumed by AIG from General Reinsurance Corp. That deal is believed to have led to the departure of longtime Chief Executive Officer Maurice R. Greenberg earlier this month (*BI*, March 21).

During depositions last Monday with attorneys from Mr. Spitzer's office, Howard I. Smith, AIG's former chief financial officer, and Christian M. Milton, former vp-reinsurance, declined to answer some questions on the advice of their attorneys, according to a person familiar with the investigation.

AIG later on Monday terminated the employees, who previously had been placed on leave. A spokesman for the insurer said they were dismissed for violating company policy that "requires employees to cooperate with governmental authorities on matters pertaining to the company."

Attorneys say AIG is just following the rules of cooperation.

'Companies are so panicked...they are taking it to what I consider unnecessary extremes—firing people, not supporting them and quickly waiving their attorney-client privilege.'

Steven Kimelman
Arent Fox P.L.L.C.

"The government's position is essentially that the corporation is completely separate and distinct from its officers and that the corporation has no interest in protecting or defending its officers," Mr. Schiffman said.

Mr. Schiffman said that AIG, by firing the executives, is saying, " 'It is in the interest of AIG and the survival of the corporation to continue to be on the side of cooperating, and if our executives choose not to cooperate with the government, which they are constitutionally entitled to do, we're going to sever our relationship with them.'"

"It's an attempt to impress the government," he said.

Going too far?

Other attorneys say that the new policies, while sometimes necessary in responding to a state or federal investigation, can go too far.

"Companies are so panicked …they are taking it to what I consider unnecessary extremes—firing people, not supporting them and quickly waiving their attorney-client privilege," said Steven Kimelman, an attorney with Arent Fox P.L.L.C. and co-chair of the firm's corporate compliance and government enforcement practice group in New York.

Boards of directors, in the hopes of gaining leniency from prosecutors, are saying, "Our responsibility is to the company first, and our support of our employees is secondary," Mr. Kimelman said.

"I personally think the government is bullying corporations at the expense of the individual freedoms and liberties of corporate executives who are requested to testify," said Jerry Reisman, a defense attorney with Reisman, Peirez & Reisman in Garden City, N.Y.

"It's wrong for corporations, in my opinion, to fire corporate executives who refuse to cooperate with government investigators merely because a corporate executive exerted his or her constitutional right to due process and against self-incrimination. In our system, you're innocent until proven guilty; you're not guilty…because you asserted your constitutional right," he said.

"In the final analysis, if it's a matter of saving a corporation from criminal prosecution…vs. cutting an officer or a director or an employee loose, I don't think corporations have a choice anymore," said Michael B. Himmell, chairman of Lowenstein, Sandler P.C.'s white-collar criminal defense practice group in New York.

"For all intents and purposes, Justice has put a gun to the head of corporations and their boards—that if you're not going to come clean and waive the attorney-client privilege and tell us everything and anything you know, then you're going to be right in the middle of the radar screen along with the individuals we seek to prosecute."

"I think it's bad policy, and the pendulum will swing back," Mr. Schiffman said. "But having said that, this is the path that virtually all corporate defendants are following these days. It's what the government demands, and if the government demands it, the corporate defendant is hard pressed to refuse it."

Heath: Insurers are skeptical

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Spitzer's lawsuit against Marsh & McLennan Cos. Inc. That suit charged Marsh with fraudulent self-dealing in its collection of undisclosed contingent commissions. Such payments typically are based on the volume of profitability of business placed with an insurer.

Marsh, and its chief rival, Aon Corp., both have since settled charges related to their contingent commission practices and have ceased collecting volume- or profit-based commissions from insurers. Heath Lambert has not faced any charges.

Marsh has since moved to a standardized rate card with insurers that includes a higher upfront commission structure in the United States (*BI,* March 7). A spokesman for Marsh said the broker is in discussions with U.K. insurers about payments for its services.

Aon's London arm, Aon Ltd., has said that it will charge insurers a fixed and transparent fee for services such as policy issuance and claims handling (*BI*, Dec. 27, 2004). Aon estimates that the fees will range between 2.5% and 3.75% of the premium, depending on the type of business.

Mr. Colosso said Heath Lambert's new payment model was based on the costs of providing services to insurers and the premium volume processed by the company. He said that the 1% flat charge would cover Heath Lambert's overall costs of providing services to insurers, which vary from company to company.

"It is right that we are properly rewarded for work carried out on behalf of insurers that is separate from work undertaken for our clients," he said.

Heath Lambert collected £1.6 million ($2.8 million) in contingent commissions in 2003, representing 0.52% of its revenues of £304 million ($532 million) for that year.

Mr. Colosso said that Heath Lambert has been consulting with insurers about the proposed changes for several months. He said the broker now would write to its more than 17,000 clients to explain the changes.

David Gamble, executive director of the London-based Assn. of Insurance & Risk Managers, said the association welcomes "any move toward transparency." But Mr. Gamble said AIRMIC believes that any payment should be related to the amount of work performed by the broker, and not to the volume of business placed.

And a London-based risk manager who asked not to be identified—and who is not a client of Heath Lambert—said the new model would make the brokerage's charges more transparent.

He noted that Heath Lambert's decision to charge 1% of premium regardless of where the business is placed will distance it from the practice of contingent commissions, whereby any commission received generally is dependent on the volume of business placed with a particular insurer.

Insurers, though, are skeptical about Heath Lambert's new model.

Bill Rendall, head of underwriting and claims at the Lloyd's Market Assn. in London, said that underwriters likely would not accept Heath Lambert's model.

The LMA, which represents underwriters in the Lloyd's of London market, considers the broker to be the agent of the buyer, he said. Thus, the broker should be paid by the buyer for services provided, he said, rather than by the insurer.

Heath Lambert's new model, Mr. Rendall said, does not adhere to that concept.

The LMA expressed similar concerns about Aon's proposal (*BI,* Feb. 14).

Mr. Rendall also said the LMA was uncomfortable with the fact that the fee was an "across the board" charge, regardless of what services are provided.

In an open letter, Tony Medniuk, chairman of the International Underwriting Assn., which represents London insurance market companies, said he believes the services for which Heath Lambert will charge the 1% of premium "are ultimately performed on behalf of the client for whom the broker is the agent." Underwriters, therefore, should not be required to pay a commission, he said.

If Heath Lambert is proposing itself as an agent of the insurer as well as the buyer, then this could cause a conflict of interest, he said.

Washington closing med mal aid program

By MEG FLETCHER

TUMWATER, Wash.—Washington State Insurance Commissioner Mike Kreidler is closing the voluntary Market Assistance Program for medical malpractice insurance due to a lack of business.

Improving market conditions prompted his decision to close the state program on March 31, Mr. Kreidler said in a statement last Tuesday. Specifically, "the availability of medical malpractice insurance is improving and costs are beginning to go down."

In addition, only two physicians had applied for assistance in the last eight months, he said.

Washington state's latest hard market for medical malpractice coverage developed in early 2002 after some large medical liability insurers withdrew from the market. That left nearly 1,300 physicians and health care providers in need of new coverage, according to the statement from the Office of the Insurance Commissioner.

That office helped hundreds of health care providers find new coverage before it formally established the MAP in July 2002.

Under the MAP, participating insurers formed voluntary partnerships with local insurance agents and brokers to shop applications for coverage to determine which insurer was best suited to accept the risk.

Just over half of the applicants to the MAP—32 of 62—were successfully placed with one of the participating liability insurers.

"Most of the physicians and medical providers unable to obtain coverage through the MAP were denied for prior claims histories or gaps in coverage," the statement said.

Late News

Continued from page 1

WCIRB calls for drop in Calif. comp rates

The Workers' Compensation Insurance Rating Bureau has recommended that California insurers reduce their pure premium rates by 10.4% for policies renewing or incepting on or after July 1. The reduction is possible because data shows a decrease in claim frequency and a slight dip in severity for accident year 2004, a WCIRB spokesman said. The data reflects savings resulting from workers comp reforms that California has adopted over the past two years. California's Insurance Department can only pass the recommendation on to insurers; it cannot require them to lower rates.

Montana caps captive tax

Annual premium taxes paid by captives licensed in Montana would be capped at $100,000 under a measure given final approval by state legislators. While none of the 10 captives now domiciled in Montana generate enough premium volume to benefit from the cap, state captive officials say such a limit is needed if Montana is to attract large captives. The cap would take effect as soon as Gov. Brian Schweitzer signs the bill, S.B. 134, into law.

Asbestos trust fund bill introduced in House

A group of House members has introduced legislation that would create a national trust fund to compensate victims of asbestos-related disease. Rep. Mark Kirk, R-Ill., the bill's chief sponsor, in a statement said the Fairness in Asbestos Injury Resolution Act—H.R. 1360—would follow the framework negotiated in the Senate last year, which calls for defendant companies and their insurers to pay for a $140 billion fund. Senate Judiciary Committee Chairman Arlen Specter, R-Pa., has been working on an asbestos trust fund bill in the current Senate, but no final language has been approved.

Rep. Kirk

Former HIH exec pleads guilty

Terry Cassidy, former managing director-Australia of failed insurer HIH Insurance Ltd., last week pleaded guilty to three criminal charges "arising from his management" of HIH from 1998 to 2000, the Australian Securities and Investments Commission said. Sentencing is scheduled for April. In December, former HIH Chief Executive Ray Williams pleaded guilty to criminal charges of mismanagement related to the insurer's 2001 collapse. HIH's $5.3 billion Australian ($2.72 billion) insolvency was Australia's largest corporate failure.

SCOR returns to profit

French reinsurer SCOR S.A. recorded net income of 68.7 million euros ($70.1 million) for 2004, compared with a 314 million euro ($396.0 million) loss in 2003. SCOR's 2003 loss stemmed largely from reserve additions for U.S. business written in 2001 and prior years and for alternative risk transfer and credit derivatives business. SCOR's gross written premiums declined 31.7% in 2004 to 2.52 billion euros ($3.42 billion), which the Paris-based reinsurer attributed in part to a reduction in business placed with its large corporate accounts division after SCOR's financial strength ratings were downgraded out of the A range in 2003.

Marsh co-president Garvey resigns

Peter F. Garvey, co-president of Marsh Inc. and head of its North American brokerage operations, resigned Tuesday, less than four months after being named to the post. William A. Malloy, the other co-president of Marsh, will become president. A spokeswoman for Marsh & McLennan Cos. Inc. declined to pelaborate on the reasons for Mr. Garvey's departure, which is effective immediately. Messrs. Garvey and Malloy were appointed to the office of co-president in November 2004, following an executive shake-up in that brought the resignations of several top executives amid the probe of fraud and anti-competitive practices at Marsh.

Hewlett-Packard workers charge misclassification

Hewlett-Packard Co. is facing a lawsuit charging that it wrongly denied benefits to more than 3,000 employees by incorrectly classifying them as contract or contingent workers. The lawsuit, which was filed in U.S. District Court for the District of Idaho in Boise and which seeks class action status, claims that the workers were common-law employees of Hewlett-Packard even though they were employed by third parties or temporary agencies. The complaint seeks more than $300 million in damages and expenses. A Hewlett-Packard spokeswoman said the lawsuit is without merit.

Consumer-driven plans growing: Survey

Around one in five of polled companies currently offers a consumer-driven health plan, a survey has found. Chicago-based Aon Consulting and the Brookfield, Wis.-based International Society of Certified Employee Benefit Specialists polled more than 200 benefit managers and found that 22% of companies currently offer a consumer-driven option, providing a health reimbursement arrangement, health savings account or both. Among employers not currently offering a consumer-driven health plan, 50% said they are either planning to offer one by next year or are "seriously considering" offering one in the future.

22% of companies Aon surveyed offer a consumer-driven plan option.

Lexington to offer terror endorsement

American International Group Inc. unit Lexington Insurance Co. announced a new property insurance terrorism endorsement that covers losses incurred when a military or civil order related to terrorism disrupts business operations. The OpShield endorsement provides a maximum aggregate of $25 million as a sublimit to the property terrorism policy. The program would come into play when a civil or military order relating to a terrorist act or threat took effect within a specified distance around the policyholder's business. It could be extended to respond when the order impacts certain areas surrounding facilities, such as ports or railroads, that are not owned by the policyholder.

Check out BusinessInsurance.com

Items in the Late News column originally appeared in *BI*'s Daily News feature on *www.businessinsurance.com*. Visit the *BI* Web site to sign up to receive *BI*'s Daily News by e-mail.

Willis hires two more former Marsh executives

LOS ANGELES—Willis Group Holdings Ltd. has named two former Marsh Inc. managing directors to posts in its Southern California operations.

Paul Gibbs, previously managing director and zone leader for the Southwest business of Marsh, has been named chief executive officer of Willis' Southern California operations and will be based in Los Angeles. In addition, David Fuhrman has been named CEO of the Los Angeles office of London-based Willis. Mr. Fuhrman also was a managing director at Marsh in California.

Last year, Arlene Corsetti, a 21-year Marsh veteran who had been a managing director and head of Marsh's Midwest operations, joined Willis as executive vp and San Francisco-based regional executive officer of Willis' Western region.

Willis has hired several Marsh employees since Marsh's parent, Marsh & McLennan Cos. Inc., was sued last year by New York Attorney General Eliot Spitzer.

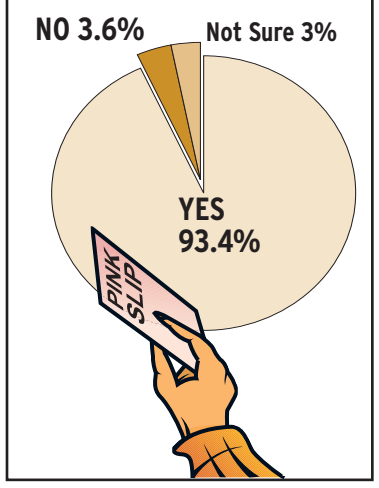
MMC settled the fraud and antitrust suit earlier this year, agreeing to pay $850 million in client restitution and to make business changes (*BI*, Feb. 7).

—By Matt Scroggins

Online Poll

[3/22-3/25]

Do you think the ongoing investigations of insurance industry business practices will lead to further high-profile management changes at insurers and brokerages during the next six months?



BI Stock Index

[3/21 - 3/24]

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

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

***BI* Stock Index**	
2378.36	-2.64
Dow Jones	
10442.87	-1.76
S&P 500	
1171.42	-1.53

Largest gains

United Fire & Casualty	5.44%
Unico American Corp.	4.86%
SCOR	4.76%
Navigators Group	4.00%
Baldwin & Lyons Inc.	3.09%

Largest losses

Harleysville Group	-7.09%
AIG	-6.94%
EMC Insurance Group Inc.	-5.00%
Citigroup	-4.97%
Markel Corp.	-4.70%

Weekly change by market segment

Brokers	-0.90%
Insurers/Reinsurers	4.42%
Managed Care Organizations	0.09%

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