

**American Airlines, insurers go to court on 9/11 claim / 3**

**Insured losses piling up after Colorado blizzard / 4**

# Business Insurance

www.businessinsurance.com

March 31, 2003

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\$4

## Florida agency capitalizes LTC RRG

By JERRY GEISEL

**TALLAHASSEE, Fla.**—Long-term care facilities in Florida now have their own captive insurance company, thanks to unusual support from the state.

LTC Risk Retention Group Inc., which was licensed earlier this year by the Florida Office of Insurance Regulation, will provide policyholders with professional liability insurance coverage, with limits up to \$250,000 per claim and \$500,000 annual aggregate.

While just over 100 risk retention groups, which are special multiple-owner group captives authorized under a federal law, are now in operation, Florida's long-term care RRG is believed to be the first created with state financial support.

The RRG was capitalized with an interest-free, \$6 million surplus note contributed by the Florida Agency for Health Care Administration, which received the authority to do so under an appropriations bill passed by the state Legislature in 2002. The note from the Florida agency, which, among other things, regulates LTC facilities in the state, will be repaid over the next several years through capital contributions made by LTC facilities that join the program.

"To my knowledge, the state support is a first" for a risk retention group, said Sanford Elsass, president and chief executive officer in New York for Atlanta-based Uni-Ter Underwriting Management Corp., which is providing management and administrative services to the RRG. Uni-Ter is a subsidiary of reinsurance broker U.S. Re Cos. Inc. in

See RRG/page 6



PHOTO: KRT

## Risks of War Preventing battles on the home front

### War raises issue of workplace political speech

By MICHAEL PRINCE

Even though the war in Iraq is thousands of miles away, it can create issues in workplaces here at home.

Workforces frequently encompass a wide range of political and moral opinions and, at a time of heightened concern, employers should be sensitive to a host of issues, including the need to maintain a nonthreatening workplace environment and worker produc-

tivity, employment specialists say. Employment attorneys agree that, currently, the main employment practices concern is the expression of anti-Arab or anti-Muslim sentiments in the workplace. Claims of a hostile work environment can arise when employees or managers espouse animosity or hatred toward those groups.

Such claims arose following the Sept. 11, 2001, terrorist attacks and may be made again during the current war, said Gerald Maatman Jr., a

partner with Seyfarth Shaw in Chicago.

The EEOC "has its antenna up" for these claims, Mr. Maatman said.

Employers need to be on the lookout for any hostile expressions and put a stop to them immediately, lawyers say. For example, a number of anti-Arab remarks were made by employees at Sbarro Inc. after Sept. 11, said Ash Kilada, vp of risk management and benefits for the Commack, N.Y.-based restaurant

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## Bethlehem Steel agrees to COBRA extension

### Retirees get new options

By JERRY GEISEL

**BETHLEHEM, Pa.**—Bethlehem Steel Corp., effective today, is eliminating its decades-old retiree health care program, but the more than 90,000 plan participants will have new coverage options, thanks to the company, the steelworkers union and a retiree group.

Still, the cost of those new plans will be, in many cases, much higher than the amount the retirees had

been paying for what was once one of corporate America's richest retiree health care programs.

On April 1, Bethlehem, which is in bankruptcy and whose assets are being purchased by another company, will extend to retirees and their dependents COBRA coverage for six months, an arrangement benefit experts say is unusual—if not extraordinary—for an employer going out of business.

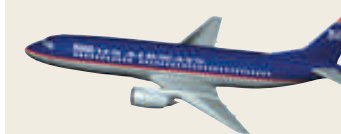
The COBRA extension was nego-

tiated between Bethlehem and the United Steelworkers of America, but Bethlehem voluntarily agreed to make COBRA available to all retirees and not just union-represented retirees.

Additionally, an organization representing retired salaried employees has, in working with a third-party claims administrator, put together an alternative program, whose premiums will be

See BETHLEHEM/page 22

## Late News



### US Airways cleared for plan termination

The Pension Benefit Guaranty Corp. will allow US Airways Inc. to terminate its massively underfunded pilots' pension plan and set up new defined contribution plans, moves that will enable the airline to emerge from bankruptcy this week. The PBGC concluded that the airline's proposal to set up a defined contribution plan arrangement would not be an abuse of the agency's pension termination insurance program. The pilots' plan is underfunded by about \$2 billion, according to the PBGC.

### RIMS' Japan chapter cancels conference visit

War worries are prompting some cancellations for the Risk & Insurance Management Society Inc.'s upcoming conference in Chicago. RIMS' Japan chapter has decided not to attend the 41st annual conference, scheduled for April 6-10, because of travel concerns stemming from the conflict in Iraq. Chapter members were planning to attend special sessions arranged by RIMS that were to feature Japanese translators; those sessions have been canceled. Overall, though, events in the Middle East have not caused an unusual number of attendees to change their plans, according to a spokeswoman for RIMS.

### Corning to settle asbestos claims

Corning Inc. expects to record a \$200 million after-tax charge for a proposed settlement of all current and future asbestos claims against the company and its bankrupt

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NEWSPAPER

**Benefit Management Takeout**  
**GLOBAL BENEFIT TRENDS**



**INTERNATIONAL BENEFIT NETWORKS**

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# NAIC astir on reinsurer collateral requirements

By MEG FLETCHER

**DUBLIN, Ireland**—Recent comments by the president of the National Assn. of Insurance Commissioners that state regulators generally have “a great deal of concern” about reducing collateral requirements for European reinsurers appear to have thrown cold water on a proposal—at least for this year.

Observers were feeling somewhat whipsawed after Michael Pickens, president of the NAIC and Arkansas’ insurance commissioner, made his comments at a conference in Dublin, Ireland. Less than two weeks before, support for the proposal appeared to be growing at the NAIC’s Reinsurance Task Force.

During the NAIC’s March meeting in Atlanta, that task force approved a small but controversial resolution to eliminate a sticky issue so discussion of the long-pending con-

ceptual proposal could continue.

But despite Mr. Pickens’ comments, the issue of collateral reduction remains on the NAIC agenda.

European reinsurers have sought a reduction in collateral requirements for at least the past year and a half. In particular, the London-based International Underwriting Assn. and the Brussels-based Comité Européen des Assurances have pressed for the change, said William C. Marcoux, an attorney in the London office of LeBoeuf, Lamb, Greene & MacRae L.L.P. who represents the reinsurers.

Currently, credit-for-reinsurance laws require nonauthorized reinsurers to post collateral in the United States for 100% of the gross liabilities they assume from U.S. cedents.

Supporters of reducing the collateral requirements want U.S. state regulators to review the financial qualifications of reinsurers and create a list of companies eligible to

post less than 100% collateral. Proposed minimum funding would be no less than 50% of gross liabilities for non-U.S. reinsurers and 30% for their U.S. affiliates.

Proponents say it would release more reinsurance capacity for U.S. insurers in a tight market and remove potential trade barriers, but critics say any relaxation of reinsurance security requirements could ultimately hurt the claims-paying ability of U.S. insurers and trigger guaranty fund assessments.

Supporters of continuing 100% collateralization include the Reinsurance Assn. of America; several major U.S. ceding insurers; most guaranty funds; the National Assn. of Independent Insurers; and many state insurance regulators, including the NAIC’s own Insolvency Task Force.

The issue came to a head at the

See NAIC/page 23

## Employers expanding programs following trial periods

# Consumer-driven health plans seeing some initial successes

By MICHAEL PRINCE

After more than a year’s experience with their consumer-driven health plans, employers are expanding the reach of these innovative programs.

Employers have pushed to enroll more employees, opened the plans to greater numbers of workers and transformed pilot programs into full-time programs in the wake of positive signs from the plans.

Estimates vary, but providers of the plans say about 350,000 employees are enrolled in consumer-driven plans for 2003.

Few studies exist that pinpoint the consumer-driven plans’ impact



on health care spending. Information from employers that have used such plans for over a year shows that costs and utilization have

dropped. These same observers note, however, that the data available is still preliminary, and critics of the plans say the consumer-driven approach will, at best, have a minimal impact on health care costs.

Perhaps more importantly than any cost savings, employers have said the plans have changed employee behavior. Because employees in the plans shoulder more costs compared to traditional managed care plans, they have taken steps to stay healthy and prevent future illnesses. This movement, employers say, will ultimately hold down fu-

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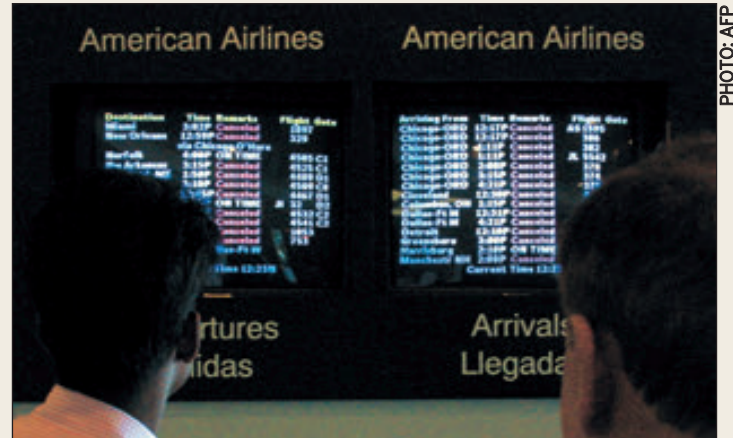


PHOTO: AFP

American Airlines Inc. is seeking coverage for flight disruptions stemming from the Sept. 11, 2001, terrorist attacks.

# Airline in cover fight over post-9/11 claim

## War risk insurers seek arbitration

By DOUGLAS McLEOD

**DALLAS**—American Airlines Inc. and its war risk insurers are suing each other over the airline’s claim for the costs of grounding its planes and reorganizing flight schedules and crews in the wake of the Sept. 11, 2001, terrorist attacks.

American Airlines alleges in a suit originally filed in a Texas state court that the unspecified costs are covered loss prevention expenses under its war risk program and that the insurers, led by Lloyd’s of London syndicates, have wrongly refused to pay its claim.

The war risk insurers, meanwhile, have responded with their own suit to compel American to arbitrate the claim. The arbitration action is pending in U.S. District Court in Dallas.

The court battle is not the only Sept. 11-related case pitting the airline against London underwriters: London participants on the World Trade Center’s \$3.55 billion property insurance program sued American Airlines and several others earlier this year, charging that they were negligent in al-

lowing the terrorist hijackings and should be held liable for the resulting damages.

The Federal Aviation Administration grounded non-emergency air traffic for several days after terrorists hijacked American Airlines and United Air Lines Inc. jets from Boston’s Logan International Airport and flew them into the World Trade Center and the Pentagon.

Like other air carriers, American Airlines had to divert flights and reposition planes and crews after the attacks. These actions “caused significant expense to AA, including incremental operating and crew expenses,” the airline says in court filings. “AA was also unable to utilize its fleet, causing further expense and loss of revenue.”

The airline filed a claim for the reorganization expenses with its war risk insurers, but underwriters denied the claim in October 2002, the court filings say.

American Airlines filed its lawsuit against Lloyd’s and about a dozen other war risk insurers last month in the K-192nd Judicial District Court of Dallas County,

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## Inside Business Insurance

### U.S. reinsurers’ outlook positive

Last year was tough on U.S. reinsurers, but they should begin to reap the benefits of the hard market in 2003. **Page 4**

### No stampede to buy terror coverage: Survey

Enactment of a federal backstop for terrorism insurance has not sparked huge demand for the cover. **Page 4**

### Risk retention groups deserve state support

Florida regulators’ support of an RRG is a welcome change from the adversarial attitude many states have had about the groups. **Page 8**

### Protecting vital records key to disaster recovery

Safeguarding documents is crucial to disaster planning, Van Carlisle writes in Perspectives. **Page 10**



### China’s med mal rules foster risk awareness

New medical malpractice rules in China have spurred risk management efforts among health care entities there. **Page 17**

## Online

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

- Searchable **directories** of all the listings of industry vendors found in *B/I’s* Market Sourcebook.

- New **Opinion Poll** for readers: In light of current events, do you plan to attend this year’s Risk & Insurance Management Society Inc. Annual Conference & Exhibition in Chicago?

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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS.

# Reinsurer rates rise, reserves increase

By JUDY GREENWALD

U.S. reinsurers may finally begin to reap the benefits of the hard market this year.

Although rate hikes are expected to moderate—at least for property lines—reinsurer results should nevertheless improve, as underwriting remains disciplined and many companies have made needed adjustments to reserves, observers note.

Last year was a tough one for reinsurers. The 30 reinsurers that reported their year-end results to the Washington-based Reinsurance Assn. of America posted a 121.3%

combined ratio, compared with the 142.9% ratio reported by a comparable group in 2001, which largely stemmed from the Sept. 11 terrorist attacks.

The 20 largest reinsurers—based on net premiums written—reported a 122.4% combined ratio, vs. the 137.9% reported by 19 of the reinsurers for the same period a year earlier. Last year's combined ratio data does not include Berkshire Hathaway Inc. unit National Indemnity Corp., which was included in the RAA report for the first time in 2002.

Premiums written for the RAA

reinsurers totaled \$29.5 billion in 2002, an 11.6% increase. The top-20 reinsurers reported \$27.47 billion in premiums, up 17.8%.

"Reinsurers bore the brunt of the damage of the soft cycle," said Jack Snyder, chief marketing officer for

Princeton, N.J.-based American Re-Insurance Co. While the 2002 results reflect the hardening market, the reserve charges needed because of the soft market and asbestos and environmental claims "made for a very ugly year for reinsurance results."

Results were affected by adverse development largely from the 1997-2001 accident years, which led to \$6.5 billion in reserve additions for the reinsurance industry in 2002, said Bob DeRose, assistant vp at rating agency A.M. Best Co. in Oldwick N.J.

Steve Tirney, president of

Philadelphia-based reinsurer PMA Capital Corp., said, "Most of the companies that were writing casualty business through the late '90s have noticed the claims activity coming in, and they're the ones that have been putting up and strengthening their reserves."

Mark P. Lescault, head of the divisional underwriting office at Swiss Re America Corp. in Armonk, N.Y., pointed to investment income as a factor holding down reinsurer profits. Mr. Lescault said that while calendar year numbers have been affected by past losses, there is also

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**Reinsurer**

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**2002**

**RESULTS**

## GTE Corp. loses bid to recoup costs of Y2K remediation

**NEWARK, N.J.**—GTE Corp.'s property insurers are not obligated to cover the company's massive costs of working to avert the Y2K computer glitch, a federal judge has ruled.

U.S. District Judge Alfred M. Wolin last week threw out GTE's Y2K remediation claims against five insurers that provided the bulk of the company's \$400 million in property limits from 1996 to 2000.

Judge Wolin concluded, among other things, that the property program's exclusion of coverage for "defective designs or specifications" bars claims for correcting computer systems at GTE, now part of Verizon Communications Inc.

GTE intended its computer systems to continue normal processing beyond Jan. 1, 2000, but realized in the mid-1990s that the systems were not designed to recognize dates with the year "00" as 2000 rather than 1900, the court's ruling says.

"Therefore, GTE had to correct the systems in order to ensure proper processing or recognition," the judge noted. "These actions fall squarely within the policies' exclusions" of design-defect losses, he said.

Citing a 2002 federal appeals court ruling that dismissed Y2K claims by the Port of Seattle, Judge Wolin also found that GTE's claims

are barred by the insurers' exclusion of losses caused by "inherent vice."

"The insured property, GTE's computer systems, contain their own 'seeds of destruction'—that is, the two-digit date limitation," the judge wrote.

The five insurers granted summary judgment were Allendale Mutual Insurance Co., Affiliated FM Insurance Co., Allianz Insurance Co., Chubb Corp.'s Federal Insurance Co. and Industrial Risk Insurers.

A spokesman for GTE said "we are considering our options" regarding an appeal.

GTE, which merged with Bell Atlantic to form Verizon, launched its Y2K remediation program in June 1995.

—By Douglas McLeod



PHOTO: AP/DENVER POST, CYRUS MCCRIMMON

A blizzard earlier this month caused substantial insured losses and shut down Denver International Airport for 32 hours.

## Snowstorm claims pile up Colorado facing record damage

By SALLY ROBERTS

**DENVER**—As commercial damage estimates from the March blizzard that blanketed Denver and surrounding areas continue to be tallied, insurers will pay out at least \$33.6 million in personal property damage claims, making the snowstorm the costliest of its kind on record in the state.

"While it's common for us to get a \$100 million hailstorm here, it's very uncommon for us to get this kind of snow event where we see these types of insured losses from wet, heavy snow," said Carol Walker, executive director of the Denver-based Rocky Mountain Insurance Information Assn. RMIIA compiled the preliminary damage estimate based on nearly 18,500 personal property claims filed with insur-

ers as of the middle of last week. "Our benchmark prior to this was the blizzard of 1997, when we had only \$10 million in personal property loss," she said.

The massive storm hit the Denver metropolitan area beginning March 18 and dumped seven feet of snow in the mountains and nearly 32 inches in Denver over a three-day period, effectively paralyzing the city. The unusually heavy snow downed power lines and trees and caused many roofs of businesses, homes, carports and sheds to collapse. The storm is responsible for five deaths in Colorado and Wyoming.

Denver International Airport halted service for 32 hours, stranding several hundred passengers. The storm also tore a

See SNOW/page 6

## Coverage costs average 20% or less of premium: CIAB Few buying terrorism cover

By MARK A. HOFMANN

The availability of terrorism insurance has not resulted in a stampede for coverage, according to a survey by the Council of Insurance Agents & Brokers.

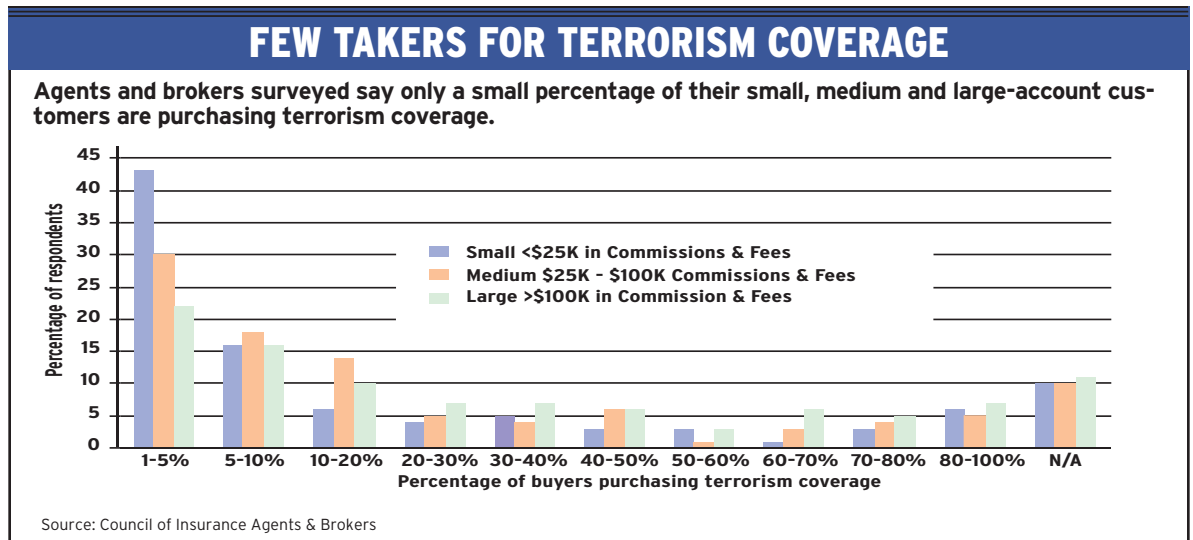
Forty-eight percent of the producer respondents said that fewer than one in five of their largest accounts—those generating more

than \$100,000 in commissions and fees annually—have bought terrorism coverage, according to the survey, which was released last week. Sixty-five percent reported that fewer than 20% of their small accounts—those generating less than \$25,000 annually in fees and commissions—bought terrorism coverage, while 62% reported that fewer than 20% of the midsize accounts

bought the coverage.

The survey, based on 212 responses from insurance agents and brokers across the country, also found that the larger the account, the greater the average cost of terrorism coverage as a percentage of premium. Nearly three-quarters of the respondents said that the cost of terrorism coverage amounted to

See CIAB/page 6



### Errors & omissions

• Due to an editing error, a March 24 story listing Web sites with information on Chicago-area attractions incorrectly identified the opponent of the Chicago White Sox during the week of the 41st Risk &

Insurance Management Society Inc. Annual Conference & Exhibition. The Sox will play the Detroit Tigers at U.S. Cellular Field April 4-6. Information is available at [www.chisox.com](http://www.chisox.com).

# RRG: Florida agency capitalizes risk retention group

Continued from page 1  
New York.

Those involved in the program credit backing from several Florida legislators; Gov. Jeb Bush; and Tom Gallagher, chief financial officer for the Florida Department of Financial Services, for winning approval of the RRG financial support measure.

"It is a very creative public/private initiative to help address a very serious insurance problem for long-term care facilities. The Legislature, the governor and Mr. Gallagher should be commended for their support and leadership," said Brian

May. Mr. May is a partner with Barreto, Cunningham, May, Dudley & Maloy L.L.C., a lobbying firm with offices in Tallahassee and Miami, which served as a consultant to Uni-Ter.

Florida's support for the long-term care RRG is a striking contrast to the years of hostility and harassment many state regulators, including the National Assn. of Insurance Commissioners, have displayed from the very time Congress passed the Risk Retention Act in 1981.

Perhaps the most serious challenge came in the mid-1990s, when

then-Louisiana Insurance Commissioner Jim Brown said that risk retention groups licensed in other states would have to meet a slew of Louisiana requirements in order to do business in the state. His action, a federal district court later ruled, was clearly pre-empted by the Risk Retention Act, whose central purpose is to permit RRGs to operate nationwide after meeting the licensing requirements of one state.

Since then, numerous other states have attempted to impose a variety of fees on RRGs, which the groups also maintain are pre-empt-

ed by the federal law. In most cases, the fees were withdrawn after the groups complained to regulators, while in one case—a fee imposed by Michigan—was withdrawn after a court ruled it was illegal.

**'Meaningful risk management will be a critical element of our program to reduce the frequency of incidents' and to hold down costs for RRG policyholders.**

Sanford Elsass  
Uni-Ter Underwriting  
Management Corp.

Now, with RRGs providing a vital—and in some cases, the only—source of coverage in the hard market, RRG backers hope that Florida's backing of the long-term care RRG is a harbinger of a changed attitude among state regulators towards the groups.

"We hope the regulatory outlook may be maturing," said Phil Olsson, Washington general counsel for the National Risk Retention Assn., which represents many of the groups.

"Regulators are seeing problems in the market and are understanding the importance of this option. Necessity is the mother of inven-

tion," said Karen Cutts, managing editor of the Pasadena, Calif.-based Risk Retention Reporter.

Indeed, LTC facilities in Florida faced a coverage crisis, say RRG organizers. "Virtually no admitted insurers remain that are willing to write this business and then only under onerous terms requiring dramatically reduced coverage and increased prices," said Tal Piccione, chairman and CEO of U.S. Re.

Uni-Ter's Mr. Elsass said the key to the RRG's long-term success will be putting in a risk management program. "Meaningful risk management will be a critical element of our program to reduce the frequency of incidents and to hold down the cost of insurance to RRG policyholders," he said.

To repay the state, policyholders will have to make equity contributions to the RRG. Skilled nursing facilities will invest \$780 per insured bed, assisted living facilities will pay \$212 per bed and independent living facilities will pay \$148 per bed. All payments will be in declining installments over three years.

Mr. Elsass said the risk retention group could attract, in its first full year, LTC facilities with a total of more than 10,000 beds, generating a premium flow of about \$6 million.

If successful, the program could be expanded to cover LTC facilities in other states, Mr. Elsass said.

## Snow: Storm claims piling up

Continued from page 3

portion of the airport's tent roof's outer layer, causing a temporary evacuation of the area. Inspectors quickly determined there was no safety hazard, and the tear was temporarily patched.

Tina Southard, the airport's risk manager, said DIA has notified its property insurer, Warren, N.J.-based Chubb Corp., of the damage but has not yet filed a claim.

lapsed roofs, adjusters and brokers say.

Robert Barnett, a Los Angeles-based national property manager for loss adjuster VeriClaim Inc., said VeriClaim has adjusted a number of commercial claims in the area that are in the "several million dollar" range. "What we're dealing with is mostly partial roof collapses with stock losses inside, resulting in business interruption," he said.

As of early last week, Denver-based broker Van Gilder Insurance Corp. had received well over 150 claims from commercial and personal lines clients, estimated Valeria Howard, vp-claims.

"We're seeing on the commercial side a lot of roof collapses, a lot of claims for (tree removal)...and some claims are being turned in for business interruption because they were unable to open their businesses due to the snow," Ms. Howard said.

There may be coverage issues, however, because business interruption policies typically require evidence of loss from a covered peril, she noted. "We're having to take the time to explain to people about the policies," Ms. Howard said. "There are clients who are insistent that we report it anyway to the carrier."

Kathy Dorr, claims manager for Lockton Cos. of Colorado Inc. in Denver, said Lockton's commercial clients came through the storm relatively unscathed. "We had a couple of close calls with some clients who, once they got the snow off their roofs, found it was not as bad as they originally thought," Ms. Dorr said. "Most of the claims have been some water damage through the roof," and that damage mostly falls within deductibles, she said.

The "biggest hit" for Lockton's clients is on the builders risk side, Ms. Dorr said. "We have several commercial contractors with buildings in the midst of being built" that have sustained damage from the storm, she said.

Adjusters are still assessing the damage to a Michaels Stores Inc. store in Aurora, Colo., where the roof collapsed, a spokesman for Irving, Texas-based Michaels said.

"It's kind of been a longer process than we would normally face with something like this" since there are so many other businesses in the same situation, he said. The retail arts and crafts store's property insurer is Industrial Risk Insurers, a unit of Employers Reinsurance Co., the spokesman said.

As of last week, State Farm Mutual Automobile Insurance Co. had received 3,500 storm-related claims in Colorado, with an estimated price tag of \$7 million, a spokesman for the insurer said. A majority of those claims are from homeowners with collapsed garages, carports and roofs as well as some wind and ice damage claims, he said.

American Family Insurance had received 2,500 personal lines claims and 200 commercial claims as of last week due to the storm. A vast majority of the claims are collapses, a spokesman said. The Madison, Wis.-based insurer sent a catastrophe team with 60 adjusters to the affected area to help assess damage, but it was still too soon late last week to give a damage estimate, he said.

PHOTO: MARC PISCOTTI/ROCKY MOUNTAIN NEWS 2003



**The Teflon-coated fiberglass roof at Denver International Airport flapped in the breeze after a massive rip that airport officials said was caused by wind and snow from the recent storm. The airport's risk manager said late last week that DIA's property insurer has been notified but a claim has not yet been filed.**

Last week, Colorado Gov. Bill Owens officially asked President Bush to declare a snow emergency in the state. If granted, the state would be eligible for millions of dollars in federal assistance to help defray some of the snow removal costs, which are estimated to be in excess of \$8 million.

The Insurance Services Office Inc.'s Property Claim Services unit has not released a preliminary insured-damage estimate but has classified the storm as a catastrophe, meaning it is expected to generate at least \$25 million in insured losses, a spokesman said.

Most of the commercial damage is a result of col-

## CIAB: Few buyers for terrorism cover

Continued from page 4

10% or less of the underlying premium for small accounts, while 62% said that the cost for medium accounts was 10% of premium, and 46% reported the same percentage for large accounts. Still, the overwhelming majority of respondents reported that accounts of all sizes are paying 20% of premium or less for the coverage.

The Terrorism Risk Insurance Act of 2002 required insurers to offer terrorism coverage to policyholders in return for participating in a government program that would help cover the costs of catastrophic terrorism attacks.

Joel Wood, the CIAB's senior vp-government affairs in Washington, said he felt "some disappointment" that TRIA hasn't resulted in "the kind of calming in the market that we had hoped for."

But he added that the findings are "not surprising," given the lack of final regulations for implementing TRIA and the fact that insurers

will still face financial risks even after the terrorism relief legislation is fully implemented, among other factors.

"I always have to note that it's hard to contemplate what a mess the market would be in if we didn't have the legislation," particularly with a terrorism risk alert status of orange—or high risk—and the war, he said.

"Is the glass half empty or half full? I would tend to say half full," Mr. Wood said.

"On the one hand, we all hope we'll be a terrorism-free environment and the anxiety will be relieved and insurers will become more comfortable to underwrite in this marketplace," he said. But he added that TRIA requires insurers to assume a greater financial burden in the second year of its existence before the law finally expires in the third. "So no one knows how it will play out," he said.

Further details of the survey can be found at [www.ciab.com](http://www.ciab.com).



**Paul Winston**

**Editor Paul Winston's weekly column will resume in the April 7 issue**

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## Editorial

## RRG launch an encouraging sign

COULD THIS BE THE start of something new?

As we report on page 1, a new risk retention group providing badly needed professional liability insurance coverage to long-term care facilities in Florida is beginning operations, thanks to financial support approved by the state Legislature and backed by the governor and the state's top insurance regulators.

That support comes in the form of a \$6 million surplus note contributed by the Florida Agency for Healthcare Administration, which is to be paid back by the risk retention group's policyholders. And the pledge of support is a stunning albeit much welcomed development, given the rough treatment that RRGs have received over the years

from state regulators.

We have reported—on more occasions than we like to recall—the harassment, sometimes minor and other times major, that RRGs have seen from regulators since Congress in 1981 authorized the special multiple-owner captives. The federal Risk Retention Act allows the groups to operate nationwide by meeting the licensing requirements of their home state.

The harassment has taken several forms. Some of it has been petty, such as the imposition of certain fees that the federal law clearly bars. Generally, states have backed off on such moves, but only after the groups have expended considerable time and effort and, in some cases, legal fees.

There also has been very serious

harassment. For example, Louisiana regulators several years ago attempted to require RRGs licensed in other states to meet a slew of Louisiana requirements, including capital and surplus levels, to write policies for members in Louisiana.

Such a requirement was unambiguously pre-empted by the Risk Retention Act, whose central purpose after all is to pre-empt state rules, allowing RRGs to provide coverage in any state where they have policyholders.

Congress provided this sweeping pre-emption deliberately. It wanted to give insurance buyers an alternative—their own insurance company—when coverages in the traditional market dried up or became exorbitantly expensive.

Needless to say, a federal court

struck down the Louisiana requirement, but only after a battle that the groups never should have had to fight.

In view of that troubling history, the development in Florida is an encouraging one. We hope it is a recognition by state regulators that RRGs can serve a vital function by providing needed capacity where the traditional market is not and that the groups should be supported, not harassed.

## Letters to the Editor

## Insurers not at fault for terrorism cover woes

To the editor: With all due respect, the American Insurance Assn. takes issue with New York Insurance Superintendent Greg Serio's characterization of why problems remain in the terrorism insurance marketplace. The Sept. 11, 2001, terrorist attack fundamentally altered the way commercial insurers and risk managers look at risk—specifically, risk associated with man-made catastrophes.

As a core component of his efforts to secure the U.S. economy after 9/11, President Bush signed the Terrorism Risk Insurance Act (TRIA) of 2002 into law last November. TRIA was designed to draw underwriters back into the marketplace by creating a public-private risk sharing arrangement, and it has done so. Terrorism insurance is available to commercial policyholders in every state.

However, while the legislation is workable and working, there are problems. For example, TRIA does nothing to address the issue of pricing; actuaries still have just the one, horrifically unique data point to work with. Insurers are left trying to price a product that, in the current environment, remains an unwritable risk.

The level of individual insurance company retentions (deductibles) is too high, and they increase with each year of the program. Insurers consistently, energetically argued against such high retention levels, because they leave active underwriters extremely vulnerable to staggering losses. These high retention levels and still-sparse reinsurance, particularly for nuclear-biological-chemical events, mean underwriters are still faced with unmanageable exposures, especially on trophy properties in high-risk areas. Unfortunately, New York is widely perceived as being among the places with greatest potential exposure, due to the combination of politically attractive terrorist targets and hundreds of billions of dollars of high-value properties.

State regulators, including Mr. Serio, rightly focus their oversight and

See LETTERS/page 16

## Of speech and sensibility

UNDERSTANDABLY, employers are extremely aware of controversial—and possibly actionable—speech in the workplace these days.

Adding the stress of the war with Iraq to the underlying apprehension caused by fears of terrorist attack has made everyone jumpy. Anything that can be construed as creating a hostile work environment obviously should be banned, right? After all, absolute First Amendment rights don't hold sway in private workplaces, and employers have a right to ban otherwise protected political speech.

But as we report on page 1, the

fact that employers have that right doesn't mean it's always wise to take full advantage of it. While employers have a duty to prevent the development of a hostile work environment, that does not mean that every political expression must be banned, even in a time of unusual sensitivity. It is one thing to prevent the denigration of individuals because of their ethnicity or beliefs; it is quite another to ban quiet expressions of political belief such as American flag decals or unobtrusive peace signs.

In fact, to do so may backfire. An effort to make all workers comfortable by requiring the removal of

anything that might offend could well end up making everyone uncomfortable because they feel that they're under unreasonable surveillance. Uncomfortable employees are often less-productive employees as well.

This is clearly a case where ensuring a nonhostile workplace in a time of hostilities requires an unusually sensitive approach. A total ban on any political symbols or speech may seem to be the obvious way to reach the goal of a non-threatening work environment. But going beyond the obvious may well be the better approach in these trying times.

## Schillerstrom



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# Data-protection planning a critical task

By Van Carlisle

One crucial aspect of disaster planning is protecting vital company records. Information is, of course, critical to a business, and implementing a process for the storage and retrieval of data is a basic operational requirement for all businesses.

Because the U.S. economy is mainly a service economy, information and data are the key assets that must be protected. That being said, companies that manufacture and distribute physical products still need to have proof of loss to get any money back from their insurers, making data protection critical to them as well.



For manufacturers, there is also the need to protect product-design records that, if lost, would prevent them from producing their wares during a recovery period. If a vital record is lost, damaged, destroyed or otherwise rendered unavailable, that loss becomes a disaster within a disaster, affecting critical operations needed to recover from the initial disaster. Therefore, protection of vital records should be a central priority—after the protection of human life, of course—for contingency and recovery efforts when a disaster occurs.

Protecting vital records is about mitigating loss and limiting property damage. To state it as simply as possible, safeguarding vital and

**To state it as simply as possible, safeguarding vital and irreplaceable company records and documentation is crucial to corporate survival.**

irreplaceable company records and documentation is crucial to corporate survival.

All businesses that have something to lose need a vital records protection strategy plan, particularly one that incorporates measures to protect against fire.

This is where organizations need to differentiate between important corporate data—data that must be managed, stored and protected to some degree—and vital records. A vital record is any piece of recorded information that is essential to the survival of the organization.

It would be foolish and costly to attempt to protect every bit of data to the utmost. To find a strategy that is both cost effective and sound, you should determine which data constitute vital records to your organization and develop a data-protection plan accordingly.

The first step is conducting an audit and review of your business processes and activities to determine what are your most critical functions. Once those functions have been identified, determine which records are essential to those functions.

Next, take the process a step further and identify which records are required to support both those critical functions and the resumption of normal operations in the event of a disruption. Remember to assess all

records, including electronic records.

Every organization is unique, and the type of and level of value of your business' vital records will determine the amount of protection you should seek. Categories of recorded data typically considered vital include:

- Contracts and agreements that prove ownership of property, equipment, vehicles, products, etc.
- Operational records, such as current or unaudited accounting and tax records, current personnel and payroll records, client account histories and shipping delivery records.
- Current client files.
- Current standard operating procedures.
- Produced reports and summaries.
- Software source codes, including both licensed programs and systems and custom developed applications, as well as registration keys.

This list should be considered a basic starting point. Next, consider that although a specific category of records may not be deemed vital, that does not necessarily mean the data are not worth protecting. Each must be assessed to determine the amount of protection you should provide. Some types of records that may be considered valuable—but not vital—are:

- Important records—those that could be

reproduced, but only at considerable expense, time and labor.

- Useful records—records that, if lost, would cause some inconvenience but could be readily replaced.

- Nonessential records—those in line for routine destruction.

In order to validate the classifications, those responsible for the vital-records program should interview the managers and personnel who create and keep records. It is important to remember that most business managers will consider most, if not all, of their records to be vital.

Fortunately, you do not have to implement this plan in a vacuum, as there are several data standards organizations that have a good amount of information publicly available on the Internet. These standards apply not only to the vital records themselves but also to the actual facilities and vaults housing the vital records and to data recovery equipment.

The vast amount of vital records destroyed in the Sept. 11, 2001, terrorist attack served as a wake-up call. Many companies that did not already have such a plan were made aware of the need to evaluate and implement vital-records programs. It doesn't have to be a terrorist attack that results in a loss; it could be a simple case of a disgruntled employee, a fire, a flood or any other natural disaster.

The key is to plan and develop a strategy for vital records protection before something happens. Once a disaster occurs, it's far too late.

*Van Carlisle is president and chief executive officer of FKI Security Group, a New Albany, Ind.-based security and loss prevention firm.*

# Business interruption cover language is key

By Scott P. DeVries and Yelitza V. Colon

Since Sept. 11, 2001, American companies have been concerned about the possibility of renewed terrorist activity that could impair business operations, including large losses in business income.

A terrorist strike may damage or destroy a policyholder's premises, but the effects are not limited to physical damage. Governmental orders may be issued that effectively black out operations. And operations need not be nearby to be affected—the 2001 terrorist attacks had financial repercussions across the United States and around the world.



An insured company could suffer significant loss of income. This lost income can be recouped through the business interruption insurance provision

**Companies should examine their policies to ascertain whether coverage will suffice in the event of a terrorism-related or computer hacking catastrophe.**

commonly present in commercial property insurance policies. Insured companies should examine the language of their policies.

The scope of available coverage was materially affected by the Terrorism Risk Insurance Act of 2002. The act requires property and liability insurers to offer coverage for acts of terrorism. In exchange for covering terrorism losses, the government would cover 90% of covered losses up to an annual aggregate of \$100 billion.

There are three catches, however:

- The insurer may increase the premium for including this coverage and, if the policyholder elects not to pay, the exclusion will be reinstated.
- The government may impose a 3% surcharge on the policy premium.
- By limiting the insurer share to 10% of the loss and limiting the federal government share to \$100 billion, the policyholder may become uninsured for most of the loss.

But merely reinstating the coverage does not guarantee payment. Even though the insurer might be liable for only 10% of a loss subject to applicable limits, it would surely raise various defenses to coverage. Thus, an understanding of these issues is essential to the policyholder's decision on whether to

reinstate coverage.

Under business interruption insurance provisions, the insurer agrees to compensate the policyholder for income lost or diminished due to an interruption of business caused by covered property damage. This coverage is intended to protect earnings the insured would have enjoyed absent the interruption. Covered risks commonly include power failures, explosions, accidental damage to machinery and riots. Other policies cover "all risks." Depending on the policy language, this insurance may cover terrorism losses, whether caused by physical attacks or through computer hacking.

While some policies provide coverage without property damage—for example, event and trade cancellation coverage covers "loss arising out of the cancellation, interruption or postponement of an event due to any material reason that is beyond (the policyholder's) control, including reduced attendance"—most other products contain a "physical loss or damage" clause, requiring a covered physical loss or damage to a specified property, usually the policyholder's premises.

This is easily satisfied when a terrorist attack destroys a company's building. But

when the interruption results from a governmental order to evacuate due to an attack on nearby buildings, there is an issue of whether there has been damage to "covered property."

Sometimes, the policy expressly covers situations in which the civil authority blocks access to the covered property due to direct damage to other property. In other instances, courts find coverage even where there was no such provision reasoning that physical damage to the covered location is not necessary or that the policy did not explicitly require physical damage.

But other courts deny coverage by strictly construing the "physical loss or damage" language and holding that a governmental order does not equate to property damage.

The "physical loss or damage" provision is also pertinent when computer hacking leads to an interruption in business. Insurers argue that hacking is not physical damage or that loss or damage has not yet occurred.

Companies must re-examine their business interruption coverage language to ascertain whether it will suffice in the event of a terrorism-related or computer hacking catastrophe. And they need to carefully consider whether the additional premiums warrant the rather limited coverage that will be forthcoming.

*Scott P. DeVries is managing partner and Yelitza V. Colon is an associate in the San Francisco office of the Los Angeles-based law firm of Nossaman Gunther Knox & Elliott L.L.P.*

# Tips for those who opt to survive a terrorist attack

**"The Complete Terrorism Survival Guide: How to Travel, Work and Live in Safety"**

By Juval Aviv

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By Michael Prince

Surviving a terrorist attack is a matter of choice, according to a new book by an anti-terrorism expert.

Businesses can prepare for a terror attack by putting together preventive and recovery plans. Or they can do very little and invite trouble, according to "The Complete Terrorism Survival Guide: How to Travel, Work and Live in Safety," by Juval Aviv, former member of an elite Israeli anti-terrorist military unit.

In this superbly researched and readable book, Mr. Aviv, now the president and chief

executive officer of the New York-based corporate intelligence firm Interfor Inc., lays out what individuals and businesses must do to survive in this age of terrorism. In seven chapters, Mr. Aviv explains how individuals can protect themselves at home and while



traveling and what businesses can do to discourage terrorism.

Not all companies are equally at risk for a terrorist strike, though. Those in big cities face greater risks.

Department stores, supermarkets and other high-traffic locations are also more likely to be targets, he writes.

In addition to location, the type of business is important in assessing the risk of a terrorist strike. Transportation systems,

## Book review

financial institutions, oil refineries and infrastructure installations such as electric power and communications facilities are attractive targets for terrorists, he writes.

But the companies that are most at risk are those that are least secure.

"The most vulnerable businesses are those deemed to be high-priority targets with the weakest, most penetrable security. This reinforces our conclusion that terrorism survival is largely a matter of choice. The businesses least likely to be attacked successfully will be those with the best defenses," Mr. Aviv writes.

In the chapter on what businesses can do, Mr. Aviv ticks off point after point on how businesses can protect themselves. They range from the obvious, such as reporting suspicious activity to local and federal authorities, to the obscure, such as removing VIP signs posted in company parking lots

that give away the identities of key personnel.

Some measures may simply disturb your employees. For example, the book recommends that businesses ask employees to volunteer DNA samples so their remains could be identified if they were to be killed in a terrorist attack.

The book also contains a bibliography with a list of publications from business and government groups on surviving a terrorist attack.

Even if the reader does not put most of the tips into practice, the book serves to urge business executives to formulate plans.

"If you plan ahead for terrorist attacks or other crises and if your employees already know what to do when all goes wrong," Mr. Aviv writes, "your ability to limit the damage—in terms of lives, injuries and costs—and to maintain post-crisis business continuity is greatly improved."

Michael Prince is an associate editor in Business Insurance's New York bureau.

# Volunteer for layoff eligible for workers comp

In a case of first impression, the Supreme Court of Oklahoma ruled that an employee who volunteered for inclusion in an employer-planned workforce reduction was entitled to post-termination temporary total disability benefits for an on-the-job injury.

In March 2001, Dennis Abbott, while working for BE&K Inc., a construction company, was injured. He resumed his job the day after the injury on light-duty restrictions. He continued to work from March 22 to April 26. By that time, the construction project was beginning to phase out and the employer was planning layoffs. Mr. Abbott requested to be included in the employer-planned reduction in force. His request was granted. Mr. Abbott was terminated April 26. A few days later, when Mr. Abbott returned to his doctor, the physician advised him that he should not be doing even light-duty jobs and took him completely off work. Mr. Abbott filed for workers compensation benefits. The trial court denied him benefits; however, a three-judge panel awarded him benefits from April 26 through Aug. 7, 2001, the date he was released from treatment by his physician. An appellate court reversed the panel's decision. The parties appealed.

The state Supreme Court said that, even though an injured employee volunteers for inclusion in an employer-planned reduction in force, if the employer makes the final determination to discharge the employee, workers comp benefits are payable. The court emphasized that it is the employer that decides to eliminate the job and to lay off a given individual, based on the employer's needs. According to the court, it is irrelevant that the employee may have made the employer's determination easier by first volunteering to be laid off. Mr. Abbott was awarded benefits.

*BE&K Inc. vs. Abbott*, Supreme Court of Oklahoma, Oct. 1, 2002 (BI/05/A.-\$10)

## Sale agreement violates ERISA

An employer and its successor violated the Employee Retirement Income Security Act when they structured an asset sale agreement

## Legal briefs

in a manner that discriminated against the employer's workers who were on medical or other extended leave, according to the 9th U.S. Circuit Court of Appeals.

Denice Lessard worked for Applied Risk Management and was covered under a self-funded employee welfare benefits plan. As a plan participant, Ms. Lessard was entitled to participate in the medical portion of the plan. Following a work-related injury to her spine, she left active employment on workers compensation leave in October 1996, maintaining her coverage under the plan.

She has not returned to work since May 1997, and she has not sought employment since her spinal fusion surgery in January 1998. In February 1999, ARM agreed to sell its assets to Professional Risk Management. ARM employees were automatically transferred to employment with PRM and were covered under PRM's welfare benefits plan without interruption in coverage.

However, a condition was attached to each employee's automatic transfer to employment with PRM: In order to be eligible for transfer, the employee had to be actively employed by ARM on the day of the sale or on nonmedical, nonextended leave from active employment. Such employees became eligible for transfer only when they returned to active employment. Ms. Lessard sued ARM and PRM, alleging the two companies violated the anti-discrimination provision of ERISA. The trial court ruled against Ms. Lessard.

The appellate court said that ARM could not structure an agreement whose foreseeable effect is that an employee who took a leave of absence because of a bad flu could return to work with only minor difficulty and thereby resume coverage, but an employee with a major health problem could not. The same single action here, the court said, jointly agreed upon and executed by the two companies, constituted a violation of the antidiscrimination provision of ERISA. The trial court decision was reversed.

*Lessard vs. Applied Risk Management*, 9th U.S. Circuit Court of Appeals, Oct. 3, 2002 (BI/01/My.-\$10)

## CGL policy excluded intentional tort liability

Coverage for an insured employer's liability to an employee for intentional tort was excluded by a commercial general liability insurance policy, according to the Court of Appeals of Ohio.

David Rich was employed by Paul Savage and was seriously injured while working on the job. Mr. Rich received workers compensation benefits for his injury. He also commenced an employee intentional tort claim against Mr. Savage, alleging that the injuries he suffered were substantially certain to occur. Mr. Savage was covered under a CGL insurance policy from Midwestern Indemnity Co. that provided policy limits of \$1 million. A consent judgment of \$1.3 million was entered in favor of Mr. Rich on the intentional tort claim. Mr. Savage then assigned to Mr. Rich his own rights of coverage under the CGL policy. Mr. Rich demanded satisfaction from the insurer. The insurer then brought this action, seeking a declaration from the court that the CGL policy did not cover Mr. Rich's claim. The trial court ruled for the insurer.

The appellate court said the policy excluded coverage for bodily injury to an employee of the insured arising in the course of employment. The court said that it was undisputed that Mr. Rich was injured on the job while working for Mr. Savage and performing duties related to the conduct of Mr. Savage's business. Therefore, the court said, the exclusion of coverage here pertained to the injuries that Mr. Rich suffered. The trial court decision was affirmed.

*Midwestern Indemnity Co. vs. Savage*, Court of Appeals of Ohio, Oct. 18, 2002 (BI/02/My.-\$10)

## Transfer of employees not considered 'release'

A transfer of employees to an employer's successor did not qualify as a "release" that

would entitle the employees to severance benefits under a severance plan governed by the Employee Retirement Income Security Act, according to the 6th U.S. Circuit Court of Appeals.

In 1997, Akzo Nobel Salt Inc. sold its assets to Cargill Inc. with a promise that Cargill would employ substantially all the employees of ANSI. ANSI had a severance pay plan that provided that regular full-time employees who were "released" would receive severance pay. The employees in this breach-of-contract suit were all ANSI employees who accepted offers for substantially similar positions with Cargill. All continued to work for Cargill. In this lawsuit, they alleged that, under the terms of ANSI's severance plan, their transfer from employment with ANSI to Cargill was a "release," entitling them to severance benefits from ANSI. The trial court ruled against the employees. The employees appealed.

The appellate court said that in order to qualify as a "release," the employees must have been permanently separated due to "lack of work," or to an "economic reduction in workforce." According to the court, the plain meaning of "lack of work" does not encompass the employees' situation, as they were presently doing the same or substantially similar work as they did for ANSI before the asset sale. Furthermore, the court said that the phrase "reduction in workforce" is most commonly understood to cover situations in which a poor economic outlook for an employer forces layoffs. "The plaintiffs were not part of a reduction in workforce," the court said, "but rather a wholesale transfer of ANSI's workforce to Cargill." The trial court decision was affirmed.

*Cassidy vs. Akzo Nobel Salt Inc.*, 6th U.S. Circuit Court of Appeals, Oct. 21, 2002 (BI/04/My.-\$10)

*These abstracts were prepared by Mayo H. Stiegler. Copies of these decisions are available, at \$10 each, by sending a check payable to Mayo H. Stiegler, to Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Provide the listed number for each opinion ordered.*

March 31, 2003

# Defined contribution record keepers dwindling

By **ARLEEN JACOBIOUS**

Only seven or eight defined contribution plan record keepers might still be in business three years from now, a tiny remnant of the 89 or so currently in business, industry insiders say.

New York-based J.P. Morgan Chase & Co.'s planned buyout of American Century Cos. Inc., of Kansas City, Mo., might be only the tip of the iceberg. The two are dissolving a joint venture that offered bundled defined contribution business plan services including record keeping.

The consolidation began three years ago when the market turned south, then accelerated in 2002 when at least 12 defined contribution record keepers outsourced, closed or sold their defined contribution business.

A bleak business environment is

**'We will see further consolidation and outsourcing in the record-keeping business because it is a business of scale, and not everyone will have the scale to run a profitable operation.'**

*Robert G. Wuelfing  
Society of Professional  
Administrators & Record Keepers*

the prime culprit. In 2002, defined contribution assets fell to \$3.2 trillion from a peak of \$3.6 trillion in 2000, according to the Society of Professional Administrators & Record Keepers of Simsbury, Conn. Defined contribution assets under record keeping fell 7% in 2002 to \$2.27 trillion.

Among the expected winners named by industry experts are Fidelity Investments Inc. of Boston; The Vanguard Group of Malvern, Pa.; The Principal Financial Group Inc. of Des Moines, Iowa; MassMutual Financial Group of Springfield, Mass.; and Merrill Lynch & Co. Inc. of New York. Also named are niche players Nationwide Group Holdings of London; Manulife Financial Corp. of Toronto; and Teachers Insurance & Annuity Assn.-College Retirement Equities Fund of New York.

"It'll be companies like those that have either a retail presence or a retail brand and organizations that can focus on the investment business," said Robert G. Wuelfing, SPARK founder. "Those split between health and pension and investments, if they have to choose, a lot of them will choose the health care business."

What's different about the current wave of consolidations is how deals are being structured. Five years ago, the acquirer paid a lot of money to buy the business, noted Ben Brigeman, senior vp with Schwab Corporate Services in Cleveland. Now, sellers "want to get their losses off their books with not a lot of cash changing hands."

But Joshua Dietch, associate director of Cerulli Associates, a Boston-based consulting firm, said it's hard to sell a record-keeping business. "Buyers are saying: 'Why should I buy the business? If I wait awhile it will die off, and I can pick off the business I want,'" he said.

The defined contribution business is not a good fit for institutional managers that do not have a retail presence, Mr. Dietch said.

Mr. Brigeman agrees. Companies left standing will have multidimensional business models that include institutional and retail capabilities. It will be difficult to survive on a

single revenue stream from institutional money management and services, he said.

Size alone will not determine who will remain, he said. "In the past, it was said that if you don't have 250,000 participants, you are not going to have scale," he said. "In 20 years I have yet to see anyone who is reaching 500,000 or 1 million participants who has not seen a steep decline in per participant profitability."

Companies that serve the defined contribution business are beginning to understand that they must "manufacture" investments and

have a good record-keeping system as well as a distribution channel, said Joe Ready, senior vp and director of Wachovia Retirement Services in Charlotte, N.C.

Companies that survive will have to be smart and pick a spot in the market and concentrate all of their resources in that market segment, Mr. Ready said.

"We will see further consolidation and outsourcing in the record-keeping business because it is a business of scale, and not everyone will have the scale to run a profitable operation, especially in a market of shrinking profit margins

due to declining asset fees," said Mr. Wuelfing.

Pushing some firms out the door is an expectation that part of President Bush's retirement plan proposals will be adopted, particularly the universal qualified retirement plan. Should defined contribution plans be consolidated, some record-keeping firms might be reduced to nothing more than payroll companies, observers say.

*Arleen Jacobious is a reporter for Pensions & Investments, a sister publication of Business Insurance.*

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# Plans: Consumer-driven model sees early successes

Continued from page 3

ture health care costs.

Consumer-driven plans generally involve high-deductible coverage combined with an employer-funded health care spending account, which employees use to pay for health care services (see related story). The plans aim to foster a "consumerist" mentality among plan participants, by making them more aware of the actual cost of health

care services.

A study of participants in consumer-driven health plans found that their overall utilization of health care services dropped after they enrolled in the plan.

According to the study, utilization dropped by 11% in 2002 for a group of 835 families throughout the United States enrolled in a consumer-driven plan, said Howard Tarre, managing director at Synhrgr

Technologies in Saddle Brook, N.J., a benefit consulting firm that conducted the study. The study compared the group's use of health care services in their first year in the consumer-driven plan with the utilization that was seen in the prior year.

The drop in utilization stemmed mainly from an 18% reduction in office visits, he explained. Visits for behavioral health and lower back pain each dropped by one-third,

officer at Lumenos in Alexandria, Va.

## Plans growing

Other early adopters have experienced sufficient positive signs to expand the plans' use.

Aon Corp., which in 2001 started offering a plan by Minneapolis-based Definity Health Corp., has seen enrollment grow this year to 1,500 employees from 1,100 last year, said Tom Lerche, senior vp at Aon Consulting Inc. in Chicago.

Medtronic Inc., which started offering Definity's plan in 2001, opened it up to all its U.S. employees in 2002 and saw enrollment grow to 3,200 employees this year, compared with 2,400 last year, said David Ness, vp of compensation and benefits in Minneapolis.

Perhaps no employer has embraced consumer-driven plans quite like Textron Inc. The Providence, R.I.-based company launched the Definity-designed plan on Jan. 1, 2002, with a pilot program covering 1,700 employees in various U.S. units. This year, Textron expanded the plan to cover all 28,000 of its U.S. nonunion workers, replacing all other plans the company previously offered.

George Metzger, vp of human resources and benefits at Textron, said the results were as good as "or better than our expectations."

In particular, he cited the drop in utilization among users as proof that the plan can control costs. "That made us firmly believe that employees understood how the plan worked and were willing to participate in how to spend their health care money," he said, declining to be more specific.

## Concept still unproven

The plans' supporters, however, note that the results are still preliminary. Mr. Kronenberg said that Lumenos' results cover only 25,000 employees and are not statistically relevant.

Synhrgr's Mr. Tarre said the consumer-driven plan is not the sole factor behind the drop in utilization. "The employer marketplace has not overwhelmingly embraced consumer-driven health as there is skepticism with these initial findings," he said.

Maureen Cotter, global director of group and health care consulting at Watson Wyatt Worldwide in Southfield, Mich., is skeptical that the savings can continue over time. "It's unproven in terms of controlling health care costs."

And, consumer-driven plans may have attracted healthier people to begin with, further eroding the validity of the results, Mr. Tarre said.

Employers' experience to date has not quelled this long-standing criticism of the concept. For example, while the average age of Aon Corp. employees enrolled in Definity was essentially the same as in other plans, the members may be healthier, Mr. Lerche said.

On the other hand, at Medtronic the employees in the consumer-driven plan experienced higher

amounts of chronic disease than would normally statistically occur, Mr. Ness said. "We debunked that myth," he said.

In addition to reducing costs and utilization, the consumer-driven plans have achieved striking success in changing employees' behavior toward buying health care, employers said.

"Changing employee behavior is probably the most important reason to go into consumer-driven health," Mr. Ness said.

While Medtronic has not saved any money to date from its consumer-driven plan, savings will develop in the future as employees become better-informed consumers, Mr. Ness said. For example, he said calls to the Definity nurse line ran three times higher than for any other health plan the company offered. This indicates that people were using the tools to cut down on doctor visits whenever possible, he said.

Mr. Metzger of Textron said that as 2002 progressed the use of Definity's Web site concerning its health coach and disease management program increased.

Generally, consumer-driven plans have extensive Web-based tools, such as a health risk assessment, to help employees determine what risks they face. Health coaches also help guide members through the health care system and provide advice on staying healthy. The plans also have disease management programs that help people address chronic health problems.

Using the Web tools coupled with the financial incentives can create changes in patient behavior, leading to lower costs in the long term, agreed Ms. Cotter.

Not everyone, however, is sold on the idea that these plans can make a difference.

Bruce Pynson, principal and consulting actuary at Milliman USA Inc. in New York, said that the consumer-driven plans don't address the heart of health care costs.

"Doctor costs are a relatively small amount of total spending," he said.

On average, half of the people in a health plan account for less than 5% of overall health care spending. Meanwhile, the most sick 1% eat up on average about 30% of overall spending, he said.

A consumer-driven plan that reduces the number of doctor visits or lowers drug purchasing will have only a tiny impact on overall health care spending, he said. A consumer-driven plan "is not going to have the kind of impact that some advocates are claiming," he added.

In response, Mr. Kronenberg said that the health coach and disease management capabilities of the consumer-driven plans help keep people healthier. This, in turn, will reduce the number of high-cost people in health plans in the future.

Even if the concept is not fully proven, Aon's Mr. Lerche said it shows enough promise for employers to try it out, especially with health care costs rising every year.

"Employers can't stay still. They can't keep the status quo," Mr. Lerche said.

## New plans share basic structure

Providers of consumer-driven plans offer a variety of products, but the plans generally share similar features.

Typically, the plans combine an employer-funded health care spending account with high-deductible coverage. Once the funds in the account are exhausted, the employee must meet the rest of the deductible before coverage kicks in.

And employers generally can customize the plans to their own liking.

For example, Aon Corp.'s plan offers a \$2,500 health fund for its family coverage. The employee is responsible for the next \$2,500 in medical expenses, and all costs above \$5,000 are covered by a preferred provider organization.

The PPO covers 100% of costs for in-network services and 70% for out-of-network claims.

Textron Inc.'s plan offers \$1,800 in the health fund for family coverage. An employee must meet a \$900 deductible above that level if the fund is depleted before coverage is triggered.

Medtronic Inc.'s family coverage offers \$2,000 in the health fund. Employees then select a deductible amount between \$1,000 and \$3,000, with the premium based on the deductible level chosen.

In all such plan designs, unused funds in the health care account can roll over to be used in the following year.

—By Michael Prince

**'Changing employee behavior is probably the most important reason to go into consumer-driven health.'**

David Ness  
Medtronic Inc.

the largest areas of decrease. The study did not include any maternity claims or employees who submitted claims costing over \$30,000, as such data would tend to distort the results, Mr. Tarre explained. Instead, the study focused on measuring areas of health care where employees can decide to seek treatment or forgo it.

Reducing utilization of health care services is a major goal of consumer-driven health plans and is expected to reduce overall spending. By having people shoulder a greater portion of the health care bill, it is thought they will more carefully choose what provider to visit and even whether to see a doctor at all.

For example, Lumenos Inc., one of the leading consumer-driven plan designers, looked at the eight employers that used its plan throughout 2002.

Costs for people using the plan came in between 60% and 90% of the projections made when the year started, with only one employer exceeding projected amounts, said Doug Kronenberg, chief strategy

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# Between the Lines

Compiled by Joanne Wojcik



## Bad news for California comp market...



Mr. Garamendi

California's workers compensation insurance market just got squeezed a little more now that the once-competitive State Compensation Insurance Fund has become the insurer of last resort. Invoking risk-based capital regulations, California Insurance Commissioner John Garamendi has ordered SCIF to stop taking all comers, a Department of Insurance spokeswoman said. Under the regulator's turnaround plan, SCIF will refuse to cover a business unless coverage has been declined by at least three other insurers. The insurance fund will cut off producers who "consistently write unprofitable books of business." SCIF holds 43% of California's \$15 billion workers comp market.

## ...and some good news

But California employers may have some workers compensation relief in sight. The Department of Insurance reports that at least "four or five" new insurers are trying to enter the state's struggling workers comp market, including one led by a former executive of Fremont Compensation Insurance Co., which was sold last year to Nevada's state workers compensation fund. Thousand Oaks, Calif.-based Employers Direct Insurance Co., which was licensed Dec. 31, 2002, is 40% owned by Swiss Reinsurance Co.'s Securitas Venture Capital Investment Fund, according to Jim Little, the new insurer's president, chairman and chief executive officer. He founded the new insurer with fellow Fremont alum Ron Groden, who is co-chairman and chief financial officer. Employers Direct will bypass brokers and sell directly to employers. The new insurer is initially writing guaranteed-cost coverage and targeting midsize employers, with premiums ranging from \$100,000 to \$2 million annually. The company plans to introduce a retrospectively rated plan soon, Mr. Little said.

## MRM stake no longer sizzles

The long list of shareholders who've taken their lumps in Mutual Risk Management Ltd. stock includes a Cayman Islands company controlled by millionaire investor Kenneth B. Dart, president of Dart Container Corp. of Mason, Mich., the world's largest maker of foam cups. Mr. Dart's Cayman-based Ross Financial Corp. reported acquiring 2.3 million Mutual Risk shares on Feb. 25, 2002, when the stock traded between 74 cents and 87 cents a share and the 5.5% stake was worth upwards of \$2 million, Securities and Exchange Commission filings show. By that time, the stock had already fallen from a high of \$7.24 a share reached earlier in 2002's first quarter. Last month, though, Ross Financial reported that it still owned 2.4 million Mutual Risk shares as of last Dec. 31, when the shares were scraping the bottom at 4 cents apiece. Mr. Dart, who has a record as a sharp judge of distressed investment opportunities, must have a plan.

## Cashing out term life policies

Cash-strapped employers may be able to turn life insurance policies on former employees into gold. Philadelphia-based Corporate Financial Services is offering to buy policies covering key employees, owners and/or board members who have retired, left or otherwise distanced themselves from the corporation. These policies, especially simple term-life policies that appear worthless, could become valuable if they are transferred to a third party that assumes the risk of keeping the policies active and paying their premiums, explained Sidney Friedman, president of Corporate Financial Services.



Tips and feedback from readers are welcomed. Please send information to [wojcik@crain.com](mailto:wojcik@crain.com).

## Letters to the Editor

Continued from page 8

enforcement efforts on making certain that insurers remain financially strong, so that the companies can fulfill their commitments to pay claims when disaster strikes and continue to provide a stable market for the rest of their customers. Insurers took our promises to the victims of 9/11 very seriously. We take our promises to potential victims of future terrorist acts just as seriously. We are anxious to make TRIA work so we can be there for victims if another attack occurs.

**Leigh Ann Pusey**  
Senior Vp, Federal Affairs  
American Insurance Assn.  
Washington

## TRIA must be taken to the next level

To the editor: I must say that I was as mystified by your Feb. 24, 2003, editorial, "TRIA Already a Success," as I was by the self-congratulatory form letter dated Jan. 3, 2003, which I received from RIMS, signed by its president, Christopher Mandel, implying that the Terrorism Risk Insurance Act is the solution to the terrorism issue.

Both overlook the reality that TRIA, as currently enacted, is neither a real nor a long-term solution.

In this relatively small space, I cannot go into all of the shortcomings of TRIA, which are numerous and material.

I would rather focus on the fact that TRIA must be taken to the next level in order to make a difference should future terrorist acts occur.

An important part of this remodeling of TRIA must include the realization by the federal government that the commercial insurance marketplace is incapable of equitably applying or even properly administering insurance coverage related to

the act's operation.

I say this given my 24 plus years in the insurance industry. During this tenure, at least three things have been consistent: the industry, especially in hard market cycles, has been rife with opportunism, which has gone largely unchecked by state regulators; the industry has been incapable of properly interpreting, applying or managing matters much simpler than TRIA; and the industry has done little to police itself—insurers, reinsurers and brokers alike.

I suggest that when TRIA is remodeled, an insurance mechanism be put into place such as that used for nuclear liability insurance and financial protection when the Price Anderson Act became law at the start of the United States' use of nuclear energy to produce electricity.

Out of that 1957 act, a comprehensive, noncompetitive liability insurance pool was created which has effectively dealt with the nuclear liability insurance issue for more than four decades, including the catastrophe known as Three Mile Island.

This solution is absent of any insurance marketplace manipulation or administrative inability. This type of solution cannot exist, though, unless TRIA is remodeled into a comprehensive, workable and long-term platform.

I strongly encourage insurance buyers, risk managers and organizations that represent their interests to stop basking in self-congratulations or being complacent and instead focus on moving Washington toward such a solution.

I fear that this undertaking will now be especially difficult, though, given Congress' incorrect belief that TRIA is the solution. It is, however, extremely important that Congress be convinced otherwise.

**Stephen N. Raimondi, ARM**  
Torrington, Conn.

## Election year may explain comments from Serio

To the editor: I wanted to briefly comment on the New York Superintendent of Insurance Gregory V. Serio and his recent statement (*BI*, March 24). The nit-picking he refers to is the difference between being able to pay the next catastrophic loss or having an industrywide failure to perform. The law does have some Swiss cheese-sized holes and vagaries in it, and these must be cleaned up before the next event occurs. Why the regulator fails to understand this is probably answered in his department's context.

His department has ruthlessly repressed the rate level charged by the largest domestic insurer offering medical malpractice coverage in the state. A.M. Best Co. has lowered its rating as a direct result of this unlawful and immoral rate suppression. His department has been quoted as saying not to even consider a rate increase in an election year. Perhaps this explains his remarks.

**Bill Ford**  
Birmingham, Ala.

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# International

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## Regs shift China's med mal liability

### Western group explains risk management measures to doctors, hospitals

By MICHAEL BRADFORD

**BEIJING**—Physicians and hospitals in China are looking for risk management help as new medical malpractice regulations have made them much more vulnerable to claims.

Last September, the Chinese government promulgated regulations aimed at preventing and responding to medical errors. The regulations, among other things, transferred liability for medical malpractice from the government to the doctors and mostly state-owned hospitals.

"As the economy evolves to a capitalistic society, they have put parameters in place where doctors and hospitals are responsible for bad outcomes," said Michael Madey, vp with The Horton Group, a brokerage based in Orland Park, Ill. "It's still in its extreme infancy," he said of the shift in liability and the development of malpractice regulations. But "doctors and hospitals are concerned about it."

The Horton Group's joint venture, Wanxiang-Horton in Beijing, has experienced an increase in interest from medical providers who want to know how to handle the new liability, said Mr. Madey. Last fall, he and a hospital risk manager from the United States were part of a group that teamed with a representative of the joint venture to conduct seminars and hold discussions with doctors and hospitals in China.

The seminars and talks involved more than 50 hospitals, 125 doctors and government officials and were aimed at outlining medical professionals' responsibilities with regard to malpractice and to find ways in which they could limit their exposure.

"We wanted to provide them with information on risk management and how it works in hospitals in the U.S.," said Pauline Jakubiec, director of risk management with Advocate Christ Medical Center in Oak Lawn, Ill., who was part of the group that traveled to China.

Ms. Jakubiec said listeners responded enthusiastically to her overview of risk management in the United States and the types of things that health care providers do to prevent errors, provide quality medical care and cover the malpractice exposure. "They were eager to learn more about the Western system," she said.

Mr. Madey said that a lot of the discussion with the Chinese centered on "proper documentation. That's something that they really had no concept of, because they have never had to document anything before. We told them that here in the U.S., documents are what are used in court."

"We talked about mechanisms for reporting," Ms. Jakubiec said. Explanations of incident reporting and meticulous and neat medical record-keeping were stressed.

Ms. Jakubiec also covered "some of the higher areas of exposure" in the United States, such as emergency rooms, trauma centers, neurosurgery, obstetrics/gynecology and others. Ways to reduce the malpractice exposure in such areas were discussed, she said.

The regulations call for proper medical record-keeping and require medical organizations to put in place procedures for preventing and responding to medical errors. There also are rules for authenticating errors that have led to dis-

See CHINA/next page

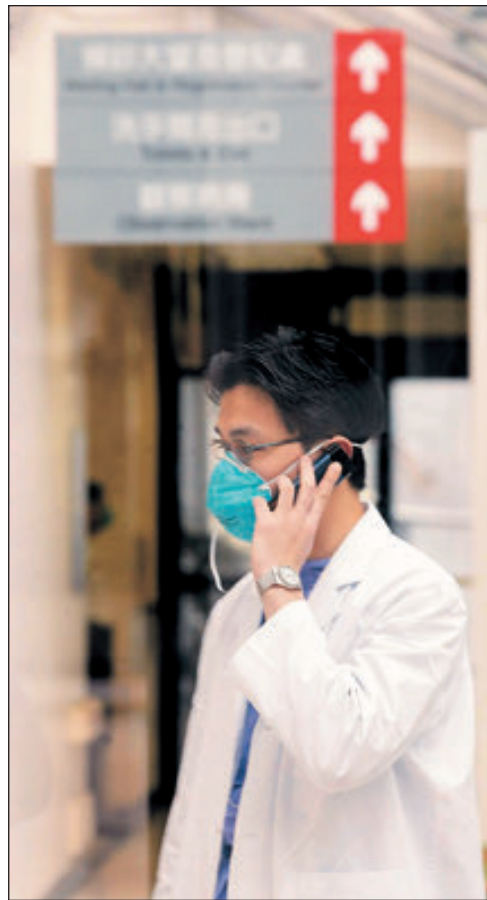


PHOTO: AFP/PETER PARKS

Chinese doctors and hospitals are facing greater exposure to malpractice claims following regulatory changes.

### Threats to reputation, supply chains can be costly

## War highlights critical nature of business contingency plans

By CAROLYN ALDRED

Risk managers are facing up to the increasing complexities of business continuity management as the Iraq war and heightened terrorism threat bring new dimensions to companies' exposures, risk managers, brokers and underwriters agree.

Supply chain risks, security arrangements and emergency procedures increasingly need to be managed in a coordinated way, sources say.

Moreover, because insurance often is not available or does not adequately cover business continuity risks, managing these exposures is crucial, risk managers agree.

"Business continuity now is one of the top issues facing risk managers," said Chris Rigby Smith, service leader for business continuity management at Marsh UK Ltd.'s risk consulting practice in London.

"Globalization, complex supply chains, high-technology dependence and lack of customer tolerance all have reduced companies' resilience to business disruption. Sept. 11 focused people's minds on business continuity," and the current situation re-emphasizes the need to manage such risks, he said.

While some companies now have dedicated business continuity managers, in many organizations it is the risk manager's role, said Mr. Rigby Smith.

Business continuity plans are vital, according to Reiner Siebert, head of insurance for Virgin Group, the London-based airline, rail, travel



London-based Virgin Group considers continuity planning vital.

and retail consortium. Mr. Siebert is responsible for the risk management and business continuity arrangements for Virgin's travel subsidiary.

"We are very aware of our dependency on systems and services and have looked at all our business continuity risks," he said, including:

- Identifying critical suppliers

and contingency arrangements.

- Identifying critical systems and applications and having separate computer facilities and back-up systems.

- Establishing emergency procedures and a crisis management response.

"When you want to buy business interruption or contingency insurance, you need to have a clear idea of the company's response. If you cannot show that you have a business continuity plan, it is much more difficult to buy cover," he said.

"The Iraq war has increased awareness of business continuity risks, as did Sept. 11 and Y2K," said David Gamble, executive director of the London-based Assn. of Insurance & Risk Managers, which set up a business continuity committee about 18 months ago.

The impact of the Iraq war on international supply chains is of particular concern, with disruption to shipping and airline routes, increased border security checks and a heightened level of terrorism threat globally.

Although companies can buy supplier and customer extensions to business interruption policies, ca-

See INTERRUPTION/page 19

## Regulators reject limited liability for auditors

**LONDON**—A top European Union regulator has rejected calls to limit liability for auditors.

Unlimited liability is a "quality driver" that does not penalize auditors who carry out their duties adequately, said Frits Bolkestein, E.U. Commissioner, internal market directorate-general and taxation and customs union directorate-general.

Speaking in London last week, Mr. Bolkestein said that accountancy firms have been lobbying for a liability cap in response to an increase in the number and magnitude of professional liability losses.

While the concerns of the accountancy firms are understandable, there is little prospect of a change in E.U. policy, he said.

Curbing liability would damage investor confidence in auditors' competence, especially in the wake of a series of corporate accounting scandals in the United States, he said.

"After so many major financial reporting scandals and potential audit failures, regulators need to act to restore investor confidence," Mr. Bolkestein said. "An intervention limiting liability, to my mind, would not serve to revive the trust of investors."

—By Sarah Veysey

## World Updates

### E.U. transport panel mulls airline cover

The European Union's Council of Transport Ministers met last week to discuss whether E.U. member states can offer war and terrorism coverage to airlines if commercial coverage is withdrawn because of the conflict in Iraq. Member states provided coverage programs for airlines after the terrorist attacks of Sept. 11, 2001, which prompted insurers to withdraw or drastically reduce war risk liability coverage. The European Union last year withdrew its support for such programs, deeming them anticompetitive.

### Munich Re profits hit by investments

Munich Re Group reported profits of 1.1 billion euros (\$1.16 billion) for 2002—more than quadruple its profits in loss-plagued 2001—but results were still held down by large investment writedowns and reserve boosts. Contributing to the profit in 2002 was a 4.7 billion euros (\$4.96 billion) gain related to the sale of Munich Re's long-term shareholdings in Allianz A.G. Holding. In addition, premiums increased by 10.8% to 40.0 billion euros (\$42.3 billion). But profits were restrained by investment writedowns of 6.3 billion euros (\$6.64 billion) stemming largely from the slumping stock market.

### Swiss Re remains in the red in 2002

Swiss Reinsurance Co. recorded a net loss of 91 million Swiss francs (\$64.9 million) in 2002, an improvement over the 165 million franc (\$100.0 million) loss it saw in the prior year. The Zurich-based reinsurer attributed the 2002 result chiefly to 515 million francs (\$367.5 million) in net realized investment losses stemming from declines in world stock markets. Swiss Re's premiums grew 15% in 2002 to 29.1 billion francs (\$20.8 billion) as result of its 2001 acquisition of Lincoln Re and positive conditions in the nonlife reinsurance market, Swiss Re said.

### Marsh U.K. names CEO

Marsh & McLennan Cos. Inc.'s Marsh U.K. unit in London has appointed Bruce Carnegie-Brown as chief executive officer, effective June 2. Mr. Carnegie-Brown is head of debt capital markets for Europe and Asia at J.P. Morgan Chase. He will replace the current joint CEOs, Philip Gregory and Mike Hammond. Mr. Gregory will relinquish his CEO position and concentrate on his roles as chief operating officer and chief financial officer for Marsh's Europe and Middle East operations. Mr. Hammond is retiring, the broker said.

## China: Med mal liability shifts

Continued from previous page  
putes.

Under the regulations, patients can attempt to negotiate a settlement with doctors and hospitals, file a complaint with government health officials or lodge a civil complaint in the courts.

Mr. Madey said few lawsuits have been filed because many patients are unaware of their rights under the new regulations. But, he added, "people are starting to go to attorneys, and attorneys are starting to file actions."

He said it is likely that little, if

any, malpractice coverage had yet been sold in China. That could change, though, if patients begin to be successful in obtaining court awards. "Once one of them gets stung in a lawsuit, it will be in demand," Mr. Madey said of the coverage.

A problem Chinese insurers face is the lack of historical data for the market. With no need to provide the coverage until now, they lack the information needed to calculate premiums.

During the seminars in China, doctors and hospitals were urged to examine historical incidents in their practices to develop a gauge of frequency and severity for medication errors, slips and falls, deaths

and other problems related to medical errors. That information can be used not only to identify trends but will be important in an insurance review.

With little to go on, Mr. Madey said insurers are woefully uninformed about what to charge. In conversations with Chinese insurers, he said some wondered if \$300 per year would be an adequate medical malpractice premium.

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AS JOINT PROVISIONAL LIQUIDATORS OF  
BLACK SEA AND BALTIC GENERAL  
INSURANCE COMPANY LIMITED,  
CASE NO. 98-B-46759 (CB)

NOTICE IS HEREBY GIVEN THAT ON MARCH 19, 2003, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. § 304 ORIGINALLY ENTERED IN THIS CASE ON OCTOBER 5, 1998. THE ORDER SHALL REMAIN IN EFFECT UNTIL SEPTEMBER 24, 2003. A HEARING TO CONSIDER WHETHER THE ORDER SHALL BE CONTINUED IS SCHEDULED TO BE HELD ON SEPTEMBER 17, 2003 AT 2:00 P.M. (THE "RETURN DATE") BEFORE THE HONORABLE CORNELIUS BLACKSHEAR, IN ROOM 601 OF THE ALEXANDER HAMILTON CUSTOM HOUSE, ONE BOWLING GREEN, NEW YORK, NEW YORK. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE CORNELIUS BLACKSHEAR AND SERVED ON COUNSEL FOR THE PETITIONERS LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE PETITIONERS.

CHADBOURNE & PARKE LLP  
ATTORNEYS FOR THE PETITIONERS  
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# Interruption: Contingency planning seen as critical

## Continued from page 1

capacity in the business contingency market has reduced dramatically, brokers point out.

Estimates of market capacity for this coverage are not available, but brokers note that underwriters are imposing stricter terms and conditions, as well as sublimits for supplier risks.

The market for contingent business interruption contracted partly because of the large number of claims from the Sept. 11 terrorist attacks and other losses, such as a \$500 million claim by Ericsson Telecom A.B. in 2000. A fire disrupted production for a key supplier of the Stockholm, Sweden-based mobile phone maker at a time of high demand for its products (*BI*, Oct. 9, 2000).

Since then, underwriters of all-risks policies have removed coverage for the risks of suppliers and customers.

While this extended coverage can be bought for additional premium, capacity in the market is tight, said David Foreman, chief underwriting officer for London-based Wellington P.L.C. and Lloyd's syndicate 2020.

Underwriters now demand more information about key suppliers and customers and what contingency arrangements companies have, said Mr. Foreman, who writes contingent business interruption insurance for major manufacturing and industrial companies.

The policies are written on a named-peril basis, and some underwriters, including Mr. Foreman, still will insure terrorism. However, such policies respond only when there is physical damage to a supplier or customer.

Other supply chain risks can be covered by trade disruption insurance, developed in the Lloyd's market by agencies such as R.J. Kiln & Co. Ltd.

Written on a bespoke, or customized, basis, TDI can cover expenses, contractual penalties, lost revenue and contingency plan costs incurred when supply chains are disrupted for a variety of reasons, including political instability, explained Robert Chase, director of underwriting at Kiln.

TDI insurance responds to an event outside the control of the policyholder, and that can include war, said Phil Pavey, a director at Miller Insurance Services Ltd. in London. Awareness of supply chain disruption has increased notably in recent years, he said.

Although coverage for war in Iraq would be difficult to obtain at the moment, TDI coverage for war and political risks elsewhere in the world is still available, he said.

Risk managers need to be aware of the risks, think ahead and then make a judgment as to whether they need to buy insurance, he said. Sometimes that judgment can be wrong, he said. For example, Mr. Pavey recalled one client that was dependent on a key supplier in the former Yugoslavia but opted not to buy the quoted TDI cover shortly before atrocities in the former communist state and its disintegration

brought trade to a halt.

Amid increased security checks and border controls, companies are being advised to adopt contingency measures. These include maintaining reserve supply stocks, checking contractual commitments, accounting for increased operational costs and becoming aware of customs arrangements such as the U.S. Customs-Trade Partnership Against Terrorism program to identify low-risk shippers who benefit from quicker inspections, according to PBB Global Logistics.

Other risks increasingly being included in business continuity plans

include reputational risk, crisis management arrangements and increased security measures, said Terry Simister, a director of Heath Lambert Risk Management, a unit of London-based Heath Lambert Group.

"Risk managers increasingly are looking at reputational risks," he said, pointing out that while insurance is available to cover the costs incurred by a product recall, for example, most reputational risks are not insurable.

For example, a company targeted by environmental activists can incur huge expenses and reputational

damage. General sentiment such as anti-French feeling in the United States or anti-American feeling in the Middle East that results in boycotts can harm a company's revenues.

Reputational risk is "a bottomless pit" and a "very much underestimated risk," said Mr. Simister.

Meanwhile, the increased risk of terrorism has heightened many companies' security and contingency arrangements, he said.

Continuity planning consultant King of Prussia, Pa.-based Strohl Systems advises clients to do the following:

- Keep track of all traveling employees.

- Check the risks of all locations, because some offices or plants may be located near possible terrorist targets.

- Increase security at all locations.

- Review alternate sites.

- Plan for alternative fuel sources in the event of disruption to Middle East fuel supplies.

- Check supply chain contingency plans.

- Ensure all critical electronic data is backed up daily and kept off site.

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# Reinsurers: Reserve charges make for 'very ugly year'

## Continued from page 4

the "double whammy" that investment income is down significantly from the boom years of the 1990s. That means reinsurers "can't just offset the poor underwriting results," he said.

"Where do you start when the results are so bad?" asked Michael Smith, an analyst with Bear Stearns & Co. in New York. "All of a sudden, results are turning up worse now than they did in 1984."

But Michael Paisan, an analyst with Legg Mason Inc. in New York, said that although losses continue to mount and have created some disruption in the marketplace, this "represents some opportunity for the stronger, more highly capitalized players in terms of continuing to raise rates. So I think the longer-term issue is positive, as long as they can weather the storm they're going through right now."

## Positive outlook

Most observers say the outlook for reinsurers is positive.

Tim Carroll, president and chief executive officer of Barrington, Ill.-based GE Reinsurance Corp., a unit of Employers Reinsurance Corp., said the reinsurance industry's outlook "is particularly bright right now. We've moved from that soft market environment...into a hard market environment."

Mr. Carroll said, "I see that hard market prevailing through the end of this year and through 2004." The "considerable amount of repairing of balance sheets" still needed by

both primary insurers and reinsurers means there is no incentive to return to highly competitive pricing, he said. "Right now, I think the reinsurance market is a good place to be," said Mr. Carroll.

Swiss Re's Mr. Lescault said, "I'm very positive about the business that we're putting on the books today, because, as an industry, we're approaching it from a disciplined underwriting and pricing standpoint that should allow us to bring home good returns."

Brian Meredith, senior property/casualty insurance analyst with Banc of America Securities Inc. in New York, said he expects most of the publicly traded reinsurers "to have fairly strong earnings growth coming from the price increases that we've seen in the past couple of years flowing into earned premiums." The strong cash flow will also "help offset the impact of fairly low investment yields," he said.

Mr. Smith said, "At least in the near and medium terms, I don't think it's unreasonable at all to expect the reinsurance sector to revert to where it had been—that is, a better-than-average business, controlled by a small number of well-capitalized players."

However, Chris Winans, a principal and senior equity analyst with The Williams Capital Group in New York, said that "when primary companies see themselves as having rate adequacy, they're more inclined to cede less to their reinsurers."

"They're not going to hand the reinsurers a whole lot of their premium now" to make up for prior-

year losses, said Mr. Winans. "That's why I think '03 might prove to be a bit of tough year, especially for the European reinsurers."

Meanwhile, rate hikes are likely to moderate, particularly in property lines, observers say. "Rates still seem to be moving higher," said Mr. Smith. "Retro capacity is still scarce, and that's putting some pressure on the ability of reinsurers to compete any more aggressively."

"I'm assuming that we're going to see at least another round of price increases in the market, but I'm not sure that they are going to be anywhere near as strong as what we've seen over the past year or two years, especially in the property market," said Mr. Smith.

Mr. Carroll said that while "we're seeing some evidence that the rate hikes, particularly in the property and shorter-tail lines, are flattening out, I'm not seeing any evidence of that in the casualty lines." In casualty, rate hikes remain strong, particularly for professional liability lines such as directors and officers liability coverage for major corporations, he noted.

Marc Serafin, an analyst at Moody's Investors Service in New York, said rates are moderating for those lines "that hardened fastest and earliest," chiefly property. But rate hikes will not slow for most lines, including those that have needed a lot of reserve strengthening, he said.

## Reserve boosts

Reserve additions may continue,

observers note. John Ward, chairman of the Cincinnati-based Ward Group, pointed to ERC's \$2.5 billion reserve addition last year and said, "It would not surprise me to see more. It seems to be plaguing the industry."

"I think there's still a number of reinsurers that have to do a little more work on strengthening their balance sheets for some of the underpriced business that was written during the 1997-2001 period," said American Re's Mr. Snyder.

In addition, "there will continue to be the need to revisit asbestos and environmental reserve levels and top them off from time to time," as new industry benchmarks are established and raised by regulators, rating agencies and Wall Street analysts, said Mr. Snyder. American Re received a \$2 billion reserve boost last year from parent company Munich Reinsurance Co. (BI, July 15, 2002).

Mr. DeRose said he is particularly concerned about reinsurer reserve additions for asbestos losses, which have been relatively small compared with those for the 1997-2001 accident years. Given that larger commercial primary insurers have taken significant charges for asbestos reserve additions, the question is whether reinsurers provided for them in their incurred-but-not-reported reserves, and whether they are going to be sufficient, said Mr. DeRose.

"I think the loss reserves are still deficient," said Mr. Meredith. However, in terms of additions, "there'll be a lot fewer this year than there

were last year." For the most part, the publicly traded reinsurers that have remaining deficits will be able to offset them with current earnings, "therefore, you may not see reserve charges."

## Getting tough

Meanwhile, Mr. Winans said he anticipates a "much higher level of arbitration activity" between primary insurers and reinsurers. "It's inevitable," he said. Reinsurers are showing huge losses, "and if you don't have investment income to carry you through, you really don't have any choice but to sort of go to war with your customers. Your own survival's at stake at that point."

ERC's Mr. Carroll said that "most insurers and reinsurers have looked very hard at their claims processes and have put a lot more rigor and intensity and discipline" into assessing claims.

Traditionally, reinsurers have "followed the fortunes" of their cedents with little scrutiny of specific contract wordings, said Mr. Serafin.

But as profitability has deteriorated and reinsurers have come under more pressure, "I think this type of relationship-based claims adjustment has diminished," he said. As a result, "you see reinsurers asking more questions before they send out more payments, requiring more documentation of losses and trying to become involved a little bit more early on in the process in terms of their audit of primary company losses."

## LARGEST U.S. REINSURERS' 2002 YEAR-END RESULTS

Dollar figures in thousands.

Reinsurer	Net reinsurance premiums written 2002	Net reinsurance premiums written 2001	Policyholder surplus (reinsurers only)	Net income (loss) 2002	Loss & loss adjustment expenses	Loss ratio	Underwriting expenses	Expense ratio	Combined ratio 2002	Combined ratio 2001
Employers Reinsurance Corp. <sup>1</sup>	\$4,537,652	\$3,706,697	\$5,901,266	\$381,739	\$5,783,216	137.1%	\$1,210,181	26.7%	163.8%	131.4%
General Re Group <sup>2</sup>	3,974,851	4,171,670	4,110,733	80,777	3,837,255	96.7	1,149,720	28.9	125.6	175.2
National Indemnity Co.	2,666,259	905,408	15,732,073	1,640,027	802,599	41.1	343,021	12.9	54.0	N/A
Transatlantic Re/Putnam Re	2,336,650	1,764,101	1,545,944	113,515	1,655,061	75.4	624,212	26.7	102.1	116.0
Everest Reinsurance Co.	2,119,175	1,380,109	1,494,009	77,576	1,358,581	71.3	582,283	27.5	98.8	116.3
Odyssey America Re Corp./Odyssey Re Corp. <sup>3</sup>	1,493,119	891,952	990,469	173,960	917,125	69.1	435,542	29.2	98.3	113.9
Swiss Reinsurance America Corp. <sup>4</sup>	1,283,006	1,647,179	2,391,286	79,074	998,599	71.2	540,665	42.1	113.3	141.4
American Re-Insurance Co. <sup>5</sup>	1,169,424	2,761,559	2,230,032	(1,778,568)	2,853,022	261.9	346,313	29.6	291.5	148.3
Converium Reinsurance (North America) Inc.	1,064,112	839,064	628,856	(35,339)	915,088	81.1	334,937	31.5	112.6	170.6
Berkley Insurance Co.	940,484	436,319	757,170	7,183	492,828	73.1	256,039	27.2	100.3	148.9
Partner Re U.S. <sup>6</sup>	755,317	500,073	512,420	5,986	526,713	74.4	233,585	30.9	105.3	121.6
Hartford Re Co.	702,922	848,900	N/A	N/A	569,368	79.9	191,097	27.2	107.1	143.9
Folksamerica Reinsurance Co.	678,728	458,177	857,054	58,190	434,571	70.0	198,332	29.2	99.2	119.9
CNA Re <sup>7</sup>	665,936	451,774	N/A	N/A	527,541	82.8	166,973	25.1	107.9	247.8
SCOR U.S. Group/SCOR Reinsurance Co.	636,725	597,597	428,298	(51,133)	460,042	81.4	191,011	30.0	111.4	131.2
PMA Capital Insurance Co.	614,870	319,114	580,151	(12,204)	422,183	80.1	173,720	28.3	108.3	118.5
AXA Corporate Solutions Reinsurance Co.	550,040	359,548	277,397	(20,646)	328,681	66.9	193,727	35.2	102.1	129.8
Gerling Global Reinsurance Corp. of America <sup>8</sup>	479,302	760,128	288,756	(177,192)	630,376	102.1	228,373	47.6	149.7	130.8
XL Reinsurance America Inc.	411,084	228,396	1,138,641	73,883	331,422	98.5	55,305	13.5	112.0	161.0
American Agricultural Insurance Co.	389,400	299,033	274,951	7,725	321,850	81.0	92,315	23.7	104.7	111.5
<b>Total for Top 20</b>	<b>\$27,469,056</b>	<b>\$23,326,798</b>	<b>\$40,139,506</b>	<b>\$624,553</b>	<b>\$24,166,121</b>	<b>94.9%</b>	<b>\$7,547,351</b>	<b>27.5%</b>	<b>122.4%</b>	<b>137.9%</b>
<b>Total for all companies</b>	<b>\$29,503,920</b>	<b>\$26,429,294</b>	<b>\$42,088,213</b>	<b>\$628,386</b>	<b>\$25,490,270</b>	<b>93.7%</b>	<b>\$8,156,050</b>	<b>27.6%</b>	<b>121.3%</b>	<b>142.9%</b>

<sup>1</sup> Includes the combined results of Employers Reinsurance Corp., Westport Insurance Corp., First Specialty Insurance Corp., The Medical Protective Co. and GE Reinsurance Corp. <sup>2</sup> All data presented for the North American property/casualty segment of the General Re Group; includes certain intercompany and other adjustments; excludes other affiliates of the Berkshire Hathaway Group. <sup>3</sup> Includes the combined results of Odyssey America Reinsurance Corp., Odyssey Reinsurance Corp. and Hudson Insurance Co. <sup>4</sup> Swiss Re America adjusted the financial reporting of a reinsurance transaction with its parent, increasing commissions and decreasing losses incurred by \$160 million. <sup>5</sup> American Re-Insurance Co.'s results reflect a re-estimation and strengthening of net loss and loss adjustment expense reserves of \$2 billion. <sup>6</sup> Includes the combined results of Partner Reinsurance Co. of the United States and its subsidiary, PartnerRe Insurance Co. of New York. <sup>7</sup> Excludes the corporate aggregate reinsurance treaty and first quarter revisions to the World Trade Center event loss, which were offset on a net of reinsurance basis by higher reinstatement premiums and a reduction of return premiums. Excludes transactions related to the sale of CNA Re Ltd. UK. <sup>8</sup> Includes the combined results of Gerling Global Reinsurance Corp. of America and Constitution Insurance Co. <sup>9</sup> Total premiums written shown for December 2001 are those reported in the December 2001 Reinsurance Underwriting Report.

Source: Reinsurance Assn. of America

# American: Claims fight **Comings & Goings**

## Continued from page 3

Texas. The suit argues that Sept. 11-related costs are covered under war risk provisions requiring the airline to ensure the safety of aircraft in the event of damage or "forced landing not involving impact damage."

Insurers agreed to pay "reasonable costs" of such safety steps up to 10% of the agreed value of the aircraft, according to the suit.

The airline also cites an extra-expense provision under which insurers agreed to pay reasonable and necessary expenses "arising directly from confiscating or hijacking" up to \$10 million per occurrence.

Under a separate clause, underwriters also agreed to pay up to \$75,000 per aircraft per day if American Airlines was unable to use its planes as a result of the war and terrorism perils covered by the policy.

These provisions obligate the war risk insurers to cover American's post-Sept. 11 costs, but the insurers breached their contract and are guilty of bad faith in refusing to pay the claims, the lawsuit charges.

A lawyer for the airline declined to say how much American is seeking to recover and referred questions to the company. An airline spokesman could not be reached.

This month, the insurers had the suit removed to federal court and filed a separate complaint to force

American Airlines to arbitrate. The airline has not yet responded in court to the arbitration demand.

The war risk dispute follows a separate suit against American and others by London insurers of WTC leaseholder Silverstein Properties Inc. Lloyd's underwriters and Great Lakes Reinsurance (UK) P.L.C., participants on Silverstein's WTC property program, filed suit in U.S. District Court in New York earlier this year to recover losses arising from the WTC's destruction. In addition to American and United, the suit names US Airways Group Inc.; the Massachusetts Port Authority, operator of Logan International Airport; the City of Portland, Maine, operator of the Portland airport through which two terrorists passed; and security firms that provided services at the Boston and Portland airports.

The insurers charge, among other things, that the airlines, airports and security firms had received warnings of the terrorist threat from the FAA and other sources before Sept. 11 and negligently failed to prevent the hijackings.

None of the defendants has answered the complaint, which may be consolidated with a larger mass of Sept. 11-related litigation between WTC property insurers and the airlines, airport operators and security firms.

## Agents/Brokers:

**Douglas K. Howell** has been named chief financial officer of Arthur J. Gallagher & Co. in Itasca, Ill. He previously was senior vp and CFO at Woodland Hills, Calif.-based 21st Century Insurance Group, a unit of American International Group Inc. At Gallagher, Mr. Howell replaces Executive Vp and CFO **Michael J. Cloherty**, who stepped down in September 2002.

**Donald J. Bailey** has been named executive vp and global practice leader of Willis' Global Financial and Executive Risk Practice, both units of Willis Group Holdings Ltd. Mr. Bailey joins Willis from Allianz Insurance Co., where he served as senior vp and chief underwriting officer of specialty risk lines.

ABD Insurance & Financial Services in Redwood City, Calif., has announced executive-level changes:

- **Dan Francis** has been appointed to the newly created position of president, property/casualty. He previously was president of the company's Redwood City property/casualty division.

- **Sam Jones** has been appointed to the newly created position of president, corporate development, responsible for ABD's strategic

growth and management initiatives across all operating divisions. Mr. Jones previously served as executive vp of ABD's property/casualty division.

## Insurers:

David L. Babson & Co. Inc., a member of the MassMutual Financial Group, has appointed **William F. Glavin Jr.** as chief operating officer, effective April 3. Mr. Glavin comes to Babson from Scudder Investments in New York, where he was president of the Scudder Funds, the domestic retail mutual fund complex of Deutsche Asset Management. Previously, the position of COO at Babson was held by **Robert E. Joyal**, who is retiring after more than three decades with the firm.

**Joseph Krysh** has been named executive vp of Medical Mutual, a Cleveland, Ohio-based health insurer. Previously, Mr. Krysh worked as a consultant to the company.

**Robert A. Blee**, chief accounting officer of Hamilton, Bermuda-based ACE Ltd., will assume the newly created position of chief compliance officer. In his new position, Mr. Blee will be responsible for monitoring and enhancing ACE's

internal controls and ensuring compliance with the Sarbanes-Oxley Act and other new reporting and disclosure requirements.

## Reinsurance:

**Julian Hall** has been appointed executive vp specializing in worldwide direct and reinsurance business at specialist Lloyd's of London broker Paragon International. The move is part of Paragon's expansion into the nonmarine property facultative market. Mr. Hall has been a broker at Lloyd's for more than 18 years.

Employers Reinsurance Corp. of Overland Park, Kan., has named **Darren Harris** director of claims for its Canadian life and health reinsurance business unit. Mr. Harris will be based in Toronto. Before joining ERC in 2002, he held a variety of claims positions at Canadian life and health insurers, including The Confederation Life Insurance Co. and The Canada Life Assurance Co.

## Other suppliers:

**Kevin B. Thompson** has been promoted to senior vp at the Insurance Services Offices Inc. in Jersey City, N.J., with responsibilities for producing ISO's advisory loss costs, manual rules and policy forms products for personal and commercial lines. He formerly was assistant vp and actuary.

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## War: Work hostilities possible

Continued from page 1

chain. To prevent the development of a hostile environment, senior management sent out a memo reminding all employees of the company's anti-harassment policy, Mr. Kilada said.

"You have to be proactive with these kinds of things," he said.

The same course of action should be taken if similar comments are made today, Mr. Kilada said.

If an individual continues to make offensive statements after receiving a written warning or meeting with management, then the employer should increase the disciplinary steps, up to and including termination, said Martha Lester, a partner with Lowenstein Sandler P.C. in Roseland, N.J.

Another way to defuse a hostile situation is through ongoing anti-harassment training for employees, said Jeffrey Green, general counsel for the Port Authority of New York and New Jersey in New York.

Pro- or anti-war statements in the workplace represent another area of concern for employers. Private employers can legally ban political acts or statements, such as signs or banners, in the workplace, attorneys say.

Ms. Lester recalled the case of a worker at a New Jersey employer who loudly criticized the Republicans in power, speaking out in front of a woman whose husband died in one of the Sept. 11 attacks. The widow, offended by her co-worker, complained to management, and

human resources personnel intervened, explained Ms. Lester.

Then, later, the worker espoused anti-French views. This is the type of talk that could create a hostile work environment for some individuals, Ms. Lester said.

"The employer has the right to control the conduct of the workplace," said Dan Johnson, a partner with McKenna Long & Aldridge L.L.P. in Washington. "Employers can prohibit political speech."

Because the expression of political opinions is not legally protected at private workplaces, those employers are free to demand the removal of any employee's pro- or anti-war poster or sign without fear of a lawsuit, Mr. Maatman said.

Although some employers can legally forbid all political speech, such action is not necessarily wise, lawyers caution. Scouring the workplace to eliminate every symbol of political speech is time-consuming and invasive. In addition, an employer typically doesn't want to be seen by its employees or by the public as cracking down on all forms of expression in the workplace.

"It's hard to remove feelings and opinions out of the workplace," Mr. Maatman said.

Instead, employers should act only if employees attempt to force their views on others or make statements that disrupt the workplace, lawyers say. Actions that fall short of this, such as displaying inconspicuous signs, should probably be

ignored, attorneys say.

While a private employer can control what happens at its workplace, it has less control once workers leave the premises. Taking action against an employee that is involved in either a pro- or anti-war protest should be avoided, attorneys say.

"That's one area where employers may need to tread lightly," said Philip Berkowitz, a partner with Seyfarth Shaw in New York.

Many states have laws that protect conduct outside of work and make it illegal to take disciplinary action based on that conduct. For example, California has a statute that prohibits employers from firing employees for lawful conduct outside of work and off the premises. An employee fired in California for participating in a rally could have grounds for a lawsuit, Mr. Berkowitz said.

Furthermore, a termination that is based on outside political activities might violate an employee's written employment contract, he said.

Even if the termination is legal, it might damage employee morale, lawyers say.

"It's bad business to make decisions based on political beliefs," Mr. Maatman said.

Employers should also be flexible in regard to employees watching war coverage on television or through the Internet while at work. While such TV viewing or Internet watching may be time-consuming,

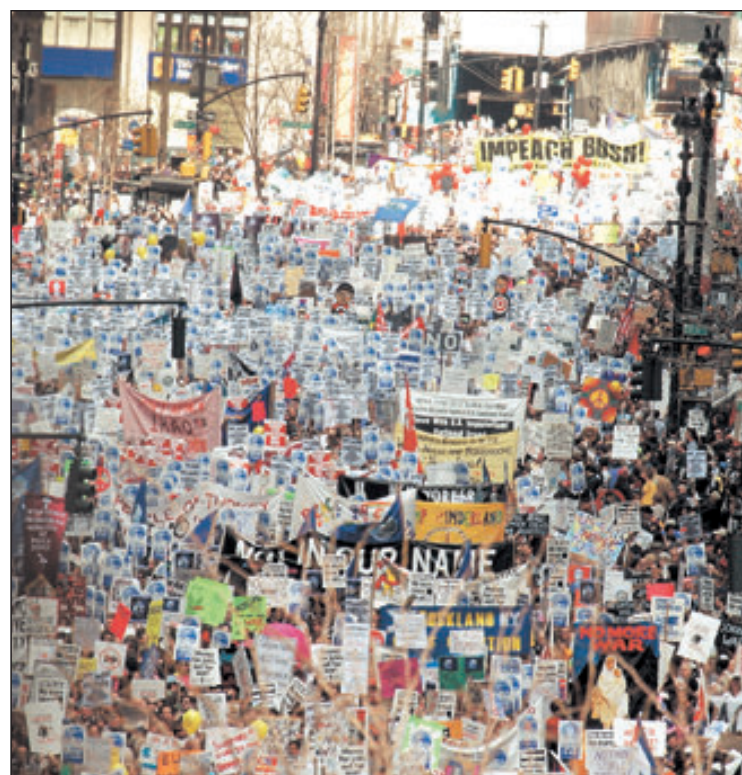


PHOTO: GETTY IMAGES/MARK MAINZ

Attorneys advise employers not to act against employees who take part in lawful war-related demonstrations during their off hours.

employers should not necessarily clamp down on it. Individuals have a natural tendency to want to know what's happening, said Joyce Gioia, the president of The Herman Group, a human resource and employee retention consulting firm in Greensboro, N.C.

An employer that too aggressively prevents viewing could alienate employees and affect employee retention, Ms. Gioia said. "Better the employer look like a good guy," she said.

Conversely, employers shouldn't allow employees to watch TV all

day, she said. Employers should monitor productivity; if productivity dips due to time spent watching war coverage, employers should take action, she said.

One approach Ms. Gioia recommends is for the employer to set up a television set in a lunch or conference room and allow people to check the news periodically on the Internet.

But if it appears that employees are spending too much time away from their work, she said, the employer "needs to tell employees the organization still has a job to do."

## Bethlehem: Retirees lose plan but get new options

Continued from page 1

much lower than COBRA but whose benefits will also be less generous.

When retirees see the COBRA premium rates, "they will experience sticker shock. We are pleased that we can offer something more affordable," said Samuel Fleet, president and chief executive officer of Warwick, R.I.-based National Employee Benefit Cos. Inc., which will administer the program for members of the Retired Employees' Benefits Coalition. NEBCO is a unit of American Wholesale Insurance Group Inc. of Charlotte, N.C., the

nation's third-largest insurance wholesaler.

One REBCO program—offered to pre-Medicare eligible retirees—will be provided through a funding vehicle known as a voluntary employees' beneficiary association, while the program for retirees age 65 and over will be written by United American Insurance Co. of McKinney, Texas.

Even so, sticker shock for the Bethlehem retirees is likely regardless of which health care plan they choose. The Bethlehem plans, set up in era when the steel industry was strong and health care costs

were low, had been provided at almost no cost to some retirees. For example, salaried retired workers who retired before 1984 currently pay \$6 a month for coverage. Now, regardless of whether they choose COBRA or the REBCO plans, they will pay many more times that amount.

Paying the full cost of retiree health care coverage "is not something the retirees anticipated when they joined the company," said Henry Saveth, an attorney with Mercer Human Resource Consulting in New York.

But retiree health plans on the order of Bethlehem's now are becoming "rarer than hen's teeth," said Joe Martingale, a national health care strategy leader for Watson Wyatt Worldwide in New York.

At least, though, the cost for many Bethlehem Steel retirees of paying retiree health care premiums will be partially offset through lower taxes, thanks to legislation Congress passed last year.

A provision in the Trade Adjustment Assistance Reform Act of 2002 provides a 65% tax credit to offset COBRA and certain other health care premiums for employees who lose their jobs due to foreign competition and to retirees age 55 through 64 whose pension plans are taken over by the Pension Benefit Guaranty Corp and who are receiving benefits from the PBGC.

The PBGC intends to take over the Bethlehem pension plan, which was massively underfunded, though termination has not occurred yet.

REBCO organizers say they are now trying to contact regulators in Washington to determine whether the 65% tax credit also would be available for the health care plan provided through the VEBA. The law isn't entirely clear on that point. A legislative clarification also might be a possibility, organizers say.

The COBRA plans will be administered by Highmark Services Co., a subsidiary of Highmark Inc. in Pittsburgh. COBRA premiums will vary considerably based on the plan the retiree selects.

But in one plan available to USWA-represented retirees—a base plan, plus major medical—the monthly premium for single coverage for non-Medicare eligible retirees would be \$406, while the premium for a retiree and a spouse would be \$859. The premium for a base plan, plus major medical for Medicare-eligible retirees would be \$270 a month for single coverage and \$507 a month for a retiree and spouse.

Monthly premiums for the REBCO-backed plans for pre-65-year-olds will range from \$246.27 to \$289.29 for retiree-only coverage and between \$479.91 and \$562.59

for a retiree and spouse. For Medicare-eligible retirees, the monthly premium per person will range from \$117.81 to \$167.30. Premiums in the REBCO programs generally are much lower than COBRA because of the plans' lower benefit levels.

Both programs, though, ensure coverage without exclusions for pre-existing medical conditions and guaranteed acceptance, a key attraction to the Bethlehem retirees.



PHOTO: AP/BRAD C. BOWER

Bethlehem Steel Corp. retirees meet earlier this month to discuss the company's plan to eliminate their health care benefits program. The steelmaker has agreed to provide extended COBRA coverage to retirees.

### ADVERTISER

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March 31, 2003

## Late News

Continued from page 1

Pittsburgh Corning Corp. affiliate. Corning said it expects the settlement to be incorporated into a settlement fund as part of the reorganization plan of PCC, which filed for bankruptcy in April 2000. The settlement will require Corning to contribute several equity holdings and make cash payments. It will assign proceeds from its primary insurance and a portion of its excess insurance as part of the settlement.

### Hatch sets timeline for asbestos reform

Senate Judiciary Committee Chairman Orrin Hatch, R-Utah, wants his committee to take up asbestos litigation reform legislation next month. Sen. Hatch last week met with a number of stakeholders in the asbestos litigation debate, including representatives of the American Insurance Assn., and told them that he wants draft legislation by April 10 and a committee vote after the Senate returns from its Easter recess.

### Rogal to retire as HRH chief

Martin L. Vaughan III will succeed Andrew L. Rogal as chairman and chief executive officer of Hilb, Rogal



Mr. Rogal



Mr. Vaughan

& Hamilton Co. Mr. Rogal, 54, announced his retirement for "purely and completely personal" reasons last week. He joined HRH in 1979. Mr. Vaughan, 56, joined HRH as chief operating officer in 1999, when HRH acquired American Phoenix Corp., where he was president and chief executive officer. He was named HRH president in 2000.

### Gerling gets OK to sell reinsurer

Germany's Gerling Group has won court approval for its plan to sell its reinsurance arm, after regulators last month blocked a proposed deal. Gerling late last year announced plans to sell Gerling Global Re to runoff company Globale Management GmbH, which is headed by former G.E. Frankona chief executive Achim Kahn. But last month, Germany's financial supervisory regulator blocked the sale. The regulator did not say why it opposed the deal. Gerling then appealed the decision, and the Administrative Court in Frankfurt ruled in favor of the insurer.

### Judge tosses charges in film finance case

Movie producer Artisan Entertainment Inc. plans to appeal a California court's dismissal of fraud charges against Royal & SunAlliance Insurance Group P.L.C., broker Heath Lambert Group and a consultant over a soured insurance-backed film finance deal. Artisan sued RSA, Heath and film finance consultant Peter Hoffman in 2001, charging that they conspired to defraud the producer in the placement of insurance guaranteeing repayment of loans to finance a slate of eight Artisan films. Los Angeles County Superior Court Judge Frances Rothschild threw out the fraud claims last week, though, concluding that Artisan didn't produce sufficient evidence to support its charges.

### California court voids arbitration contract

An employment contract allowing an employer to sue a worker while requiring the employee to arbitrate employment disputes is procedurally and substantively unconscionable, a California appeals court ruled. The March 21 decision by California's 2nd Appellate District in *Nicholas O'Hare vs. Municipal Resource Consultants* stems from MRC's April 1999 firing of Mr. O'Hare. He sued the company, claiming wrongful discharge and age discrimination. MRC moved to compel Mr. O'Hare to arbitrate his claims. But a Los Angeles trial court refused to uphold the arbitration language contained in the employment agreement, allowing Mr. O'Hare to sue MRC. The Los Angeles-based appeals court agreed.

### UnumProvident restates results

UnumProvident Corp. has restated its results for the past three years following a Securities and Exchange Commission review of the disability insurer's statutory filings. The restatement resolves SEC questions relating to unrealized losses and the timing of the recognition of certain losses, a UnumProvident statement said. The total decrease in profits recorded for the past three years is \$29.1 million. Ratings agency Standard & Poor's Corp. said the restatement would have only a minimal impact on UnumProvident's financial strength.

### Briefly noted

Charles M. Chamness has been named to the newly created position of executive vp of the Indianapolis-based **National Assn. of Mutual Insurance Cos.** The move sets the stage for Mr. Chamness' appointment as the organization's president and chief executive officer on the retirement of Larry Forrester, the current president and CEO. In the transition phase, Mr. Chamness will work directly with Mr. Forrester, who plans to retire by September 2004.

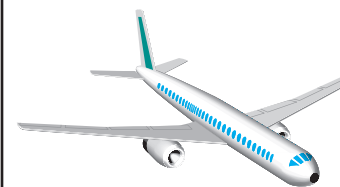
### Check out BusinessInsurance.com

Items in the Late News column originally appeared in *BI's Daily News* feature on [www.businessinsurance.com](http://www.businessinsurance.com). Visit the *BI* Web site to sign up to receive *BI's* free Daily News by e-mail.

## Online Poll

[ 03/24 - 03/28 ]

In light of the war with Iraq, has your organization imposed a ban on employee travel?



14.3%  
Yes

84.5%

No

3.2%

Do not know

## BI Stock Index

[ 3/24 - 3/28 ]

Up-to-the-minute data for all 87 companies that comprise the *BI* Stock Index can be found at [www.businessinsurance.com](http://www.businessinsurance.com).

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

**BI Stock Index** ↓ -4.98  
1697.75

**Dow Jones** ↓ -4.41  
8145.77

**S&P 500** ↓ -3.62  
863.48

### Largest gains

UNUM Corp.	7.55%
Oxford Health Plans	4.94%
Wellpoint Health Networks	4.86%
CNA Surety	4.81%
Aetna Inc.	4.29%

### Largest losses

Argonaut Group	-26.82%
Unico American Corp.	-20.45%
Trenwick Group Ltd.	-20.00%
Gainsco Inc.	-12.50%
AEGON N.V.	-11.07%

### Weekly change by market segment

Brokers	-1.78%
Insurers/Reinsurers	-3.47%
Managed Care Organizations	1.54%

Source: CNET Investor ([investor.cnet.com](http://investor.cnet.com))

# NAIC: Astir on reinsurer collateral rules

Continued from page 3

NAIC meeting in Atlanta when the Reinsurance Task Force voted to eliminate a sticking point concerning the retroactive application of possible changes. The vote was seen by some observers as an indication that the NAIC was moving ahead on the issue of collateral reduction. However, the vote itself has resulted in some controversy.

At that meeting, NAIC Vp and South Carolina Insurance Director Ernst Csiszar says he joined other task force members in a unanimous vote to restrict any changes in collateral to prospective reinsurance contracts only. However, the task force's official minutes, approved by Chairman John Oxendine of Georgia, state that the motion went beyond that to allow "a ceding company...to renegotiate their reinsurance contracts to reduce collateral retroactively."

After reviewing those minutes, Mr. Csiszar said: "I think that is not what the committee passed. If the chairman thinks otherwise, I think he is wrong and I'm quite prepared to take it back to the committee (for reconsideration) the next time we meet again."

The issue of reducing collateral retroactively, which is now being

contested within the NAIC, is particularly important because "it seems, clearly, reinsurers would have the upper hand," said Mr. Csiszar, who is also chair of the NAIC's International Relations Committee. He said he personally considers that issue still open.

At the meeting, Mr. Marcoux supported the idea of retroactive collateral reduction, as did Mr. Oxendine. Later, Mr. Oxendine noted that any such reduction likely would require regulatory approval.

Following Mr. Pickens' comments in Dublin, Mr. Oxendine and Mr. Pickens agreed that they "are on the same page" on this issue. "John has told me his mind is open, and the task force will thoroughly study the issue," Mr. Pickens said.

While Mr. Pickens said any changes are unlikely this year, several observers view collateral reduction as a critical issue.

"This is a very significant \$50 billion issue for the U.S. insurance industry," said Bradley L. Kading, senior vp and director of state government relations for the Washington-based Reinsurance Assn. of America.

To David Martcham, the IUA's director of operations, the collateral

reduction proposal creates "a fairer set of standards aimed at the top tier of reinsurers, who would subject themselves to more, not less, regulatory oversight." Current rules are "illogical" because they allow small, U.S.-licensed reinsurers with only \$1 million in capital and surplus to operate without any collateral while highly rated non-U.S. insurers are required to provide collateral, Mr. Marcoux said.

Proponents of the move also are lobbying state lawmakers. A committee of the National Conference of Insurance Legislators is recommending that the organization formally endorse the proposal.

In addition, Mr. Marcoux claims that a number of large-state insurance regulators support reducing collateral requirements, but he declined to identify them.

Critics of the proposal include the NAIC's Insolvency Task Force, which responded to the reinsurance panel's request for advice by concluding that the insolvency panel "does not support the proposal." Critics say there are problems with varying accounting standards, recovering reinsurance from non-U.S. insurers and enforcing U.S. court orders in other countries.

Meanwhile, "the NAII is willing

to consider the proposals" but wants the same 100% security, said Michael Koziol, senior director and counsel of the Des Plaines, Ill.-based trade group.

The impact of reducing collateral requirements on commercial insurance policyholders remains uncertain.

Proponents such as Mr. Marcoux say it would increase the availability of reinsurance and reduce costs. But critics say that is not assured and markets could become disrupted.

"From a commercial policyholder's perspective, it's like buying a new Jaguar that is all rusted inside. It looks pretty, but it will fall apart in the long run," said Rob Graham, senior vp and assistant general counsel for General Re. Mr. Graham chairs the reinsurance panel's Interested Persons Group.

Speaking for the Vermont Captive Insurance Assn., Jon Harkavy said, "The issue we would explore is whether the potential tradeoff of increased reinsurance capacity would be offset by jeopardizing the solvency concerns of captives and policyholders." Mr. Harkavy, who chairs the association's Governmental Affairs Committee, is vp and general counsel of Risk Services L.L.C. in Arlington, Va.

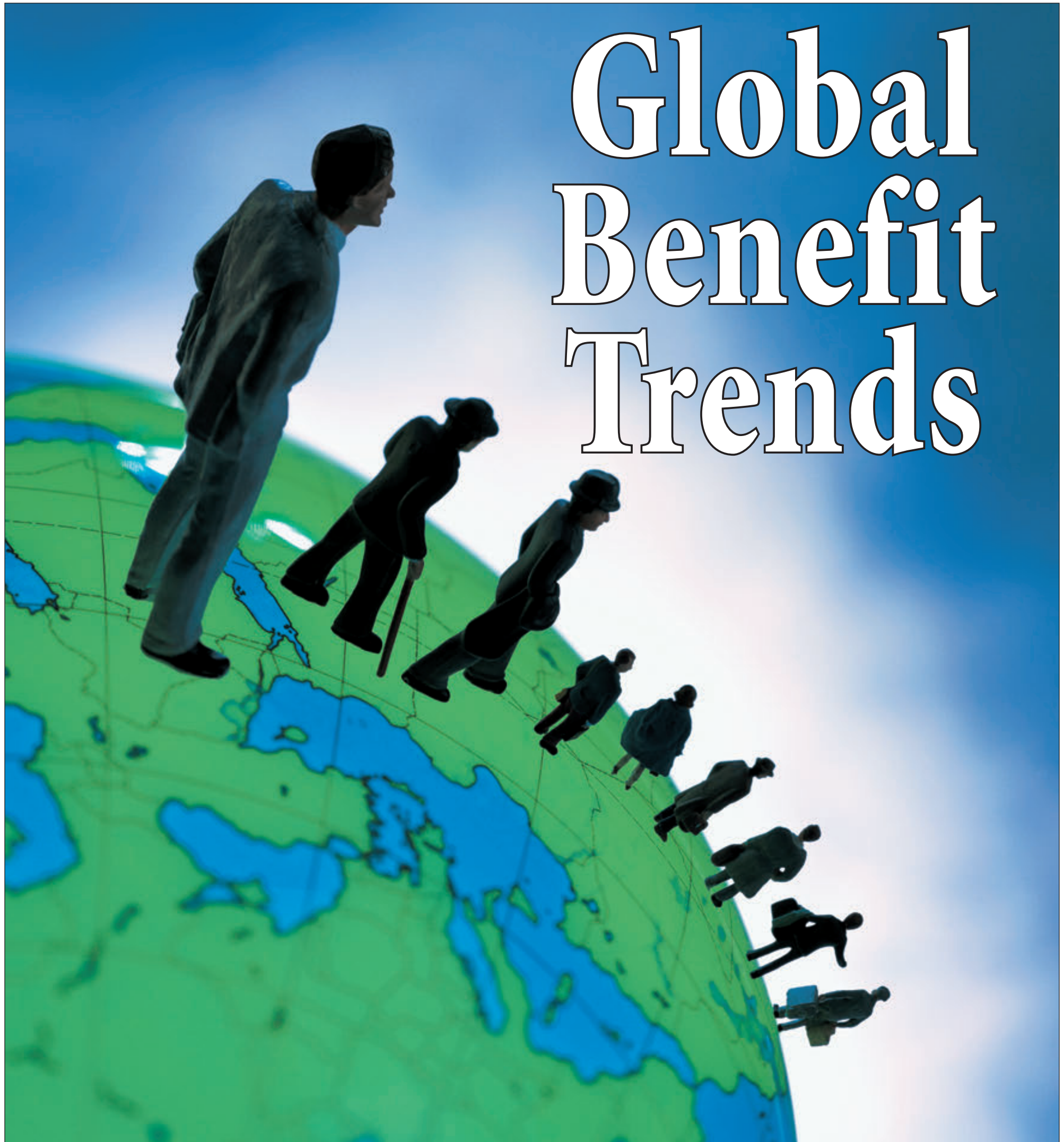
# Business Insurance

*Special Take-Out Section*

# *Benefits Management*

March 31, 2003

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# Business Insurance

Special Take-Out Section

# Benefits Management

March 31, 2003

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## Inside

### International benefit networks

*Business Insurance* lists companies that provide health care and welfare benefits worldwide.

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### Protecting students studying abroad

Many universities in the United States now mandate that students have medical insurance before studying abroad. In some cases, the cost of such coverage is added to the program's tuition.

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### Pan-Europe pensions facing challenges

Employers in the European Union continue to hope for regulations that ease administration of pensions across Europe, but observers say obstacles to pan-European pension programs remain.

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## 50 years later, NHS still going strong

### Budget growing

By SARAH VEYSEY

More than 50 years ago, the United Kingdom's National Health Service was set up by the post-war Labour government with the aim of providing free, taxation-financed "cradle to grave" health care for all British citizens.

Despite budgetary constraints and scandals about often-lengthy waits for some forms of treatment, the NHS is still in operation today and has been fiercely defended by both Labour and Conservative governments.

The NHS is "a sort of sacred beast to us in the U.K.," said Stephen Clements of Mercer Human Resource Consulting in London.

In his 2002/03 budget, Chancellor Gordon Brown allotted £65.4 billion (\$102.20 billion) of public money to the NHS—about 6.6% of the United Kingdom's gross domestic product. Mr. Brown will announce his 2003/04 budget next month, but last year he signaled that by 2005/06, the NHS budget would total £87.2 billion (\$136.27 billion), and by 2007/08 would reach £105.6 billion (\$165.02 billion).

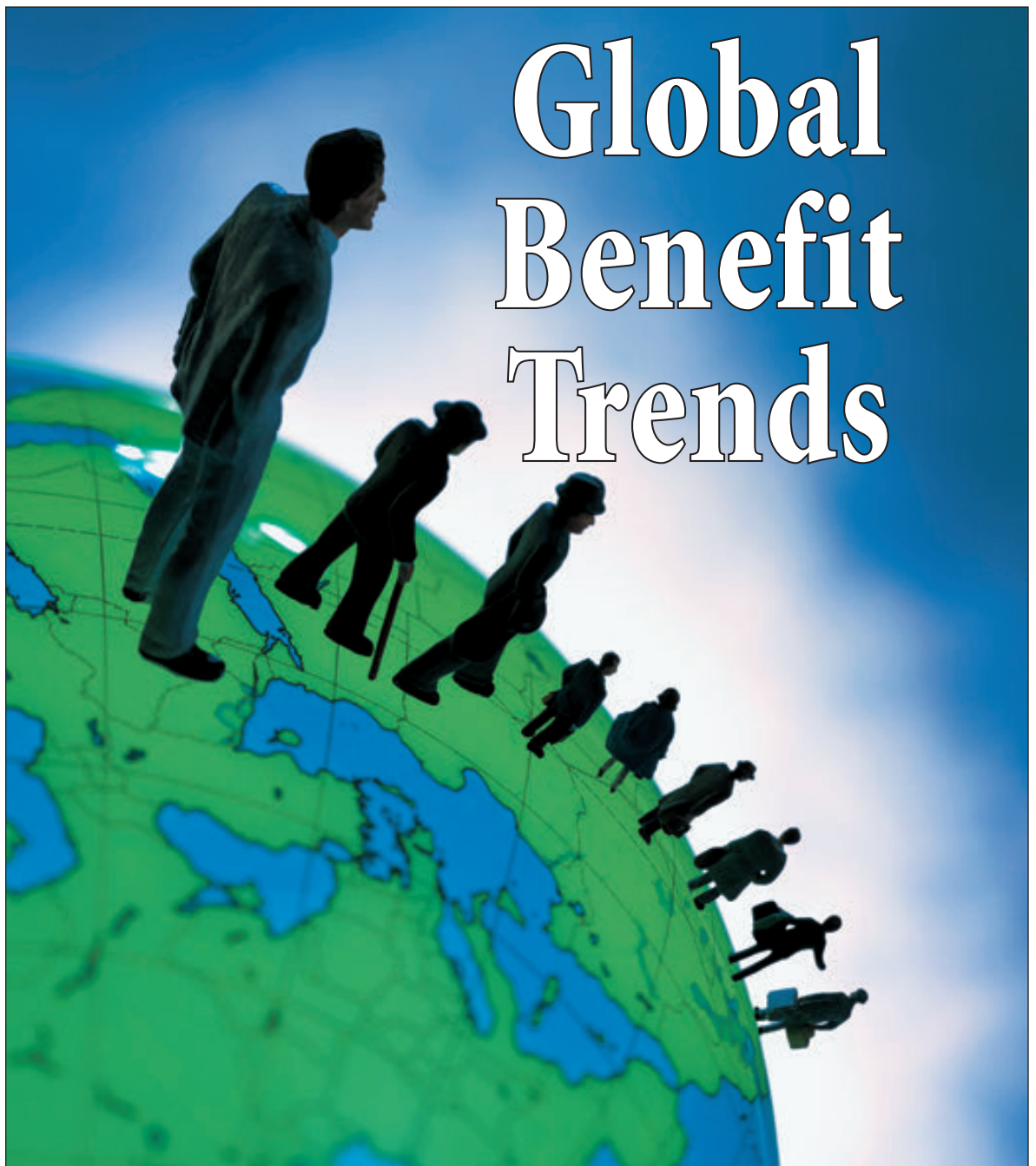
This spending is about 90% funded by general taxation and other payroll deductions paid by all workers in the United Kingdom. The remainder of the NHS purse comes from profits on NHS-owned land and property sales and a duty on tobacco, among other things.

The 2002/03 NHS budget earmarked about £3.3 billion (\$5.16 billion) for building equipment and repairs. Most hospital building projects are now financed by private finance initiatives (*BI*, March 17), whereby private companies build new hospitals, in which they also provide nonclinical services, and rent these buildings back to the NHS.

Today, the running of the NHS is overseen by the Department of Health and is monitored by 28 regional strategic health authorities; the system is still funded out of the public purse.

More than 300 so-called Primary Care Trusts are described by the

See **NHS/page T7**



## Global Benefit Trends

Economies of scale, administrative savings, better reporting seen

## Multinational benefit pooling remains attractive to employers

By JUDY GREENWALD

When war with Iraq was imminent, Middle Eastern-based business units of Citigroup were concerned as to whether their group benefit insurance policies contained war risk exclusions.

An inquiry was made to the AIG Global Benefits Network, the multinational benefits network that covers that region for New York-based Citigroup. "We were able to get an answer within 12 hours," said Citigroup vp Sven Grasshoff. And as a result, "we were able to take the necessary steps to add the war risk cover to one of the countries which had failed to pick up this policy rider."

It is incidents such as these, as well as the economies of scale, administrative savings and better reporting associated with multinational benefit networks that have helped the networks maintain their popularity despite the competitive rates that have diminished some of their financial advantages in many of the countries in which they operate, say network officials and consultants.

Pooling remains a viable concept, said Geraldine Pangaro, senior vp of John Hancock International Inc. in Boston, which operates the John Hancock International Group Program. "It still has a great deal of meaning for most multinational

companies. I see it as a mature business, but one that certainly isn't peaking and on the decline. It's continuing to grow," said Ms. Pangaro, who is a former international benefits manager.

Alan Smith, director of international benefits and the international assignment program at Peapack, N.J.-based Pharmacia Corp., said, "As companies try to manage their assets, both financial and people, multinational pools provide that opportunity to an organization." Pharmacia has contracts with three networks to cover its more than 5,000 international employees who work in 70 countries.

See **POOLING/next page**

# Pooling: Networks' reach, savings remain attractive

**Continued from previous page**

Multinational pools combine the insurance coverages of selected worldwide benefits, which could include death, disability, accident and health. The pools are operated by about 10 networks that are composed of single insurers with branches, insurer partnerships, associations of insurers or some combination of these models. The networks use their various geographical strengths and service capabilities, among other factors, to distinguish themselves from one another.

There are about 2,200 pools in operation, according to consultant Watson Wyatt Worldwide. Multinational firms that participate in pools receive excess funds—the premiums they paid less claims and administrative expenses—in the form of dividends. There are various approaches to handle pool losses, including limited loss carryforwards, in which the pool loss in one year is carried forward to set against profits in subsequent years. Some companies have also considered using their captives to reinsure their pools.

Observers estimate companies can save anywhere from 4% to 15% of their worldwide premium by pooling their multinational benefits, depending upon the particular mix of benefits, the countries involved and how actively managed the pools are.

Andrew Thompson, Somerset, N.J.-based vp in Aon Consulting's international benefit consulting practice, who uses 7% to 10% in savings as a rule of thumb, said, "I wouldn't expect great savings in terms of an international dividend coming from a pool" that focuses on disability and medical coverages.

"But if I look at life (insurance) and retirement plans being pooled, where the probability of your prof-

its and losses in any given year are pretty predictable, then I would increase my estimate of potential savings to that pool. That's a better pool configuration," Mr. Thompson said. Countries and their currencies also have an impact, he said.

"There's a lot of factors that come into play" in projecting savings, said Mr. Thompson.

**How many networks?**

Companies are generally advised to contract with no more than two or three networks to ensure continued economies of scale and to minimize the administrative fees each network charges for its services. "The rule of thumb would be as few as you can, as long as you can get all the financial and administrative benefits," said John Fitzgibbon III, national industry director for KPMG L.L.P.'s managed care practice in Hartford, Conn.

"Three is what you can effectively manage," said Pharmacia's Mr. Smith, whose firm works with the Guernsey-based Generali Employee Benefits Network, Insurope Multinational Benefits Assn. and John Hancock IPG.

Conversely, "it would be a mistake" for a large multinational company to have only one pool. "What you want to have is options," Mr. Smith said. Having two or three networks gives your local operations their choice of insurers, he said. "If you have only one pool and your locals don't like that local carrier, that company won't be able to take advantage of multinational pooling," said Mr. Smith.

There are no hard and fast rules on disability and medical coverages. "But if I look at life (insurance) and retirement plans being pooled, where the probability of your prof-

start discussions with an international network "if you have two countries and you see the possibility to do some additional expansion in other countries," suggested Gianni Ban, Parsippany, N.J.-based senior vp of the Generali Employee Benefits Network.

Finance remains the primary driver behind companies' move to network pools, although there are fewer savings to be gained from using pools than was once the case, say observers. Observers say, years ago, because of various countries' tariffs, which are rates set by law, network dividends were the only way for companies to retrieve some of the funds insurers would normally have kept as profits.

But today, many tariffs have disappeared, which means there is less financial savings to be gained from

**Pools enable companies to capitalize 'on their global purchasing power by grouping together insured benefit arrangements around the world under one umbrella arrangement.'**

*Imran Qureshi  
Watson Wyatt Worldwide*

pools, although they still remain economically worthwhile, say many observers.

Stephen Barry, Chicago-based vp and head of North American sales for the Winterthur Network, said, "There is pressure on local rates, and as margins get pushed down lower, the yields from the multinational pools will tend to be not as large as they once were. But there is



still a material savings to be gained from following a pool solution and, ultimately, even a captive solution."

Pools still permit companies to take advantage of economies of scale, observers say.

"Essentially, they're capitalizing on their global purchasing power by grouping together insured benefit arrangements around the world under one umbrella arrangement," said Imran Qureshi, senior international consultant with Watson Wyatt Worldwide in Chicago.

By joining a pool, for instance, an employee in a small subsidiary may be able to increase his or her life insurance from \$100,000 to \$300,000 without having to undergo a medical exam because of the larger spread of risk involved, said Richard Polak, president and chief executive officer of Los Angeles-based Polak International Consultants Inc.

Furthermore, "companies want

to make sure any reserves aren't sitting around in the insurance companies' treasuries. It's coming back to the employer who's funding all the programs," said William R. Sheridan, senior director, international human resource services, at the National Foreign Trade Council in New York, many of whose members have pools.

**Centralized information**

Pools also give companies a better handle on what is going on in their individual units, say observers.

One of the more important reasons to pool is the centralization of information it provides, said David Bryan, Insurope's Chicago-based U.S. operations director.

The network becomes "kind of the eyes and ears of the world for the clients," Mr. Bryan said. If a company wants to know about

**Continued on next page**

**Continued from previous page**

benefit plans in Thailand, "they don't have to be running around themselves trying to get that information," he said.

Ian Solomon, a New York-based vp with both the MAXIS network and Metropolitan Life Insurance Co., said, "Very often, when even a large corporation has got subsidiaries around the world, each with a local employee benefit plan, they're not well connected...and it's often very difficult for the financial managers in the parent corporation to fully understand what is going on by way of the employee benefit arrangements."

The standardized annual report produced by networks describes individual countries' employee benefits experience in a more meaningful and sophisticated way than would otherwise be the case, and it "gives the client a lot more knowledge of what is happening around the world," Mr. Solomon said.

"It's certainly a tool for risk management and control" that permits corporate executives to make decisions, said Philipp Frei, president of Swiss International Services in Saddle River, N.J., which represents the Swiss Life network in the United States. "It allows them to actively manage and make sure that the plan is sound and they do not have to pay too much in claims," said Mr. Frei.

Pools can also result in better service, Mr. Qureshi said. As a participant in a multinational pool, a small subsidiary may command more attention than it would otherwise. This is particularly important for noncommodity coverages such as medical, as opposed to life insurance, where all that is essentially involved is paying a claim and service is less of a concern, Mr. Qureshi said.

Observers say the only negative about pools is local subsidiaries may be unhappy with the local network insurer.

Paul Shimer, senior international insurance consultant with Mercer Human Resource Consulting in Hartford, Conn., said the local network insurer is "not always the best, even though the international networks will tell you that they've picked the best carrier in every country. And, by and large, I think they do, but you may get a stinker."

Mr. Solomon said also, "Local subsidiaries are often highly protective of their turf," and sometimes the global parent meets quite strong resistance when it approaches the subsidiary to participate in the pools, "so it requires a fair amount of selling," despite the obvious financial benefits.

But Aon's Mr. Thompson said these cases of resistance are "more the exception than the rule."

**Passive vs. active**

Many observers say companies follow two basic approaches in operating a pool: passive and active. Under the passive approach, companies leave it up to the local subsidiaries to decide to join a network. Under the active approach, followed by more centralized companies, local units are given less leeway.

"I think the best-case scenario is

the parent company says, 'We'll give you a choice. You provide the best vendor for your purposes and your business and your country that aligns with your business and our company philosophy, but...all things being equal, we would strongly urge you'" to use the network company, said Mr. Thompson.

There is a continuum of involvement by multinational firms, said Mercer's Mr. Shimer. The majority of multinational companies that join networks "don't do very much at all. I would say then there is a smaller minority that actually encourages their nonpooled locations to become part of the pool. And then there is a very small minority that really goes out and makes sure

that not only do they have all their locations considered for pooling

**'In the '70s and early '80s, each network had their global strengths, but now most networks are pretty much global, with fairly good representation around the globe.'**

*David Bryan  
Insurope  
Multinational Benefits Assn.*

but they're also doing the right contracts."

Francis Coleman, worldwide multinational director at the AIG Global Benefits Network in New York, said while he is not sure whether there is a trend toward more active pools, there are a lot more companies focusing on their global operations and looking at their cost, "so we're seeing more interest" regarding those operations' insurance coverages.

One way networks have traditionally distinguished themselves from one another is in their geographical strengths. But observers say those distinctions have diminished to some degree over the years, although they have not necessarily entirely disappeared.

"In the '70s and early '80s, each network had their global strengths,

but now most networks are pretty much global, with fairly good representation around the globe," said Mr. Bryan.

Service at both the local and corporate level is important, say observers.

Mr. Qureshi said corporations "should be looking to use a network with a strong local provider that's matched up to the particular coverage they have in that particular country."

And at the corporate level, Mr. Qureshi said, the question is, "What is the strength of the network representatives to be able to respond effectively to questions that you ask, to effectively coordinate responses around the world on a proactive basis?"



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Velvet Hernandez-Johnson, ALHC  
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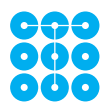


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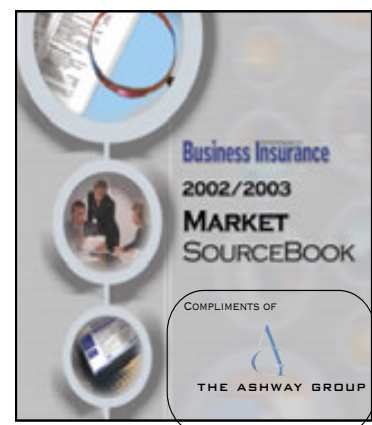
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# International benefit networks

## Companies that offer health care and welfare programs worldwide

Network/Address	Phone/Fax/Web site	Number of countries in network	Master contracts	Offices	Total employees	U.S. contact
AIG Global Benefits Network <sup>1</sup> 80 Pine St., 35th Floor New York, N.Y. 10005	212-770-1289 Fax: 212-785-0687 <a href="http://www.aig.com">www.aig.com</a>	106	123	107	883	Francis Coleman, worldwide multinational director -Group Management Division
All Net All Net Central Unit, Reinsburgstr. 7 Stuttgart, 70178 Germany	49-711-663-5314 Fax: 49-711-663-1275 <a href="http://www.allnet.allianz.com">www.allnet.allianz.com</a>	73	87	7	27	Lance Henderson, regional director
GMC Services 10 Rue Henner Paris, 75459 France	33-1-44-82-4444 Fax: 33-1-44-82-4218 <a href="http://www.henner.com">www.henner.com</a>	132	50	8	75	Jacques Duchamp, general manager -North America and Africa
Generali Employee Benefits Network Ave. Louise 149 Brussels, 1050 Belgium	32-2-537-2760 Fax: 32-2-537-5226 <a href="http://www.generali.com">www.generali.com</a>	70	210	5	51	Gianni Ban, senior vp
Gerling Pooling Instrument Gereonshof Cologne, 50597 Germany	49-221-144-61969 Fax: 49-221-144-5256 <a href="http://www.gerling.de/pensionsmanagement/">www.gerling.de/ pensionsmanagement/</a>	48	32	NA	NA	Cyril Samson, head-pooling and captive solutions
John Hancock International Group Program John Hancock Place, P.O. Box 111 Boston, Mass. 02117	617-572-8677 Fax: 617-572-8628 <a href="http://www.igpinfo.com">www.igpinfo.com</a>	50 <sup>2</sup>	NA	3	NA	Geraldine F. Pangaro, senior vp
Insurope 7 Ave. des Arts Brussels, 1040 Belgium	32-2-286-5060 Fax: 32-2-286-5070 <a href="http://www.insurope.com">www.insurope.com</a>	60 <sup>2</sup>	400	7	25	Dave Bryan, director-U.S. operations
MAXIS 26 Rue Louis Le Grand Paris, 75119 France	33-1-49-49-8265 Fax: 33-1-49-49-8250 <a href="http://www.maxisnetwork.com">www.maxisnetwork.com</a>	65	51	3	30	Hilary E. Nork, director-multinational solutions
MIA Benefits Ave. Louis Dehoux 25 Brussels, 1160 Belgium	32-2-663-0680 Fax: 32-2-673-1810 <a href="http://www.miabenefits.com">www.miabenefits.com</a>	32	NA	2	119	Anne Swain, consultant
Swiss Life Network General Guisan-Quai 40 Zurich, CH-8022 Switzerland	41-1-284-3797 Fax: 41-1-284-3997 <a href="http://www.swisslife-network.com">www.swisslife-network.com</a>	46	300 <sup>2</sup>	4	50	Stephan Beit, head-international sales and distribution/executive vp
Winterthur Group Network Multinational Business Rudolfstrasse 1 Winterthur, CH-8401 Switzerland	41-52-261-5235 Fax: 41-52-261-6630 <a href="http://www.winterthur-life.com">www.winterthur-life.com</a>	30	76	3	20	Stephen Barry, head-sales North America/vp
Zurich Employee Benefits Network Zurich Continental Europe Corp. P.O. Box CH-8085 Zurich, CH-8085 Switzerland	41-1-628-8638 Fax: 41-1-623-8638 <a href="http://www.zurichbusiness.com">www.zurichbusiness.com</a>	48	16 <sup>2</sup>	2	8	Mike Brown, senior consultant

<sup>1</sup> AIG Global Benefits Network formed a partnership with Eureko Alliance in October 2001. <sup>2</sup> Estimated  
Source: BI survey

The full Directory of International Benefit Networks is available online, in the directories area of [www.businessinsurance.com](http://www.businessinsurance.com). The searchable directory allows users to locate international benefit networks by network name, total premiums and total employees, among other information. PDF copies of the directory can be purchased by calling the Crain Information Center at 312-649-5476.

March 31, 2003

# NHS: High-quality care for all, long waiting lists

## Continued from page T3

NHS as the "cornerstone" of its service, "responsible for the planning and securing of health services and improving the health of the local population."

PCTs are given funding by the regional authorities to plan and commission health care services for local communities—it is envisaged that they will eventually control 75% of the entire NHS budget, according to the NHS.

PCTs control the provision of hospitals, general practitioners, dentists, opticians, mental health care, patient transportation and population screening for such diseases as cervical and breast cancer, among other things.

The general practitioner is "the gatekeeper to the NHS" and refers patients for further treatment if needed, according to Naomi Saragoussi at Watson Wyatt Worldwide in London.

"Every U.K. citizen has a right to be registered with a local GP," and office visits are free, the NHS states.

A private health policy, therefore, generally does not cover expenses such as office visits to a general practitioner, as it likely would in the United States, explained Ms. Saragoussi.

In an effort to ease the strain on general practitioners and emergency rooms and to reduce waiting times, the NHS in March 1998 set up NHS Direct—a 24-hour, free telephone service offering advice on health care. Staffed by nurses, the helpline can provide callers with information on how to treat themselves at home, direct them to the right NHS services and, in the case of emergencies, give callers advice on immediate action and send for ambulances.

In January 2000, the first NHS walk-in center was opened in London to provide faster access to advice and treatment for minor illness and injuries. There are now 42 such centers across the United Kingdom.

In the United Kingdom, virtually all primary and emergency health care is provided by the NHS, Mr. Clements explained. He noted, for example, that individuals involved in road accidents are taken to NHS emergency hospitals for treatment regardless of whether or not they have private medical insurance.

And for chronic conditions, such as arthritis, private health care "cuts out" and passes individuals with such conditions back to the NHS for treatment, he added.

Those who have private health care in the United Kingdom usually opt to use the coverage for the treatment of short-term acute conditions and for elective surgery on a more timely basis than is guaranteed by the NHS, noted Mr. Clements. And private medical insurance as an employee benefit is often viewed as an executive perquisite, he noted.

While there is a growing market for corporate medical insurance in the United Kingdom, it is still seen very much as an employee benefit intended to work alongside NHS care to get employees back to work

more swiftly, experts note. In 2002/03, only 1.2% of the gross domestic product was spent on private medical care, according to the NHS.

"The private health insurance system in the U.K. was designed to be supplemental to the NHS, not to replace it," said Mr. Clements. "So the cover that you get when you buy a health insurance contract starts really when you have a need for elective medical treatment—planned treatment—and finishes when that treatment has been given and you have recovered from the condition that you've got."

In 2000, the U.K. government

pledged to tackle what is seen as the public's No. 1 concern about the NHS—lengthy waiting lists for treatment. It said that by 2005, no patient would wait longer than six months for an operation.

But at the end of fiscal 2002, the number of patients waiting to be admitted to hospitals in England rose by 22,700, to 1.05 million, according to government statistics. In 2001/02, the median wait between a general practitioner's referral and an outpatient appointment at a hospital was 7.2 weeks, according to Department of Health figures.

Despite horror stories in the me-

dia about waiting times for treatment under the NHS, Ms. Saragoussi of Watson Wyatt said that, for many illnesses, NHS treatment is more appropriate and better than private treatment.

Because NHS hospitals have dedicated staff for certain illnesses and conditions—such as cancer treatment, maternity care and heart bypass surgery—they are often able to provide better care than privately run hospitals, she said.

While Mr. Clements said it was unlikely that the U.K. government would ever drastically cut NHS benefits and require employers to con-

tribute health care costs, employer-sponsored plans are helping the NHS rein in costs.

And the government is looking at ways to better target its NHS spending to improve care.

Earlier this month, for example, a parliamentary bill on health and social care was introduced. Among the recommendations in the Community Health and Standards Bill, which will be voted on later in the year, was a move to enable the NHS to recover treatment and ambulance costs from organizations making compensation payments to individuals suffering personal injury.

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# Universities work to make sure students covered

## For those studying abroad, schools often mandate group health insurance

By SALLY ROBERTS

Although university risk managers' chief concern right now for study-abroad students is keeping them safe in light of world events, making sure the students have proper medical insurance and know what to do in an emergency are constant issues.

"Universities need to think of the possibility that a student will not complete the trip," said Ann Franke, vp for education and risk management at United Educators Insurance, a Reciprocal Risk Retention Group in Chevy Chase, Md. "Anyone's appendix can burst."

While most universities require students to have proof of medical insurance before studying abroad, a growing number are offering students a group medical plan, in some cases making that coverage mandatory by adding its cost into the program's tuition.

And by offering group coverage and educating students about how

to find a doctor or medical facility abroad, universities can go a long way toward shielding themselves from any liability that might arise from a student injury or illness, experts say.

"Until about a year and a half ago, most study abroad programs were comfortable with allowing students to go abroad with their own domestic coverage," said Elaine Del Rossi, chief sales officer for Radnor, Pa.-based HTH Worldwide, which offers medical insurance and other services to study-abroad programs.

While most domestic health plans will cover the costs associated with a medical incident overseas, in most instances, the student must pay for the services up front and submit a reimbursement claim to his or her insurer, Ms. Del Rossi explained. If that happens, "The first thing a parent is going to do...is call the school and ask, 'Why didn't you tell me about this?'" she said.

"Risk managers have really come to the conclusion that this is a lia-

bility for universities not to be able to provide adequate coverage for...outbound students," she said.

Steve Holland, president of the University Risk Management & Insurance Assn., said that offering a group medical plan to study-abroad students "has been a topic of a lot of discussion and interest" among URMIA's members, who are beginning to offer such coverage.

There have been some high-profile instances of students becoming sick or injured while abroad, and parents today "have a higher expectation that if they are going to send their son or daughter abroad that there would be that kind of benefit provided," he said.

And once one university identifies a potential exposure or gap in coverage and addresses it, it doesn't take long "for the bandwagon to build," said Mr. Holland, who is director of risk management and safety for the University of Arizona in Tucson.

"You're dealing with subjective



Continued from previous page ty. The student became sick while abroad and had to be flown home, and her parents "incurred a sizable cost and had to refinance their home" as a result, Ms. Fowler said.

Although the incident didn't lead to any claims against the university, "it triggered us to form a committee to find a better way" to make sure students have proper medical insurance while overseas, she said.

Today, if an MSU student studying abroad has a medical problem,

**'We research health care in advance so (students studying abroad are) not in a situation that they're scrambling to figure out what to do'**

Rebecca L. Adair  
Iowa State University

he or she can call HTH or visit its Web site to find the appropriate doctor or health care facility in the area, Ms. Fowler said. Because these doctors are part of the HTH network, they all speak English, and claims are automatically processed through HTH, so no out-of-pocket costs are incurred.

And if a student has a medical emergency, that phone call to HTH puts students and faculty members in contact with MEDEX Assistance Corp., which offers MSU assistance with unexpected medical services, evacuation or repatriation.

With 183 study-abroad programs in 53 countries, it "was a fairly complicated process to keep track" of all the students' health care coverages. Since contracting with HTH in 1997, "our biggest challenge now is making sure the program is understood well, and we do that with repetition," Ms. Fowler said.

In addition to providing medical coverage and allowing students to search for a local doctor online, HTH offers security, health and medical translation guides on its Web site, as well as pre- and post-departure orientations.

Depending on the health insurance program designed by the university, HTH's plan starts as low as \$19 per month per student, Ms. Del Rossi said.

The coverage for the HTH program is written by units of Chicago-based CNA Financial Corp.

Another provider of health insurance programs for students studying abroad, Quincy, Mass.-based University Health Plans Inc., offers coverage written by Milwaukee-based Fortis Health, a unit of Fortis Inc.

One of the main benefits of HTH is its worldwide network of physicians, said Christopher Johnson, director of risk management for Northwestern University in Evanston, Ill.

"If I were in Paris, I would not know whom to call if I had an ear infection," he said. "Now, I could go online or call a toll-free number and get the name of a physician who speaks English," Mr. Johnson said.

Prior to contracting with HTH three years ago, "we had no formal health insurance program for students studying abroad," he said.

Fortunately, "we moved before we had an incident."

Northwestern does not require students to buy the coverage, Mr. Johnson said, because the school partners with a number of other universities on study abroad programs, and those schools mandate coverage.

He noted, however, that "a number of parents do call and ask about the insurance program and whether they need it, and a vast majority go ahead and purchase it."

The University of Notre Dame in South Bend, Ind., began offering study-abroad students an optional group medical plan last year because of parental requests and a war risk exclusion in the university's travel and accident policy, ex-

plained Bob Zerr, director of risk management and safety.

While students enrolled in Notre Dame automatically are covered under the school's travel insurance policy for any emergency evacuation or repatriation, that policy now excludes 25 countries determined to be "war risk" countries, Mr. Zerr said.

Although a program provided by HTH covers emergency evacuation and repatriation in all areas, Notre Dame students who opt to use their domestic coverage may have to purchase that extra layer of insurance, Mr. Zerr said.

"Unless we have a problem with our optional coverage or if a student does not have coverage and said that he or she did and it creates

a problem for us, we will continue on this way," Mr. Zerr said.

Whether universities partner with HTH or other insurance providers, making sure students know ahead of time how to find a doctor and where to go if there is a medical emergency is key to stopping a bad incident from becoming worse, risk managers say.

"The biggest thing we need to do is to make sure we've done our homework on behalf of our participants," said Rebecca L. Adair, university risk manager at Iowa State University in Ames, Iowa.

"We research health care in advance so they're not in a situation that they're scrambling to figure out what to do," she said.

ISU requires that students have

proper medical insurance before going abroad and offers such insurance via the university, although the coverage through the university is not mandatory.

The group leader who travels abroad with the students is responsible for obtaining emergency medical contact information in the various cities being visited, Ms. Adair said.

"If a group leader is not prepared and something happens to the student, it goes back to the level of care parents assume the institutions are giving," Ms. Adair said.

She noted that courts look upon the care between universities and students as a "special relationship" and hold universities to a higher duty of care.

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decisions about what programs should or shouldn't be offered, but everyone's concerned that something is going to be considered a standard of care, and that if they incur a loss they're going to be asked on the stand, "This university does this for its students why didn't you?"

An incident a few years ago involving a student prompted Michigan State University in East Lansing

to begin requiring study-abroad students to buy health insurance through the school.

The student had medical insurance when she enrolled in MSU's study-abroad program but was uninsured by the time she went abroad, due to a parent's employment change, explained Patricia Fowler, director of risk management and insurance at the university.

Continued on next page

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# E.U. companies seek Europewide pension market

## But many obstacles remain to harmonization of pension laws across all member states

By **BENJAMIN SEEDER**

Pension administrators say Europe is still "decades away" from having a continentwide pension market capable of saving multinational companies benefit administration costs, despite action taken last month by the European Union's executive body to censure six member countries over discriminatory pension tax laws.

The European Commission sent formal notices to Belgium, Italy, France, Spain and Portugal, informing the governments that their laws penalized individuals contributing to plans domiciled in other countries, breaching E.U. regulations. Denmark was issued a "reasoned opinion," the second stage of the European Commission's infringement proceedings.

Companies with operations across Europe are constrained in their ability to set up central pension schemes because of a myriad of tax and social security barriers, and the employers have been pushing national governments and the European Union to do away with those barriers.

Officials at London-based BP

P.L.C. estimated the petroleum company would save \$60 million annually if it were allowed to consolidate its disparate pension plans in each member country into one program.

Other companies, such as Unilever P.L.C. in London, haven't put a dollar value on their potential savings, but they have been pushing for reform.

And multinational companies aren't the only ones that would benefit.

### Boost transparency

Officials at money management firms say they expect a pan-European pension market to boost transparency and efficiency.

American firms also anticipate that it would be easier to market their services to a central pension program than to individual pension plans in every country.

Peter Schwicht, head of continental European institutional business at J.P. Morgan Fleming Asset Management in Frankfurt, Germany, said although he was "not optimistic" of parliamentarians achieving pan-Euro pensions with-

in five years, he said such an outcome would reduce costs of providing asset management services.

"In every country, there's different rules on setting up asset management businesses. For instance, in Germany you need to set up a special vehicle to manage money. You have certain restrictions on asset allocation of pension money in some states, but these restrictions also differ between countries," Mr. Schwicht said.

Another benefit would be applying international standards to pension schemes in Europe, which he believed would raise the transparency in markets.

But a single market also would be a double-edged sword for money managers.

Lower barriers to entry resulting from increased efficiency would draw more firms to Europe, he said.

"The barriers to entry would be a lot lower. It would clearly increase competition, but I'm not afraid of competition. We have good products and local knowledge," Mr. Schwicht said.

But one casualty might be the smaller, local money managers that have big market shares in their do-



mestic regions, he said.

"If you have a big market share, there's only one direction to go from there, really," he said.

The European Commission is expected to receive the proposed directive on cross-border pensions, which must have E.C. approval to become legislation.

### Consolidation

The European pension directive is a bill designed to consolidate Europe's disparate pension rules into one central code. However, its passage has been continuously delayed by politicians over issues such as whether to place investment restrictions on pension plans.

The bill was passed in February by the European Parliament's Economic and Monetary Affairs Committee, with several last-minute compromise amendments, including a five-year phase-in period. Despite the bill's progress and the European Commission's enforcement action, many remain skeptical of achieving the Euro-pension dream.

"I think it's still a lifetime away," said Geoffrey Benney, head of pensions for Paris-based Peugeot S.A. "Europe still has such different social security and pensions and tax systems, it will take decades to harmonize."

Jim Stephens, head of European pensions at British American Tobacco P.L.C. in London, took a similar view. "It doesn't make any difference for us at all. We still have disparate pension schemes across Europe, and I can't see anything in the near future that will alter that."

"Even the directive—that's getting closer, but it still doesn't even look at tax and social security. Those issues have to be dealt with by individual nations, and that will take a very long time," he said.

But pension lawyers and actuar-

ies close to the debate over pan-European pensions were more optimistic.

"The commission's move will be welcomed by expatriates and multinational employers as a positive outcome which will help with cross-border mobility," said Mark Sullivan, a European partner at Mercer Human Resource Consulting in London.

### No driving need

Mr. Sullivan disagreed that there's a driving need to completely harmonize the tax and social security structures of all member states to have practical cross-border pensions.

"If we can get to the stage where multinationals can have workers in different member states contribute across borders without penalty, that's as much as we need. That doesn't necessarily require harmonized social security systems," he said.

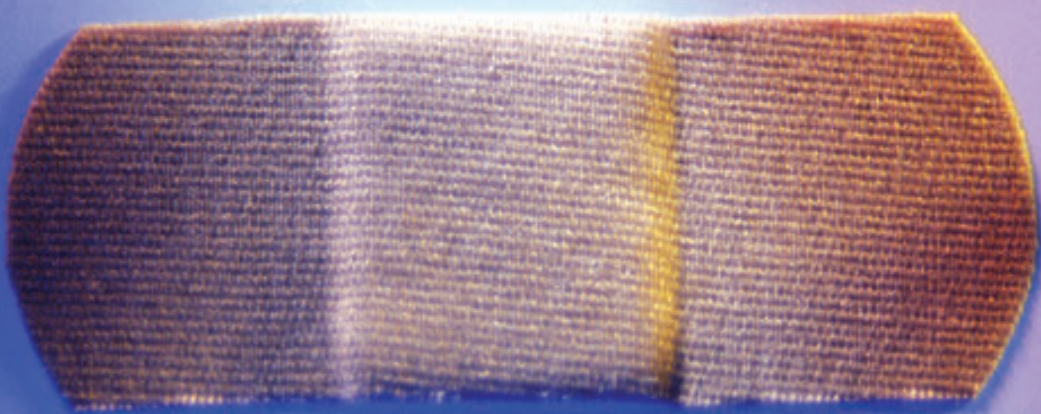
Mr. Sullivan said there was no real gauge on how long this would take, but he believes it's "not a lifetime." He said the European Commission's intervention was a very good sign that things will move quickly.

In test of cross-border tax laws, a group of companies led by Mercer last year sponsored a U.K.-based employee to contribute to a Dutch pension plan.

The companies, which have remained anonymous throughout the process, are now awaiting a decision by Britain's Inland Revenue on whether these contributions will be taxed in the United Kingdom. The Inland Revenue's decision is expected in March, Mr. Sullivan said. Further details were unavailable.

*Benjamin Seeder is a reporter for Pensions & Investments, a sister publication of Business Insurance.*

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