

Business Insurance

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APPEALS COURT RULES / PAGE 3**

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**Q&A WITH RMIS EVALUATOR
DISCUSSES IMPROVEMENTS
IN RISK SYSTEMS / PAGE 6**

In Brief

**Clinton seeks to close
offshore tax 'loophole'**

Democratic presidential contender Hillary Clinton said last week that she would close a purported tax loophole that she said gives foreign insurers with U.S. subsidiaries an "unfair advantage" over U.S.-based competitors. In a Senate Finance Committee hearing last fall, a coalition of U.S. insurers charged that foreign companies can shift U.S. profits to affiliates in low-tax jurisdictions through reinsurance agreements. Ms. Clinton last week proposed halting the practice as part of an "insourcing agenda" to create U.S. jobs.

**3M phasing out
DB pension plan**

3M Co. is phasing out its pension plan in favor of an enriched 401(k) plan as the exodus of major employers from the

See **IN BRIEF** page 26

SPOTLIGHT

ENTERPRISE RISK MANAGEMENT

Corporate sustainability efforts put focus on ERM;

annual list of RMIS vendors; public entities face unique challenges; columnist John J. Hampton says visual risk clusters clarify enterprise risks; organizations pushing suppliers to adopt ERM approaches. **PAGE 11**



REUTERS

Treasury Secretary Henry Paulson last week slammed state-based insurance regulation, as he proposed a series of reforms for the financial services sector.

Treasury endorses OFC for insurers

But regulatory change still seen as years away

By **MARK A. HOFMANN**

WASHINGTON—The practical short-term impact of Treasury Secretary Henry Paulson's call to allow insurers and producers to choose federal rather than state regulation probably will be rather modest, say both supporters and opponents of an optional federal charter.

In fact, the secretary indicated as much last week as he unveiled the administration's blueprint for financial services regulatory reform, of which the OFC recommendation is a small part. Although Mr. Paulson called on Congress to move quickly on the creation of a new national office of insurance oversight within the Treasury Department to deal with international regulatory issues and to advise the secretary on major domestic and international insurance issues, he described the OFC as an "intermedi-

ate-term" goal to be accomplished within two to eight years (see box, page 25).

"A state-based regulatory system is quite burdensome," Mr. Paulson said. "It allows price controls to create market distortions. It can hinder development of national products and can directly impact the competitiveness of U.S. insurers. There have been numerous attempts to modernize the regulatory structure for insurance. At this time, it seems clear that the way forward is to give insurers the ability to elect for federal regulation," he said.

OFC advocates said they hope that Treasury's call will have a longer-term positive effect on the effort to allow insurers to seek federal charters.

Bills that would create an OFC have been introduced in both hous-

See **OFC** page 25

Florida suit targets insurers' management

State seeks to recoup funds from Poe family

By **DOUGLAS MCLEOD**

TALLAHASSEE, Fla.—William F. Poe Sr. and members of his family have been prominent in the insurance industry for decades, but are now facing regulatory charges that they diverted millions of dollars from three Florida insurers they managed before the companies collapsed in 2006.

The Florida Department of Financial Services last week sued Mr. Poe and 22 others, including several Poe family members, as part of the receivership of Atlantic Preferred Insurance Co., Florida Preferred Property Insurance Co. and Southern Family Insurance Co.

The three insurers, collectively insolvent by more than \$500 million, were units of privately held Poe Financial Group Inc. of Tampa, which itself filed for bankruptcy protection after eight Florida hurri-

canes swamped its insurance units with claims in 2004 and 2005.

Florida regulators charge that Mr. Poe and other shareholders and executives of the insurers knew or should have known that the companies were insolvent after the 2004 storms, but manipulated their financial statements to conceal the fact.

Poe Financial shareholders, mostly Poe family members, also collected \$143.5 million in dividends in 2004 and 2005 despite the insurers' impaired condition, and Poe group affiliates improperly retained \$35.5 million in unearned commissions that should have been turned over to the insurers, the suit alleges.

Regulators are seeking the return of the dividends and commissions along with other damages.

In a statement, Mr. Poe declined

See **POE** page 26

Doctor rating project may boost CDHP drive

Group unites doctors, employers, insurers

By **JOANNE WOJCIC**

WASHINGTON—A standardized method to judge provider performance that passes muster with critics of health plans' previous doctor ranking efforts is likely to boost the consumerism movement by providing plan members with tools to choose their doctors, observers say.

The methodology, which is based on a set of principles developed by the Washington-based Consumer-Purchaser Disclosure Project, also should give employers greater confidence that the rankings insurers use to establish high-performance networks are based on both cost and quality, they say.

The Patient Charter for Physician Performance Measurement, Reporting and Tiering Programs was unveiled last week by the Disclosure

Project, a collaboration of employers, consumers, labor organizations, insurers and providers. The group has been working for more than five years to establish a set of principles to rate provider performance that would satisfy all of their competing concerns.

Elements of the Patient Charter were incorporated into an agreement last October that settled a lawsuit brought by New York Attorney General Andrew Cuomo against Bloomfield, Conn.-based CIGNA Corp. over its doctor ranking program (*BI*, Nov. 5, 2007).

According to the Patient Charter, standards will be developed and their implementation will be reviewed by independent health care quality rating organizations,

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On the Web

BI ONLINE FEATURES

World Insurance Forum expanded coverage

At the World Insurance Forum 2008 held in Dubai, United Arab Emirates, senior executives from insurance companies across the world gathered to discuss the latest insurance trends. *Business Insurance's* sister publication, *Business Insurance Europe*, brings you full coverage of the event plus photo gallery. Go to www.BIEurope.com/WIF.

BI AUDIO

RMIS reviewer discusses trends in risk systems

In a podcast interview, risk management consultant David A. Tweedy discusses the



features and improvements in risk management information systems today. Mr. Tweedy conducts an

annual review of the major RMIS for the International Risk Management Institute. To hear this podcast, go to www.BusinessInsurance.com/audio.

BI DIRECTORIES

Directory of RMIS vendors updated

Business Insurance has updated its directory of companies that sell risk management information systems for 2008. You can buy and download the full content of this and other *BI* directories at www.BusinessInsurance.com/directories.

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White worker wins protection under bias law

Civil Rights Act covers discrimination based on race of employee's spouse, appeals court rules

By DAVE LENCKUS

NEW YORK—A federal appeals court ruling that civil rights law protects white workers in certain circumstances may have only a modest short-term effect but could lead to substantially more discrimination claims in the long run, legal experts say.

A 2nd U.S. Circuit Court of Appeals panel ruled last week that Title VII of the Civil Rights Act of 1964 would protect a white employee terminated by white supervisors if the decision was motivated by the employee's relationship with someone of a different race.

In its first-ever decision on the

issue, the three-judge panel unanimously reversed a lower court's July 2006 summary judgment in favor of an employer accused of terminating a white employee because he was married to a black woman.

Few racial discrimination cases against employers involve claims centering on a worker's relationship with someone of a different race, employer and plaintiffs attorneys agree.

But employer attorneys say the ruling exposes many employers to such claims for the first time, because so many companies are based within the 2nd Circuit, which covers New York, Connecticut and Vermont.

And plaintiffs attorneys pointed

out that interracial marriages have mushroomed in the four decades since the U.S. Supreme Court struck down state bans of such unions.

In the case, *Craig Holcomb vs. Iona College*, Mr. Holcomb was terminated in 2004 from his position as an assistant basketball coach along with a black assistant coach.

Mr. Holcomb charges that two of the five school officials involved in terminating him had on numerous occasions verbally expressed racist views—including some directed at his wife—and had taken other discriminatory actions against blacks.

Among other things, Mr. Holcomb's wife and the black girlfriend of the team's white head coach were banned from team booster

events. A school official said at the time that the decision was based on the fact that the women were neither school alumni nor donors, according to court papers.

Iona, located in New Rochelle, N.Y., said the two assistant coaches were terminated in an effort to improve team performance.

In overturning a lower court ruling that Mr. Holcomb could not link any bias by officials to his termination, the 2nd Circuit analyzed a provision of Title VII that prohibits employers from taking adverse employment actions against any worker "because of such individual's race."

See **BIAS** page 24

WellPoint joins ranks refusing to cover errors

'Never events' policy aims to increase safety

By JOANNE WOJCIC

INDIANAPOLIS—WellPoint Inc. is changing its provider reimbursement strategy to withhold payment for certain medical errors, the company announced last week.

The reimbursement modifications, which involve preventable adverse events as defined by the Centers for Medicare and Medicaid Services and the National Quality Forum, will be implemented in phases and be modified and expanded. Prior to this announcement, the policy had been implemented on a pilot basis in Virginia.

The Indianapolis-based health insurer will not pay for surgery performed on the wrong body part, for surgery on the wrong patient, or for the wrong surgery being performed on a patient. In addition, WellPoint will not make any additional payments if any of the following occur:

- Object left in the body during surgery.
- Air embolism or blockage.
- Blood incompatibility.
- Catheter-associated urinary tract infection.
- Pressure ulcers.
- Vascular catheter-associated infection.
- Infection inside the chest after coronary artery bypass graft surgery.
- Hospital-acquired injuries such as fractures, dislocations, intracranial injuries, crushing injuries and burns.

"WellPoint firmly believes that putting processes in place that focus on preventing these events can have an immediate impact on health care safety and quality," Dr. Sam Nussbaum, executive vp for clinical health policy and Well-

Point's chief medical officer, said in a statement.

"We will continue to work collaboratively with physicians and hospitals to analyze why and how these events occur, and to proactively find ways to improve patient safety and clinical care," he said.

The new strategy also will save patients and employers money since it does not permit in-network hospitals to bill them for such errors, according to WellPoint.

WellPoint joins a growing list of payers that are no longer reimbursing providers for health care costs stemming from preventable medical errors. Earlier this year, Aetna Inc. said it had begun to include provisions in some provider contracts that it won't pay for nor allow patients to be billed for care related to the so-called "never events" identified by the National Quality Forum. Last August, CMS announced it would no longer pay for some hospital mistakes beginning on Oct. 1, 2008. In addition, the Washington-based Leapfrog Group, a consortium of large, national employers focused on patient safety, has announced its support of such payment denials.

In 2002, the National Quality Forum defined 27 events that should never occur within a health care facility. There are six types of so-called "never events," including surgical errors; product or device events, such as using contaminated drugs; patient protection events, such as discharging an infant to the wrong person; care management events, such as medication errors; environmental events, such as electric shocks or burns; and criminal events, such as the sexual assault of a patient.



Profits grow at Lloyd's despite softening rates

Investments, low cat losses help 2007 results

By SARAH VEYSEY

LONDON—Limited catastrophe losses and increased investment income helped boost profits at Lloyd's of London in 2007, but managing through the softening market will be a key challenge for underwriters in 2008, says the market's top executive.

Last week Lloyd's reported profits of £3.85 billion (\$7.68 billion) for 2007, a 5.2% increase over 2006.

The market posted a combined ratio of 84.0% for 2007, compared with 83.1% for 2006.

Lloyd's said the results were boosted in part by profitable underwriting conditions and limited exposure to catastrophes during the year.

"Lloyd's is in good shape to meet

the challenges that face us, but we cannot expect the strong underwriting conditions and low levels of catastrophes to continue," Richard Ward, London-based chief executive of Lloyd's, said in a statement.



Mr. Ward

The market is "absolutely softening" in 2008, said Mr. Ward. Managing business through the trough of the insurance cycle will be key for the market in the coming year, he said.

Lloyd's said it released surplus reserves of £856 million (\$1.7 billion) last year, compared with £270 million (\$529 million) in 2006. The market's investment return was £2.01 billion (\$3.94 billion), a 21% increase over 2006.

Lloyd's does not expect to be

See **LLOYD'S** page 23

NAIC adopts plan to reform reinsurance collateral rules

Modernization proposal calls for exploring uniformity in regulating U.S., foreign reinsurers

By MEG FLETCHER

KISSIMMEE, Fla.—The National Assn. of Insurance Commissioners has unanimously adopted a framework to significantly reform U.S. reinsurance regulation, which drafters say they plan to flesh out by the end of this year.

The long-discussed modernization proposal addresses the “inherent disconnect” in U.S. regulation that requires highly rated, non-U.S. reinsurers to post 100% collateral for their U.S. liabilities, while U.S.-based reinsurers, regardless of their ratings, post none, said Alfred W. Gross, Virginia’s insurance commissioner and chair of the NAIC’s

Financial Condition Committee.

“The framework will facilitate cross-border transactions and enhance competition within the U.S. market, while ensuring that U.S. insurers and policyholders are adequately protected against the risk of insolvency,” the framework memorandum states.

Members of the NAIC unanimously adopted the framework last week during its quarterly meeting, held in Kissimmee, Fla.

The memorandum proposes establishing a Reinsurance Supervision Review Department that would evaluate non-U.S. jurisdictions and grant mutual recognition to those with equivalent regulation.

Under the proposal, the NAIC would create uniform minimum standards to determine which state regulator would oversee a U.S. reinsurer or a non-U.S. reinsurer from an RSRD-approved jurisdiction.

A ceding company’s domestic regulator would be required to grant appropriate credit for reinsurance ceded to an approved national reinsurer. That regulator would have the same authority it has now to evaluate the amount of liabilities ceded and retained and determine if risk transfer occurs.

The focus of the ongoing reform effort is a U.S. requirement that non-U.S. reinsurers post collateral equal to their exposures to U.S.

risks. Many U.S. ceding insurers oppose changing the collateral rules, citing financial concerns; overseas organizations are pushing for relaxing the regulations, arguing that many non-U.S. reinsurers offer comparable, or better, security than U.S. competitors.

Frank Nutter, president of the Reinsurance Assn. of America in Washington, said the organization is “extremely supportive” of a single regulator and eliminating inappropriate extraterritorial regulation.

Swiss Re America Holding Corp., however, said in a legal analysis that the proposal is “impractical” and “most likely” unconstitutional because states lack the authority to

deal with foreign governments.

Proposal drafters say they will review their legal authority and address several issues, including collateral levels, treatment of affiliated transactions, reconciling financial reports to U.S. accounting standards and whether to establish a security fund.

In separate action, the NAIC adopted a controversial conflict-of-interest policy that would require written disclosure of ethical conflicts. In conjunction with NAIC-sponsored meetings, the policy would outlaw insurance industry-provided entertainment and contributions to commissioners running for office.

Study finds CDHPs offer only modest reductions

Healthier members, cost-shifting drive savings

By JOANNE WOJCIC

Employer savings from consumer-driven health plans come from three principal forces: lower utilization, greater cost-shifting to plan members and the fact that most of those who enroll are healthier, a study by consulting actuarial firm Milliman Inc. has found.

The savings of CDHPs compared with non-CDHPs average 1.5% when adjustments are made to account for younger populations, greater cost-shifting and lower utilization, the study showed.

41%

IS HOW MUCH LOWER
allowed claims in CDHPs are
than in other health plan types.

The findings contradict many previous studies conducted by CDHP vendors that found more significant savings and no adverse selection.

“I think we unmasked some of the magic that studies by vendor organizations had created,” said Bruce Pyenson, principal and consulting actuary at Milliman in New York, who contributed to the report.

For example, because higher cost-sharing with plan members discourages utilization, plan-paid claims per member per month are very low for CDHP populations, the study by Seattle-based Milliman found. Among the plans that were exam-

ined, claims allowed by the CDHPs were about 41% lower than claims allowed by non-CDHPs.

Allowed claims are medical costs after negotiated network discounts but before member cost-sharing is removed.

In addition, CDHPs attract younger, healthier populations, the study found. After taking age and risk factors into account, the population choosing CDHPs is an additional 26% healthier as measured by cost, the study determined.

The Milliman “Consumer-Driven Impact Study” analysed the performance of CDHPs offered by six employer members of the Washington-based National Business Group on Health covering collectively about 225,000 members, 30,000 of which were enrolled in CDHPs. The methodology adjusted actual experience for: benefit design, including the impact of benefits on utilization; age; gender; risk score, based on conditions; and geographic area.

Despite the findings that CDHP savings are more modest than the plans’ predicted, Helen Darling, president of the NBBGH, was not discouraged.

“Some of our employers did not move to CDHPs primarily to save money in the immediate term,” she said in a statement. “Rather, they offered CDHPs to change how employees thought about their health care and how they would behave when their money was at stake. This is a strategy, not a tactic.”

The complete Milliman “Consumer-Driven Impact Study” is available at www.milliman.com.

Errors and omissions

• A chart in the March 24 issue titled “State Workers Compensation Medical Treatment Guidelines” showed Nebraska as a red state with

“specific/customized guidelines solutions.” Nebraska should be a blue state with “guidelines under consideration.”

Auction-rate securities spawn a host of lawsuits by investors

Cargo airline, mobile phone provider sue Merrill Lynch & Co.

By MEGAN JOHNSTON

Companies and individual investors with cash trapped in auction-rate securities are increasingly taking legal action against the broker-dealers that sold them the products.

Auction-rate securities, which are a \$330 billion market, are essentially long-term bonds turned into short-term instruments via interest rates that reset at an auction, typically every seven to 35 days.

Problems surfaced in the ARS market last fall, and auctions began

to fail en masse in February when broker-dealers stopped supporting them. Investors allege that the banks that sold the securities marketed them as being as safe as cash.

To date, most of the suits against broker-dealers that sold ARS have been brought by individual investors. But two companies, Miami-based Astar Air Cargo and Dallas-based MetroPCS Communications, have each filed claims against Merrill Lynch & Co. Inc.

Last month, Astar, a privately held cargo airline, filed a Financial Industry Regulatory Authority arbitration claim against Merrill. The firm said it has \$9.1 million in frozen auction-rate preferred securities and is seeking compensatory damages of that amount. Astar is also seeking \$27.4 million in puni-

tive damages.

In the claim, Astar said it instructed Merrill to invest its cash reserves in products that would provide “complete safety of principal and complete liquidity.” Merrill put the money in ARS, and between 2004 and last December, Astar maintained a balance in the securities that totaled between \$20 million and \$25 million.

When auctions began failing last fall, Astar said Merrill assured the firm that it would continue to back auctions. But in February, Merrill, along with all the other big broker-dealers, said it would no longer support the ARS market.

In a statement, a Merrill spokesman said the Astar suit had

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Impairment guide comes under fire

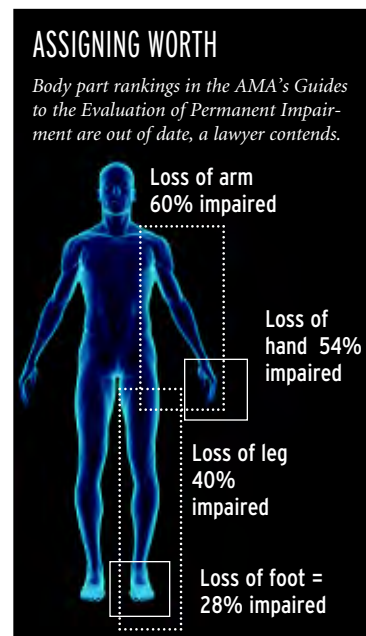
Academic questions validity of long-used workers comp claim measure

By KRISTIN GUNDERSON HUNT

CHICAGO—Some workers compensation legal professionals question the validity of American Medical Assn. guidelines on evaluating permanent impairment that more than 40 state workers comp systems use to determine compensation for injured workers.

At issue, said John Burton, professor emeritus at the School of Management and Labor Relations at Rutgers University in Princeton, N.J., is the lack of scientific evidence used to rate various body parts and their relative value to a whole person.

Speaking at an American Bar Assn. seminar last month in Chicago, Mr. Burton said the body part rankings in the sixth edition of the AMA’s Guides to the Evaluation of



Permanent Impairment are arbitrary and were developed years ago by physicians who had no access to evidence that is available today about the relationships between impairment, loss of wages and quality of life.

According to Mr. Burton, recent data from various organizations, including RAND Corp., should have encouraged the AMA to more accurately determine the value of body parts and the resulting impact of lost function of those body parts in workers comp cases. Instead, he said the ratings of four body parts—arms, legs, hands and feet—are the same in the sixth edition of the AMA Guides as they were in the third edition.

“Those relative rankings of body

See **GUIDELINES** page 23

OBJECTS IN MIRROR ARE A LOT CLOSER THAN THEY APPEAR.



WAUSAU COMMERCIAL AUTO AT WORK. While looking at the claim history of a food distributor we insure, we noticed a number of issues with its fleet safety. During the previous two years there had been several accidents, including a few sideswipes, that heightened concerns about rising costs. Part of the problem was poor visibility, especially when changing lanes. This was easily remedied by installing fender-mounted **PRICE $\neq$ COST.** elliptical mirrors on all of the trucks. Another problem was finding the right drivers. With our help, they established new hiring methods

(including background checks and road testing) and formalized the driver selection process. As a result, even with a significant increase in annual mileage, the number of accidents dropped 30% and dollar losses dropped 60%. And thanks to fewer collisions, the delivery schedule ran smoother as well. It's all part of Wausau TotalValueSM and our commitment to lowering your total cost of risk. And it's backed by the financial strength of the Liberty Mutual Group. To learn more, visit wausau.com or contact your Wausau representative.



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BI adds Chicago staff

CHICAGO—*Business Insurance* has added two members to its staff in Chicago.

Pharaoh Blackwell has joined the magazine's interactive department as assistant online producer, and Allison J. Martinat has joined the editorial department as editorial assistant.

Mr. Blackwell is responsible for helping build and develop online content for *Business Insurance* as well as the sites of *Business Insurance Europe* and monthly *BI* supplement *Industry Focus*.

As editorial assistant, Ms. Martinat is responsible for administration of daily editorial operations as well as special events and other projects.

Before joining the magazine, Mr. Blackwell worked as webmaster for 123DJ.com, a music entertainment e-commerce site, and prior to that he was a senior content manager for Northern Trust Co. and a content manager and Web



Mr. Blackwell



Ms. Martinat

production assistant at Aon Corp.

Mr. Blackwell can be reached at 312-649-5278 or pblackwell@businessinsurance.com.

Prior to joining *BI*, Ms. Martinat worked as office manager and executive sales assistant at CBS Television Network in Chicago and before that was a freelance writer for lifestyle media company Sheckys.com in Chicago.

She holds a bachelor of arts degree in English literature and a minor in Spanish from Denison University in Granville, Ohio.

Ms. Martinat can be reached at 312-649-5398 or amartinat@businessinsurance.com.

Questions Answers

David A. Tweedy, a managing consultant with Albert Risk Management Consultants Inc. in Needham, Mass., conducts an annual review of risk management information systems in partnership with the Dallas-based International Risk Management Institute. The full reviews can be seen at www.irmi-online.com. He spoke recently with *Business Insurance* about what's new with RMIS.



RMIS vendor trends

Q: What is your standard definition of a RMIS?

I try to get as simple as possible. What I like to define the RMIS as, it's basically an automated system or series of systems that function as a tool to assist the risk manager to perform his or her duties. Many of them are primarily claims management-oriented. There are an increasing number where the policy management function or the risk-financing function or the exposure management function jumps up and it's very, very high, even if it's back-office administrative, such as certificate management, bonds or even asset management. It is a set of tools. Primarily, it's a tool. A lot of vendors will provide a comprehensive suite of functions that will help address some of those areas. As we expand more into the enterprise area, that definition is going to be shifting a bit more because there will be other things that are going to be coming under the purview or at least the analysis of the risk manager that would go outside the typical realm of the fortuitous loss, the traditional risk management areas.

Q: Are some of the vendors of traditional RMIS expanding into ERM platforms?

They are looking into doing so. Some of the larger ones are looking for opportunities to become more versatile in that area. I don't really see anything significant at this point, but it's an area that we're looking at very carefully. The whole area of risk mapping and risk financing is an area where I think there will be some opportunity for those kinds of vendors to get involved.

Q: Is there increasing interest in RMIS by smaller organizations?

We're seeing much more interest by the smaller organizations. Obviously, the very big, heavy-duty ones, those folks are providing systems to big companies (such as the Fortune 1000). But there are only a finite number of those around. The middle market has always been defined as that great area of opportunity. But people have had difficulty in trying to harvest it.

The thing with the middle mar-

RMIS REVIEW

This composite rating is based on a combination of 11 vendor/system performance, functionality and consultant evaluation for the 2007 fourth quarter.

TOP BUNDLED VENDORS

American International Group Inc.
GAB Robins North America Inc.*
Sedgwick CMS*
ESIS Inc.**
Liberty Mutual Insurance Co.**

*GAB Robins and Sedgwick are both ranked second. **ESIS and Liberty Mutual are both ranked third.

TOP UNBUNDLED VENDORS

INFORM Applications Inc.
Aon Risk Console
CS STARS
Aon/Valley Oak*
DAVID Corp.*

*Aon/Valley Oak and DAVID Corp. are both ranked fourth.

THE FULL TEXT of this abridged *BI* interview is at www.BusinessInsurance.com/QandA
THE PODCAST of this interview can be heard at www.BusinessInsurance.com/Audio

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Business Insurance OPINIONS

Treasury plan heartens federal charter backers

ADVOCATES OF CREATING optional federal charters for insurers and producers have known all along that reaching that goal could take quite a while.

Fortunately, attaining that goal may have become considerably easier last week as Treasury Secretary Henry Paulson called for allowing insurers and producers to choose whether they would be regulated by state authorities—as is now the case—or by a new federal insurance regulator.

Mr. Paulson's action is both significant and welcome. It's significant because it represents the first time the OFC has been endorsed by any administration.

And it's welcome because it shows that someone in Washington has gone beyond recognizing the problems with the current state-based system and officially called for an alternative.

Mr. Paulson's action is both significant and welcome.

We support the OFC, and have done so for many years. We're under no illusions that the Treasury recommendation is going to bring about regulatory choice immediately. In fact, we wish that Treasury had made the recommendation much earlier in this administration's tenure.

After all, the current administration will end in less than a year. Secretary Paulson's recommendation is in no way binding on the next administration, be it Republican or Democratic.

Nonetheless, the recommendation should serve to sharpen congressional focus on the shortcomings of the current regulatory system.

Some lawmakers in both Houses of Congress already see those shortcomings clearly, and have introduced bills in the current Congress to create the OFC. While the Treasury recommendation declined to endorse any specific piece of legislation, it did have kind words for the current bills.

The drive toward an OFC has been slowly but surely gathering support in recent years. We believe that the Treasury recommendation will help give that effort the push it needs to reach its goal sooner than it would have had Treasury remained silent on the issue.

Informed health choices rest on provider ratings

STANDARDS IN HEALTH CARE provider performance are essential to the success of the consumerism and quality-improvement movements.

As we report on page 1, the Consumer-Purchaser Disclosure Project—a collaborative effort of employers, consumers, insurers, providers and labor organizations—is attempting to rate providers.

Such a feat is crucial to equip consumers with the tools to choose wisely, but consensus is hard to come by. The Disclosure Project has been working on its set of principles for more than five years.

This effort deserves the support of all stakeholders in the health care system: consumers, employers, health insurers and providers. Plan designs that shift costs but do not equip plan members to make choices based on quality can't truly be called consumer-driven.

We hope the Disclosure Project succeeds in creating a nationwide rating system for high performance that increases value for all concerned.



Letters

'Medical tourism' new term for old service

TO THE EDITOR: I just read your article from March 10, 2008, "Few U.S. Employers Book Passage on the Ship of Medical Tourism."

My company is not a "medical tourism" company. We are an international health services administrator and preferred provider organization.

I read the article and thought that medical tourism companies are trying to sell this as a new concept.

My company has been providing

this service for over eight years to foreigners traveling to the United States and other countries.

I guess I disagree with the term utilized and the method of introducing this old concept to Americans who believe it is a new concept to travel for care.

Patty Ziomek

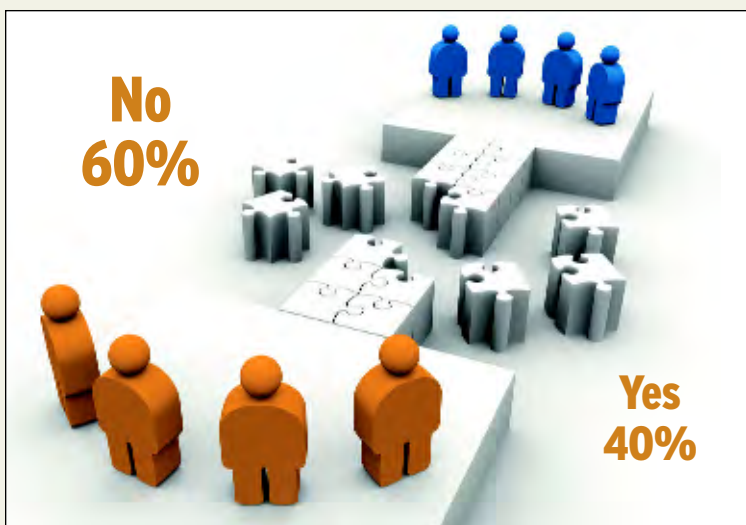
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Enterprise Risk Management

Who should lead the way?

Sustainability to take ERM to next level

Corporate efforts could marginalize role of risk managers

By **DAVE LENCKUS**

Many risk management experts say expanding enterprise risk management by establishing an organizational sustainability effort could only benefit organizations that move in that direction, but not all concur that risk managers would benefit in kind—unless they are careful.

Indeed, some experts say risk managers who do not position themselves properly could find their roles marginalized even as sustainability efforts strengthen an organization's so-called triple bottom lines of economic, social and environmental performance.

Experts disagree, however, whether a risk manager's proper role is to lead the implementation of a sustainability program or play a strong supporting role.

Generally, the sustainability concept involves how an organization

can meet its current needs without jeopardizing the ability of future generations to meet their own needs. Failing that could upset corporate stakeholders to such an extent that the company's future is jeopardized.

Although many Fortune 500 companies have implemented sustainability programs, the concept in the corporate world is relatively new, risk management experts report (see story, page 14). Most companies are only beginning to examine it, though European companies are slightly ahead of their U.S. counterparts in developing those efforts, experts say.

"Sustainability comes at a cost, but not everybody wants to take that cost right now," said Mathew Allen, global practice leader for enterprise risk services at Marsh Inc. in New York.

While some companies that have embraced the concept are considering their organizations' social and environmental performance, others have limited their efforts to surviving a major supply chain disruption, experts say.

But an all-encompassing sustain-

ability effort is important, because the vast majority of risks that a company faces are the uninsurable kind that would endanger its market capitalization, said consultant Peter Breitstone, the Jericho, N.Y.-based chief executive officer of Aon Environmental Services Group, a unit of Aon Corp.

Many of those risks are the social and environmental exposures that a corporate sustainability officer would oversee.

Typically, those risks account for about 71% of a company's total risk, according to London-based management consulting firm Arthur D. Little, which equates them to the bigger and far more dangerous part of an iceberg that lies below the ocean's surface.

That means insurable risks account for 29% of overall risk.

Mr. Breitstone pointed out, for example, that if Wal-Mart Stores Inc.—which has developed a sustainability program—angered consumers by failing to meet one of its social or environmental responsibilities and a resulting boycott reduced revenues just 5%, the company would suffer an uninsured loss

exceeding \$17 billion.

"That would be bigger than any (insured) property damage hit" the company could face from a hurricane, he said.

Many organizations, however, are not turning to their risk managers to implement and oversee their sustainability programs, though risk managers typically are involved in the effort. At seminars around the world, Mr. Breitstone has warned risk managers that they risk being marginalized if they do not reverse that trend.

"Risk managers have to pay attention to these sustainability risks, which insurance products don't take care of easily," Mr. Breitstone said. "If they don't worry about them, someone else will do it."

Eventually, senior management at many companies will question the efficiency of having two departments mitigate corporate risk and combine the traditional risk management and the sustainability areas, he said.

Since the sustainability officer

See **SUSTAINABILITY** page 14

SPOTLIGHT

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COMMON ERRORS CAN SABOTAGE CORPORATE PLANS

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VISUAL RISK CLUSTERS CAN PROVIDE CLARITY

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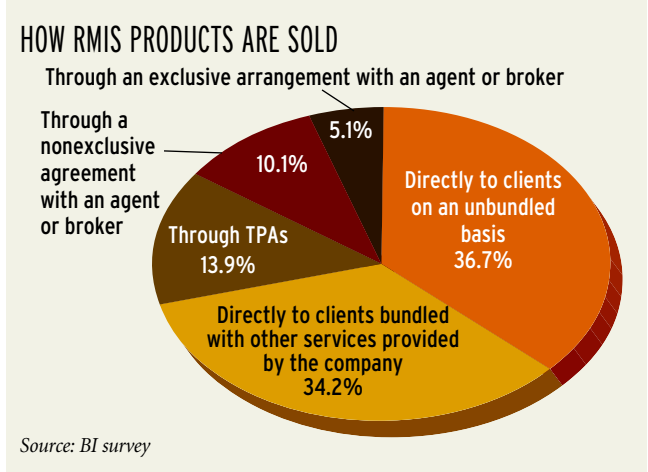
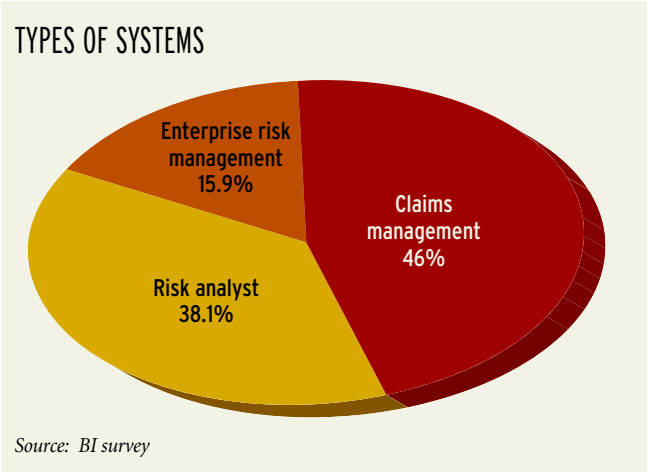
LARGER FIRMS PUSH SUPPLIERS TO ADOPT ERM

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ENTERPRISE RISK MANAGEMENT SYSTEM PROVIDERS

@Global Inc.
APP Technologies L.L.C.
Aon eSolutions
Axentis Inc.
Blackburn Group Inc.
Effisoft USA
GAB Robins North America Inc.
INFORM Applications Inc.
Synergistic Solution Technologies Inc.
TecnoRisk L.L.C.

Source: BI survey



Risk management information systems

Companies that produce and supply proprietary software products to corporations

Company	System name(s)	Offered systems since
Advisen Ltd. www.advisen.com	Advisen	2001
Aon eSolutions www.aon-esolutions.com	iVOS, RiskConsole, SafetyLogic	1978
APP Technologies L.L.C. www.apptechologies.biz	Electronic First Report, Go Compliance, Incident Management System	2003
@Global Inc. www.atglobal.com	Allegro, Allegro Dashboard	1996
Axentis Inc. www.axentis.com	Axentis Enterprise	1999
Blackburn Group Inc. www.blackburngroup.com	RiskPro	1984
Brightwork Inc. www.brightworkinc.com, www.aboutalyce.com	Alyce Claims Management System	2003
Cantor & Co. www.cantorandco.com, www.riskmapssoftware.com	MQMS Plus Risk Management	1982
Chubb Corp. www.chubb.com	Chubb RMIS Suite of Products	1994
Computer Risk Management Inc. www.riskmanagers.com/	Indecon, Risk2006, Risk2008	1997
Computer Sciences Corp. www.csc.com/riskmanagement	RISKMASTER	1974
CS STARS www.csstars.com	STARS	1967
DAVID Corp. www.davidcorp.com	NavRisk	1984
ESIS Inc. www.esis.com	Global RiskAdvantage	1999
Effisoft USA www.effisoft.com	Webrisk	1989
Envision Technology Solutions www.envision-ts.com	RiskEnvision	1994
GAB Robins North America Inc. www.gabrobins.com	EYE Advisor	1995

Source: BI survey
Researched by Kevin Edison and Karen Tucker

Company	System name(s)	Offered systems since
Gallagher Bassett Services Inc. www.gallagherbassett.com	RISX-FACS / risxfacs.com	1983
GenSource www.gensourcecorp.com	GenIRIS	1977
INFORM Applications Inc. www.informapplications.com	INFORM	1980
Liberty Mutual Insurance Co. www.libertymutual.com	RISKTRAC	1983
MFx www.mfxfairfax.com	RiskVault	2001
MountainView Software www.mvsc.com	ClaimZone, ClaimZone Reporter, ClaimZone RMIS	1996
P&C Insurance Systems Inc. www.pcisvision.com	Vision System	1982
PureSafety www.puresafety.com	Prognos	1994
Risk Sciences Group Inc. www.risksciencesgroup.com	Sigma Encore	1978
Risk Technologies Inc. www.riskvision.com	RiskVision RMIS	1988
Specialty Risk Services L.L.C. www.specialtyriskservices.com	@venture	1993
Specific Software Solutions L.L.C. www.specificsoftware.com	ModMaster Suite	1991
StrataCare Inc. www.stratacare.com	StrataWare	1998
Synergistic Solution Technologies Inc. www.s-s-t.com	Risk360 for risk pools	1990
TecnoRisk L.L.C. www.tecnorisk.com	TecnoClaims, TecnoSafety	1985
Travelers Cos. Inc. www.travelers.com/	e-CARMA	1983
WLT Software Enterprises Inc. www.wltsoftware.com	CompClaims for Windows	1979

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Sustainability: Risk managers advised to embrace such programs

CONTINUED FROM PAGE 11

would have responsibility for far more risk, the logical move would be for the sustainability area to incorporate traditional risk management, Mr. Breitstone said. That would marginalize and could eliminate the risk manager's role, he theorizes.

Marsh's Mr. Allen also said sustainability "is a component of risk decisions, so it should reside in risk management or the chief risk officer domain." Generally, sustainability "has to be a by-product of the way they identify and manage their risk profile," he said.

While a sustainability effort headed by someone outside risk management could pose problems for risk managers at companies that do not consider sustainability a top risk should not fear being consumed by a separate sustainability department, Mr. Allen said.

Other experts say risk managers do not have to own sustainability as long as they are driving the effort.

As successful enterprise risk management projects have demonstrated, "you've got to check your egos at the door," said James Kallman, president of Kallman Consulting Services in Austin, Texas, and a pro-

fessor of risk management for the International School of Management in New York; Kaplan University in Boca Raton, Fla.; and St. Edward's University in Austin.

For risk managers, that may mean allowing someone else to take ownership of the effort if doing so would facilitate it, Mr. Kallman said. After all, "sustainability is a goal, not a function."

But whoever does take charge of the effort cannot be allowed to forget the risk manager's role, Mr. Kallman said. "What might be a challenge (for risk managers) is to do it subtly," he said.

In the long run, the organization

remains viable, "so you get to keep your job," Mr. Kallman said.

Consultant James Lam also said risk managers should play a major role in developing sustainability programs but not necessarily lead the effort.

Mr. Lam said a company's "enterprise risk management or risk management department could help a company f their sustainability goals and objectives." He said risk managers can play a key role in setting up a sustainability program's infrastructure, including policies and risk tolerance; conduct risk assessments; develop an early warning system to indicate areas where the company is

beginning to veer off track; and suggest risk management and risk transfer options that may or may not involve insurance products.

At some point, risk managers may want to turn to independent research companies that examine sustainability efforts and assign companies sustainability ratings, said Mr. Lam, president of James Lam & Associates of Wellesley, Mass.

"Other departments may be the logical owners" of a corporation's sustainability effort, "but risk management is there to support that function," Mr. Lam said.

Sustainability dates back centuries

The concept of sustainability dates back centuries. Experts trace it to practices by some Native American tribes and 13th Century European forestry laws.

Today's corporations began recognizing what a sustainability effort could mean after a United Nations commission published a 1987 report, "Our Common Future," on sustainable development in emerging nations.

A decade later, British economist John Elkington coined the "triple bottom line" term in asserting that sustainability should be measured by economic, social and environmental performance.

Aside from profit, economic performance considers factors such as risk and brand management, corporate governance, and innovative research and development. Social performance includes an organization's customer relations, reputation in its community and among workers, and its diversity. Environmental performance considers an organization's carbon footprint, climate strategy, hazardous waste program, recycling efforts, water usage and other factors.

Some companies issue annual social responsibility reports that provide an assessment of their performance in those areas.

But different organizations have different risks, so sustainability programs will be different for each organization, experts say. As a result, some companies will emphasize one of the three bottom lines more than the other two or perhaps pay little attention to one of them, experts say.

—By Dave Lenckus

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Public sector faces unique enterprise risk management challenges

Adoption increasing slowly amid frequent changes of leadership

By MARK A. HOFMANN

Slowly but surely, enterprise risk management is coming to the public sector in the United States.

ERM advocates say several factors are driving enhanced interest in the approach, not the least of which is to do more with less. Among other things, they note that individuals are unwilling to accept ever-higher taxes. Still, the public demands services such as police protection and trash pickup no matter the state of the economy. And, of course, the public demands accountability from its local and state governments as well.

But the very nature of the public sector presents ERM supporters with challenges their private-sector counterparts might not face. Elected officials come and go, meaning that risk managers must be ready to sell their program to new bosses every few years. Usually, neither departmental managers nor elected officials are willing to relinquish authority over their responsibilities if that's needed to implement ERM.

One of the challenges is that there is no firm and fast definition of ERM. "Everybody thinks there's some sort of magic checklist," said

'Even if the top managers don't change, it means the risk managers have to sell and resell their program.'

Dorothy M. Gjerdrum, Arthur J. Gallagher Risk Management Services

John Thomson, a senior consultant in the Hartford, Conn., office of Towers Perrin. "It doesn't really work that way. It really involves designing a process for managing your business and your business decisions."

For public-sector ERM, a key part of the process is determining where to allocate resources, ERM proponents say.

"Governments don't have enough resources, so the question is, 'Where do you allocate your resources?'" said Phil Grewar, executive director-risk management branch for the provincial government of British Columbia in Victoria. British Columbia began implementing ERM several years ago. "A lot of the selling of ERM is allocating your resources appropriately on a risk basis."

Mr. Grewar noted that much attention has been focused on the way banks and financial institutions practice ERM. "We are more of an operational ERM. The part that we are doing is more operational risk than it is financial risk. We're all about policy and legislation and regulations and how we do what we do," he said.

"It's not just the finance officers asking for help," said Dorothy M.

Gjerdrum, executive director-Public Entity & Scholastic Division, Arthur J. Gallagher Risk Management Services Inc. in Minneapolis. "It's police departments and sheriffs' departments and benefits departments. All of those have the overwhelming task of providing mandated services and benefits despite budget restraints."

"ERM gives a good framework for public-sector risk managers to think broadly about the risks beyond insurable risk," Ms. Gjerdrum said. "It's a pretty overwhelming task if you're a traditional risk manager, but I don't think it's beyond management if you frame it in ERM."

She noted that the Alexandria, Va.-based Public Risk Management Assn. recently surveyed its members, finding that 24% of the respondents say that they practice some form of ERM. "There's a lot of interest and there's a lot of confusion about how to implement ERM in the public sector," said Ms. Gjerdrum, who is a member of PRIMA's ERM task force.

Bridging the 'silos'

In Plano, Texas, "we have addressed ERM by looking at the silos that exist in government, and trying to build a bridge between the silos," said Joey Page, the city's risk

manager as well as a member of the PRIMA ERM task force. "Risk management has its own way of doing things; environmental waste did it their way; the police did it their way," he said.

"We've tried to partner one silo at a time. Every risk manager has to bridge those silos," Mr. Page said.

The first partner that risk management sought was the city's environmental waste services department, he said.

"Their department is constantly on the move," Mr. Page said. "If we don't pick up trash on time, if we spill it, our employees are getting phone calls."

He said he and the environmental waste manager—Nancy Nevil—decided to use online training to improve performance. The rationale was, "If we could bring in online training and if they could do it, no one else could argue they couldn't do it," he said.

"We brought in old computers, which we were selling for next to nothing; we went to our technology department and said: 'Wait, we can use those.' So we brought three silos together—technology, environmental waste and risk management. The environmental waste management

See **PUBLIC** next page



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Top-to-bottom support backs successful ERM programs

Consider all factors, experts advise, but don't dwell on details

By ROSEANNE WHITE GEISEL

The keys to a successful enterprise risk management program are unique to each company, but the potential mistakes are universal, experts say.

The consensus among risk managers and consultants is that enterprise risk management will hold value for a company only if senior management and the board of directors enthusiastically back the concept and actively participate in the process.

Risk managers and consultants also say that the effectiveness of ERM comes from integrating it into the business plan and strategy.

Common mistakes that can sabotage an ERM program include trying to identify every risk rather than focusing on priority issues, getting too caught up in the processes and details, and overemphasizing one ERM component.

"There are a lot of challenges heading down the road of ERM," said Kevin Hoskinson, director of global risk and stock services for Sun Microsystems Inc. in Broomfield,

Colo. "You've got to be cognizant of (the company's) structure, philosophy and politics before you get off of square one."

Because of those challenges, companies may miss opportunities to derive value from ERM, such as using their capital efficiently and taking well-studied risks that could help attain their goals, said Prakash Shimpi, managing director for Towers Perrin in New York, with global responsibility for ERM.

Perhaps the most crippling mistake is not getting support from senior management and the board of directors. "You won't get anywhere without senior management buy-in," Mr. Hoskinson said.

Peter Fahrenthold, managing director of risk management for Continental Airlines Inc. in Houston, agrees. "I had been floating the (ERM) idea, but it really got traction when it came from the head of the audit committee."

Define and debate

To make the most of potential opportunities generated by this approach, senior management and the board must be engaged in defining the scope of an ERM plan, debating risk tolerance levels and other policy issues, allocating resources and measuring success, said James Lam, president of Wellesley, Mass.-

based risk consultant James Lam & Associates Inc.

Just as ERM isn't feasible without enthusiastic support from the top, it also won't work without cooperation at the operating unit level.

"My approach always has been that I have to be working this at many levels," said Sun Microsystems's Mr. Hoskinson. While generating top management support, he has simultaneously worked to win cooperation on the front lines.

"Find out what their issues are and be very sensitive to what is coming back," Mr. Hoskinson said. Explain that ERM will help them prioritize business risks and break down complex risks into more manageable parts. If a unit must decide on one of two investment opportunities, demonstrate how ERM can help make that decision, he said.

Prepare in advance to thoroughly understand operational issues, said Continental's Mr. Fahrenthold. "People in risk management don't always have a broad enough skill set," he said. "You have to do some homework on your own."

Mark Bagnoli, chief risk officer of the Federal Home Loan Bank of Chicago, said he believes ERM must be personal to win employee cooperation. "You have to make it part of their performance review and

compensation" to get broad acceptance and utilization of the idea, he said.

Another mistake that those leading ERM efforts make is not establishing the business case for the approach from the start, Mr. Lam

said. Questions that need to be answered include: "What are we trying to do? Why are we doing it? What level of resources is required? What are the expected benefits?"

Continued on next page

Public: Adoption of ERM rising but only slowly

CONTINUED FROM PREVIOUS PAGE

(department) incorporated training (using those computers) as part of the methods of how an employee was evaluated." Employees earn a portion of their savings if they achieve certain goals, said Mr. Page.

Now the police department has joined in, he said. "Most risk managers don't have an in to police departments. They have asked us and we are helping them pursue a risk management program for police," Mr. Page said. The key was having a person in the department assigned to risk management and safety, he said. "I don't wear a badge or carry a gun. It is difficult for me to tell them how to do their jobs."

For Plano, ERM "didn't come

easy," Mr. Page said. "It has been a slow process to educate management of this new arena called enterprise risk management. To get the buy-in, we had to build trust, a good relationship with our management to get ERM into their cultures. Over time, and showing how we could save money by doing things differently, risk management is no longer looked at as an expense in our city. It's looked at as an opportunity."

The public sector's embrace of ERM has been slower than in corporate world for a variety of reasons, ERM advocates say.

"Government's a little slower in moving into things, mainly because of the way we have to function. We can't turn on a dime and drop a product, or pick up a new service because of the way the market shifts," said Kathy Peeling, risk management specialist for the Anne Arundel County Public Schools in Annapolis, Md., and chair of the PRIMA's ERM task force.

"When the economy's good, we can expand what we offer and the demand may go up; when the economy takes a downturn, the demand for the services government provides increases," Ms. Peeling said. "We have to do more with less, which is a good reason for ERM to be coming to the forefront now. If we can get this to the upper levels, it will help the whole program."

In addition, "you have multiple elected authorities," said Robert Esenberg, former risk manager of Virginia Beach, Va., and now president of States Self-Insurers Risk Retention Group Inc. "There's no one person really totally in charge—it's the voters. It's very difficult for a risk manager or city manager to pull all of these people together to develop a really cohesive ERM program."

"Wherever you have multiple elected officials, which is virtually everywhere, you have situations where those people—either by statute or city charter—have absolute authority for their areas," he said. "In most cases, they're not going to be willing to relinquish that authority."

"Political entities have to deal with leadership changes every two or four years," said Gallagher's Ms. Gjerdrum. "Even if the top managers don't change, it means the risk managers have to sell and resell their program. There's an upside to that for successful public entity risk managers—it keeps them sharp. They have to explain the benefits in a way that's understandable and they have to do that over and over."

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What is the goal?"

In defining benefits and goals, don't forget that ERM also can highlight where the company should be taking more risks, Mr. Hoskinson said.

The first step in implementing ERM is the process of identifying, assessing and prioritizing risk, said Mathew Allen, global practice leader for enterprise risk services at Marsh Inc. in New York. The pitfall here, he said, "is trying to boil the ocean."

It is counterproductive to try to identify every possible risk for the company, Mr. Allen said. Focus initially on the top five exposures.

Remember that risk assessment should be tied to business strategy, Mr. Lam said. "Risk assessment absent the context of business objectives is not that meaningful," he said.

"The company is a collection of portfolios of risk," said Towers Perrin's Mr. Shimpi. The interplay of those portfolios is important. Risk management must bring together the management teams behind those individual portfolios so that there is a consistent view of risk companywide, he said.

Mr. Bagnoli said a company's organizational structure must allow the risk disciplines to work collaboratively in evaluating exposures.

"You have to see the linkages," Mr. Bagnoli said. "Events in one dimension can carry over into other arenas." Operational events and market risks can lead to credit issues, and reputational risk can lead to liquidity issues.

Balancing act

Achieving a balanced ERM program also is important.

"In some sense, Sarbanes-Oxley has become synonymous with enterprise risk management, but it's not and it should not be," Mr. Shimpi said.

"You have to integrate the (ERM) components," Marsh's Mr. Allen said. The process of prioritizing the components must take into account strategic planning, audit processes and financial planning, he said.

Implementing ERM should reflect a balance between internal and external factors affecting a company as well as quantitative and qualitative methods of risk assessment and management, Mr. Lam said. But the most important balance, he said, is generating the right information to make necessary decisions.

"Companies spend major resources on risk identification, assessment and reporting and don't do enough decision-making," Mr. Lam said.

The optimal balance, said Mr. Allen, "has to be identified and measured at the company level."

"Consultants can provide the concepts, framework, tools and templates, but the owners have to do the work," he said.

But there's yet another caution: Companies that overemphasize the processes that must be implemented for ERM may lose sight of the purpose. "Don't get stuck on details," Mr. Allen said.

The purpose must also guide how to measure the success of ERM.

Continental's Mr. Fahrenthold weighs success by whether operations teams understand their risks better, whether they can quantify them more accurately and whether unwelcome operational surprises decline.

"If you bring attention to risks that no one is taking ownership of and figure out what the biggest risks are, then ERM is a success," Mr. Hoskinson said.

Mr. Lam said that to evaluate success, companies must look at ERM's contribution to profits and growth, improved business decisions and reduced earnings volatility.

"It's more than just an issue of dealing with risk," Mr. Allen said. "It's about dealing with the efficiency and effectiveness of the company."

Airline tackles board, management 'worries'

Companies engaging in enterprise risk management will do more harm than good if they set out to identify every potential risk.

Listing hundreds of risks without prioritizing them will result in paralysis, said James Lam of Wellesley, Mass.-based, consultant James Lam & Associates Inc.

In the three years since it began using an ERM approach, Continental Airlines Inc. has focused on "the things that senior management and the

board worry about," said Peter Fahrenthold, managing director of risk management for the Houston-based company. "Most ERM programs stall out because they try to make it too broad."

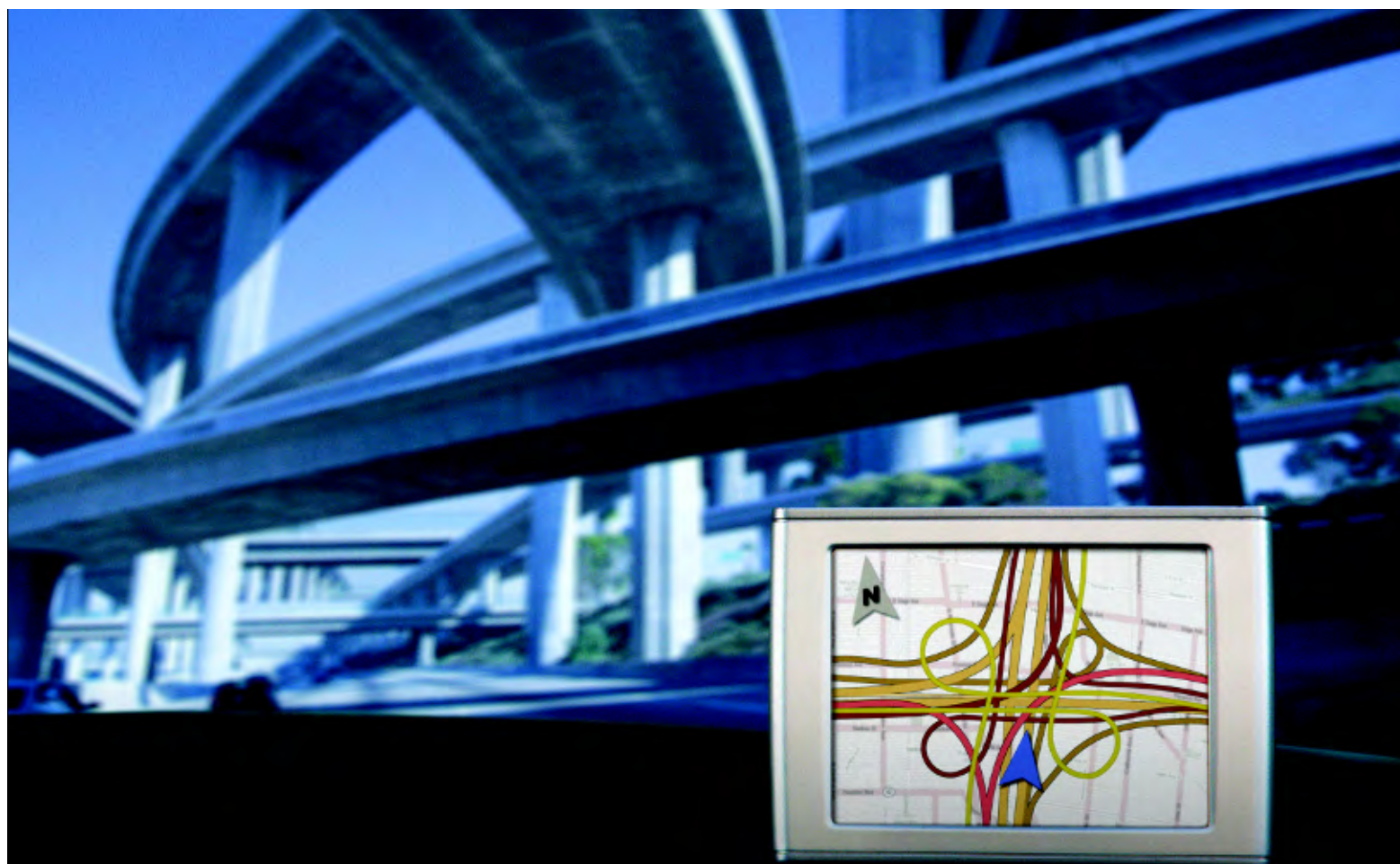
The airline's ERM team evaluates a risk based on the following factors: finances, such as the effect on profit and loss, cash flow or a significant liability; credit rating and rating agency reaction; how regulators react; or how employees and customers view the reputation of the com-

pany.

Continental's ERM effort has included giving operations managers the "tools they can use to standardize risk," Mr. Fahrenthold said. Risks are evaluated by severity and frequency on a scale of one to five.

The company now is trying to quantify nonhazardous risks, including competitor actions and foreign route authority, but it is "tougher to put a useful range" to those risks, he said.

—By Roseanne White Geisel



Your ERM Road Map

Know where to go, and how to get there

Most companies understand the potential benefits of enterprise risk management but worry about its implementation. Rightly or wrongly, ERM is sometimes seen as highly complex and potentially disruptive. It doesn't have to be that way.

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Emerging Risk STRATEGIES

ERM and visual risk clusters

By John J. Hampton

In my previous columns, I proposed implementing enterprise risk management using a hierarchical structure of risk categories aligned with an organization's business model. I've been using "ERM knowledge warehouse" to describe this structure.

At the 2007 Risk & Insurance Management Society Inc.'s annual conference last April, a technology firm offered to build such a warehouse. That has now been done. This article applies a high-tech tool developed by Riskconnect to illustrate risks in a key initiative. The example is a product launch described in a December 2007 Harvard Business Review article.

We start with the risk structure. A visual risk cluster is a representation of a risk category and related subcategories. It shows risk relationships. As we add more risks, the picture can become quite confusing if we do not create a clear hierarchy of risk categories. The critical factor to retain clarity is to limit the number of risks at each level.

A new product or service can be a high-risk venture. In our example, we identify four risk categories:

- **Product risk:** development of a product, service or technology.
 - **Market risk:** identification or creation of a market for the product or service.
 - **Capital financing risk:** adequacy of money to launch the product to positive cash flow without excessive dilution of ownership.
 - **Intellectual property risk:** competitors stealing technology, undermining the project and being unreachable by legal or other means.
- Figure 1 shows these risks visually. Level 1 is the risk of the product launch. Level 2 has market, product, capital financing and intellectual property exposures. The risks can be color-coded from red (highest risk) to green (lowest).

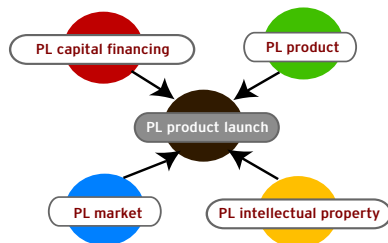


Fig. 1. Product launch (PL) visual risk cluster

We can drill down. Let's assign product risk to a risk owner who identifies categories that affect likely success (Figure 2):

- **Product development.** Do our current capabilities fully apply, require significant new learning or not apply at all?
- **Technical competency.** Do we have technological skills that are fully, partly or not at all applicable?
- **Delivery capability.** Is our current distribution system suitable, partly suitable or inappropriate for handling the product?
- **Support system.** Do we have a system currently or partly in place or do we need a totally new system to support the product?

Quality standards. Is the level of expected quality identical to, related to, or different from our current products?

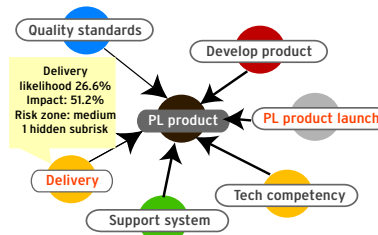


Fig. 2. Product subrisks

We now have a clear picture of the product risk category in a product launch. We can perform the same analysis for market, intellectual property, and capital financing risks. We can also drill down with all the exposures (Fig. 3).

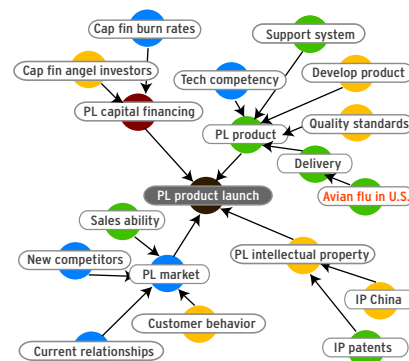


Fig. 3. Three levels of visual risk mapping

When we get to Level 3, we see an immediate problem as a result of the interconnectivity of risk. If we go further, we have clutter. The challenge is to allow filtering of relationships among complex risks. From our research, we are learning certain techniques that allow technology to help us avoid clutter as we view exposure linkages:

- **Hierarchical categories.** Risks can be organized into clusters with subrisks.
- **Risk owners.** Each subrisk can be assigned to a risk owner who identifies the next level of risk categories.
- **Alignment with business model.** The organization can have multiple levels of risk categories aligned with operating units, staff functions and key initiatives.
- **Levels of separation.** The technology can be designed to let a risk owner choose the number of levels visible.
- **Filtering.** The technology can allow an analyst to specify or block relationships that appear on the screen.

When we approach risk with hierarchical categories aligned with the business model and when we support ERM with the right technology, we can create visual risk clusters that provide a clearer and faster understanding of risk relationships. In future articles, I will discuss various other aspects of risk mapping, including tagging risks, creating levels of separation, heat profiles, metrics, color-coding and the management of mitigation activities.

More buyers pushing suppliers to develop their own ERM plan

Requirements, reactions vary by industry

By LOUISE ESOLA

As large companies have worked to perfect their enterprise risk management plans, they've begun to expect the same of their suppliers, experts say.

"Some of these larger companies have been working to get an ERM plan in place internally and they are going through and identifying their risks," said Christopher Bohn, Chicago-based director of the enterprise risk management group for Aon Global Risk Consulting. "Raw materials and the supply chain are some of these larger risks popping up."

Experts say enterprise risk management is popping up in all industries, from pharmaceuticals and electronics to food and other retail industries.

'I think (having an ERM plan) will be a fundamental requirement going forward. I don't know how it can't be.'

Mathew Allen, Marsh Inc.

A power outage in a supplier's business could cause major problems for an unprepared buyer, Mr. Bohn said, citing an event that helped put a major cell phone company in the red.

In 2000, lightning struck during a thunderstorm in New Mexico and started a fire at a microchip plant owned by Royal Philips Electronics N.V., halting its operations for weeks and disrupting the supply chains of the plant's two largest customers: Nokia Corp. and Telefon AB L.M. Ericsson.

According to news reports, later studies and even a book, Nokia rebounded because it responded quickly and was proactive in finding alternate chip supplies. Ericsson, however, did not learn immediately of the disruption, took no steps to find alternate chip suppliers and lost millions of dollars.

"If (large companies) are looking at risks, (they'll see that) things can really go wrong and come off the rails (at the supplier level)," said Gary Keaton, a New York-based managing consultant in the enterprise risk management practice for Towers Perrin.

Pushing ERM down to the supply chain only makes sense for large companies with much at stake, Mr. Keaton said. "If you have ERM, why wouldn't you insist that your suppliers have ERMs in place?"

Endorsed by the New York-based Risk & Insurance Management Society Inc. as a key indicator of a well-managed company, ERM provides a way to go beyond everyday continuity planning by examining company risks pertinent to every facet of its business and ways to manage those risks.

Mathew Allen, a New York-based global practice leader for enterprise risk services at Marsh Inc., said the ERM push has been gradual, with larger companies first asking their vendors for their business continuity plans for handling catastrophes, and later, their plans for handling exposures such as foreign risk, financial risk and commodities risk.

"What it has ultimately become is: What kind of ERM do you have in place?" Mr. Allen said. "I think the larger companies are looking for the suppliers to provide them with an understanding and appreciation of viability for the long-term. Part of that is ERM."

Precisely what larger companies are seeking varies by industry, but larger firms may help suppliers develop ERM frameworks, experts say.

"Enterprise risk management is a buzzword," said James DeLoach, Houston-based managing director and global leader for governance risk and compliance in the ERM practice for Protiviti Inc., a Menlo Park, Calif.-based global provider of audit and risk consulting services. "It doesn't mean the same thing to everybody."

That's why, experts say, many larger companies have been assisting their suppliers in what can be a daunting task of setting up an ERM portfolio.

"Because ERM is not universally understood, (larger) companies are getting more specific and, for the most part, they are looking for the assurances they need (to show) that their suppliers are going to perform," Mr. DeLoach said.

Mr. Allen said larger firms find it in their best interest to motivate and support their suppliers. "It's less prescriptive and probably more of a compliance-oriented approach," Mr. Allen said. "They are not coming in and saying specifically, 'Here's what I want you to do.' They are coming in and saying, 'Here's what you are going to be audited for.'"

Meanwhile, experts say the responses from suppliers have been mixed.

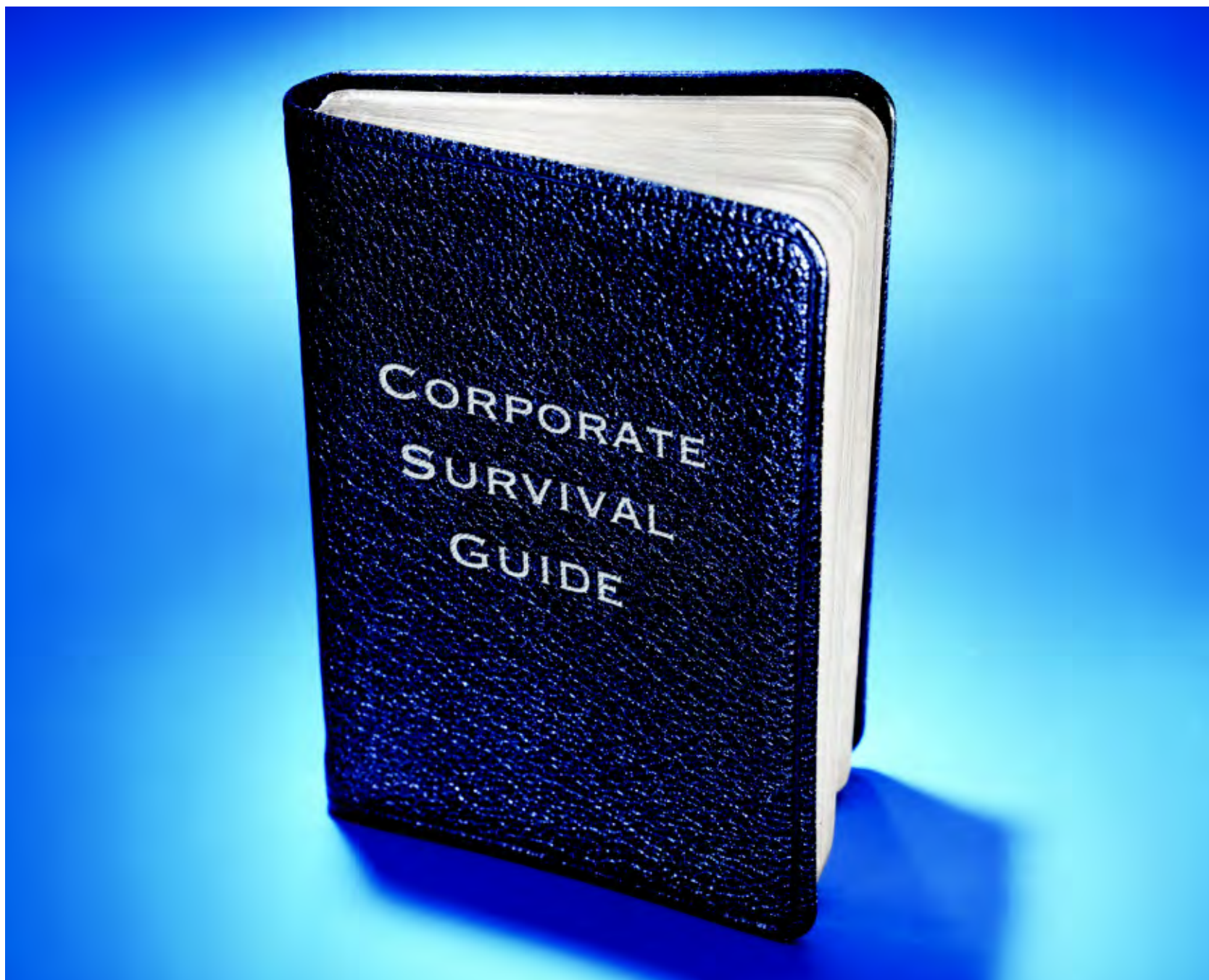
Marsh's Mr. Allen said while most suppliers are seeing the value in ERM and attempting to satisfy their largest clients, a few have expressed "almost hostile responses that are not well-received by larger purchasers."

"Larger retailers are putting a lot of pressure on suppliers, and the



John J. Hampton is the KPMG Professor of Business and Dean of the School of Professional and Continuing Studies and Graduate Business Programs at St. Peter's College in New Jersey. He specializes in business ethics, legal liability and enterprise risk management. He is a former executive director of the Risk & Insurance Management Society Inc.

To read Mr. Hampton's columns and interviews, visit www.BusinessInsurance.com/ERM



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Suppliers: Larger companies push for ERM down the supply chain

CONTINUED FROM PREVIOUS PAGE

demands can put suppliers out of business," Mr. Allen said. "If I were a big customer (and a supplier refused to establish an ERM plan), I wouldn't be too thrilled either."

Small suppliers may dodge ERM for a number of reasons, experts say, with costs listed as a major roadblock. "There are some elements of ERM that could drain resources for smaller companies," Mr. Allen said.

Implementing ERM requires

companies to examine all aspects of their business to identify exposures and create frameworks for how risks are handled. For even the smallest company, a rigorous implantation of ERM often requires insight from outside consultants and, in some cases, creating an ERM department within the company, experts say.

Daunting and expensive in some cases, Mr. Allen said small companies should prioritize and take their time.

"I think (the small suppliers)

have the financial ability to do this. They can start small with risk assessment, risk identification and set this up over several years," said Aon's Mr. Bohn.

Towers Perrin's Mr. Keaton said suppliers that want to stay competitive should embrace ERM. "That way they can say to their customers and potential business: 'You can trust us, we have ERM in place,'" he said. "If enough (buyers) insist upon it, they'll have to respond to be competitive."

However, experts say suppliers of publicly traded companies soon may have little choice in the matter.

Standard & Poor's Corp. has worked for several years to highlight ERM as one of its criteria for rating financial firms and announced earlier this year that it will include ERM among its rating criteria for nonfinancial companies. Moody's Investors Services and Fitch Ratings also incorporate risk management practices in their evaluations of companies.

"There is a surge in (smaller) companies trying to get ERM in place because they know it's something they need to look into," Mr. Bohn said.

"I think it will be a fundamental requirement going forward," Mr. Allen said. "I don't know how it can't be. It has less to do with what the big customers want and more to do with the regulatory pressure provided by S&P. There will be a more uniform view of risk within any industry vertical."

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International NEWS



Insurance and reinsurance executives and other industry leaders gathered in Dubai, United Arab Emirates, last month for the World Insurance Forum.

Muslim world provides opportunity to insurers

Takaful executive sees huge growth potential

By MICHAEL BRADFORD

DUBAI, United Arab Emirates—A worldwide Muslim population that is young and growing provides a rich well of potential customers for Shariah-compliant insurance, says an executive with a Malaysian takaful company.

Shariah-compliant financial products, he said. "We need to understand the Muslim customer," Mr. Nordin said, so as to properly market takaful products to them. "We need to know what makes them tick."

There are about 1.5 billion Muslims in the world, he said. It is a young population and it is not unusual for Muslim families to be large, Mr. Nordin said.

"It is not just quantity we are talking about," said Mr. Nordin. Muslims also are a population that is growing wealthier.

Muslims also are an educated population and are very concerned with religious beliefs, Mr. Nordin noted. "That is why we now have demands for Islamic banking and Islamic insurance," he said.

But takaful companies should not ignore non-Muslim customers, he said. "In Malaysia, a large proportion of customers are non-Muslim who embrace takaful," he said.

And insurance markets in Muslim countries do not need to embrace takaful products to the exclusion of conventional insurance, according to Mr. Nordin.

Malaysia provides an example of how a blended insurance market should operate, he said. "Conventional and Islamic systems exist side by side. They compete with each other and they complement each other, and it is all for the benefit of their customers who have a choice."

"The Muslim population is an untapped market," said Tuan Haji Mohd Tarmidzi Ahmad Nordin, chief executive officer of Etiqa Takaful Berhad in Kuala Lumpur.

Speaking last month at the World Insurance Forum in Dubai, United Arab Emirates, Mr. Nordin said there has been a change in the mentality of Muslims that is leading them to purchase takaful products. Worldwide takaful premiums amount to around \$2 billion a year and are expected to grow to around \$7.4 billion annually in 10 years, he said.

Even with that growth, many Muslims are uninsured because of religious laws that forbid the purchase of conventional insurance and little enthusiasm to embrace

Standards could drive efficiency

Regulatory convergence could cut cost of placing global risks, experts say

By MICHAEL BRADFORD

DUBAI, United Arab Emirates—International standards for insurers and reinsurers would be beneficial if the regulations were structured to help the market operate more efficiently, an industry executive contends.

And takaful companies could benefit from standards that apply uniformly to those Shariah-compliant insurers as well as conventional underwriters, according to a regulator in the Middle East.

A panel of speakers at the World Insurance Forum held March 17-20 in Dubai, United Arab Emirates, discussed the need for international standards and the challenges that stand in their way.

"The industry will support convergence—regulatory coordination—as long as that moves us along a path to efficiency that weeds out cost and a system that promotes competition and access to markets that we all think, in the end, benefits consumers," said Bradley Kading, president and executive director of the Assn. of Bermuda Insurers & Reinsurers.

The Bermuda association has 22 member companies that write \$56 billion in premiums in more than 100 countries, Mr. Kading said.

"The challenge is, we want to write for a sophisticated customer who has multiple locations around the world, a single insurance contract for commercial property, (directors and officers) and excess liability. And we want to be able to reinsure that contract," Mr. Kading said.

If that process can be made efficient, he said the result will benefit customers.

"It is impossible to do that kind of commercial transaction today. It is impossible to do it because of local licensing restrictions, local capitalization requirements, terms and conditions in contract mandates" and other hurdles such as tax and reinsurance collateral issues, Mr. Kading said. "It is impossible to transact that commercial business for the global policyholder that we are trying to serve."



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A panel at the World Insurance Forum that discussed global insurance regulations included: (left to right) Bradley Kading, president and executive director, Assn. of Bermuda Insurers and Reinsurers; Bassel Hindawi, director general, Jordan Insurance Commission; Yoshi Kawai, secretary general, the International Assn. of Insurance Supervisors; Low Kwok Mun, executive director, insurance supervision department, Monetary Authority of Singapore; Michael Zamorski, managing director, supervision, Dubai Financial Services Authority.

"It is a huge difficulty," said Yoshi Kawai, secretary general of the International Assn. of Insurance Supervisors in Basel, Switzerland, and moderator of the discussion. "There is a challenge...to provide the best service to your clients," he said. "And the current regulatory scheme does not cope with this kind of business need."

"The industry is a cooperative partner moving towards convergence," said Mr. Kading. But it wants to make sure that a coordinated regulatory system is highly efficient and one that returns value to its stakeholders, he said.

The burgeoning takaful marketplace also could benefit from standardized regulations, said Bassel Hindawi, director general of the Jordan Insurance Commission in Amman.

"I think we all agree that there is a strong need to have convergence on international standards," said Mr. Hindawi. "I would like to explore takaful standards in this context."

Whether it's conventional insurance or takaful, "it's insurance at the end of the day," Mr. Hindawi said. "And it is very important to have a level playing field for all" that does not put conventional insurers at a disadvantage compared

with takaful companies, or vice versa, he said.

"For that to happen, we need to make sure there is conformity of standards, whether they apply to conventional insurance or takaful," Mr. Hindawi said.

Efforts have been made by the IAIS and the Kuala Lumpur, Malaysia-based Islamic Financial Services Board to harmonize regulations that apply to conventional and takaful insurers, Mr. Hindawi said.

A joint paper published by the organizations laid out which regulatory standards established by the IAIS apply to takaful operators and which need to be changed so they could apply to the Shariah-compliant companies, Mr. Hindawi said.

"The outcome of this paper achieved two things," he said. "One, that we are not talking about two industries here; we are talking about the insurance industry."

Second, the paper became a mandate for the IFSB to clarify how regulations that need to be adjusted to apply to the takaful concept can be restructured, he said.

"This work is still in its early stages and it will, I think, at least keep the work on takaful standards on the right track," Mr. Hindawi said.

Bermuda insurers expand in Lloyd's

By SARAH VEYSEY

LONDON—Argo Group International Holdings Ltd. has agreed to buy Heritage Underwriting Agency P.L.C., which writes business through a syndicate at Lloyd's of London.

Under the terms of the deal, Argo Acquisition Ltd., a unit of Hamilton, Bermuda-based Argo, will pay between £136 million and £141 million (\$269.8 million and \$279.7 million) for Heritage.

Heritage, which operates syndicate 1200 at Lloyd's, underwrites worldwide property and non-U.S. liability business. For 2007, it posted

gross written premiums of £175.3 million (\$347.7 million) and a combined ratio of 90%.

Argo, which underwrites specialty property/casualty insurance and reinsurance, was created through the 2007 merger of Pembroke, Bermuda-based PXRE Group Inc. and Argonaut Group Inc.

The deal will broaden Argo's underwriting platform and geographical reach, the company said in a statement.

Mark E. Watson III, president and chief executive officer of Argo, said in the statement: "Heritage is a successful quoted Lloyd's insurer with a core team of underwriters who

have a track record of profitable underwriting results across the underwriting cycle. Its mix of property and liability business, and access to the Lloyd's market, make it a complementary addition to our Bermuda and U.S. books of business."

Late last month, another Bermuda-based company, Aspen Insurance Holdings Ltd., added a Lloyd's operation when it received approval to establish syndicate 4711.

The Lloyd's syndicate will write various lines, including energy, marine, hull and transportation liability, according to Aspen (BI, March 31).

READ, VIEW:

Continued coverage of the World Insurance Forum from Dubai can be found at BIEurope.com

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Securities: Spark investor lawsuits

CONTINUED FROM PAGE 4

no merit. Astar's "CFO is a sophisticated businessman who wanted higher yields than cash could give the company," said the Merrill spokesman. "Astar not only wanted to invest in auction-rate securities, but its executives went so far as to ask about specific ARS and picked others from a menu of choices that met Astar's criteria."

Scott Dimond, a partner Dimond Kaplan & Rothstein P.A. in Miami and Astar's attorney, said that Merrill's investor-should-know-better defense is inadequate. "That's the same line they've been handing in response to investor claims for all of time," he said. "If people truly understood the risks, they never would've bought that stuff."

MetroPCS, the largest pay-as-you-

go mobile phone service provider in the United States, filed suit against Merrill in a Texas state court in October, charging that the company had invested \$134 million in 10 ARS backed by collateralized debt obligations.

'If people truly understood the risks, they never would've bought the stuff.'

Scott Dimond,
Dimond Kaplan & Rothstein P.A.

MetroPCS said Merrill began purchasing ARS on its behalf last May and failed to disclose that the underlying collateral had exposure to the subprime market. MetroPCS said Merrill should have done so given the company's investment policy, which stated that its risk tolerance was low. In August, as concerns grew about securities with exposure to mortgages, MetroPCS said it asked Merrill about the credit risk of its securities. According to the complaint, Merrill said the CDOs were exposed to mortgage credit risk but still fell within the company's investment guidelines, so MetroPCS continued to hold them.

"As a consequence of Merrill's wrongful conduct, the entire amount of capital invested in CDOs by MetroPCS is now at a risk of total

loss, and significant amounts of MetroPCS's cash reserves are tied up in illiquid, long-term notes," the company said in its complaint.

"We believe the firm acted appropriately in its dealing with MetroPCS and made the relevant and necessary disclosures to them," a Merrill spokesman said in a statement.

Last year, MetroPCS took a \$98 million loss on failed ARS. In its most recent earnings release, it said that impairment charge "does not have a material impact on the Company's liquidity or financial flexibility." MetroPCS is still holding \$36 million in failed ARS.

Individual investors have filed ARS lawsuits against brokers including Morgan Stanley, UBS, TD Ameritrade and Wachovia Corp.

Massachusetts Secretary of State William Galvin recently issued subpoenas to UBS, Merrill Lynch and Bank of America Corp. investigating the sale of ARS to individual investors. In February, Mr. Galvin sent letters of inquiry to nine closed-end fund companies.

"The recent freezing of the auction markets coincided with the decision by a number of major brokers to stop supporting the auction market," Mr. Galvin said in a statement.

More companies are likely to sue. Mr. Dimond said he has been contacted by several companies and plans to start filing more litigation on their behalf.

Megan Johnston is a reporter for Financial Week, a sister publication of Business Insurance.

Commentary

Not enough capacity to cover federal silliness

Businesses often worry about reputational risks. It would behoove the federal government to do the same, particularly when it comes to the small stuff.

A couple weeks ago, literally tens of millions of Americans opened their mailboxes to find a missive from the Internal Revenue Service. The IRS wasn't sending refunds or invitations to an audit. It wasn't sending a new tax form.

Instead, the message was that the IRS is "pleased to inform you that the United States Congress passed and President George W. Bush signed into law the Economic Stimulus Act of 2008, which provides for economic stimulus payments to be made to over 130 million American households. Under this new law, you may be entitled to a payment of up to \$600 (\$1,200 if filing a joint return), plus additional amounts for each qualifying child."

In other words, you too may be a winner starting next month when the IRS begins sending out the rebate checks.

The catch is that anyone who turned on a television or radio, opened a newspaper or surfed the Web during the weeks preceding this earth-shattering announcement already knew he, she or they had a really good chance of receiving a rebate check. In short, this mass mailing was unnecessary, to put it politely.

It was expensive as well. According to the IRS, this exercise cost nearly \$42 million. That doesn't include the tab for any additional notices.

I've got nothing against receiving a tax rebate, although I have to confess I'm not certain how much good this exercise in pump-priming will accomplish. In fact, it might end up doing little over the long term other than adding to the federal deficit.

And I'll be the first to admit that in Washington terms, \$42 million isn't a significant chunk of change. But bear in mind the wisdom attributed to the late, great Sen. Everett McKinley Dirksen, R-Ill.: "A billion here, a billion there, and pretty soon you're talking real money."

Even though the Dirksen Congressional Center says there's no proof he ever uttered those exact words and while \$42 million isn't anywhere close to a billion, I'm willing to bet that there are enough additional questionable



MARK A. HOFMANN

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\$42 million expenditures out there that, when combined, make such an observation more than a little apropos.

The federal government is borrowing money left and right to fund its constitutional obligations and more than a few things that the Constitution doesn't mention. For example, unless the issue came up during a political science class I skipped 35 or so years ago, I don't recall that the federal government has the constitutional duty to bail

To throw an additional \$42 million unnecessarily into the hole sends the wrong message at the wrong time.

out the subprime mortgage industry or to guarantee cheap credit to the less-than-credit-worthy.

To throw an additional \$42 million unnecessarily into the hole sends the wrong message at the wrong time. The feds may be pleased to inform me that I might be getting some money back; I am considerably less than pleased that they bothered to do so when they didn't have to.

Businesses worry about reputational risks and seek ways to mitigate them because they're difficult to insure against. By spending more than \$40 million to clog mailboxes with unneeded notices, the federal government has proven once again that it doesn't care that it has a reputation for spending money first and only later asking if doing so is justified. It's plain silly.

Thank heavens you can't insure against federal silliness. There's not enough capacity in the global insurance marketplace to begin to cover that risk.

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Guidelines: Criticized by academic

CONTINUED FROM PAGE 4

parts and their worth relative to a whole person are not evidence-based and are based on judgments physicians made a long time ago without empirical evidence," Mr. Burton said.

Another issue with the guidelines, he said, is many states treat impairment ratings—the medical consequence of an event such as the loss of an arm—as if they should be disability ratings, the economic consequence of an event such as the loss of wages.

For example, if an individual is considered 60% impaired for the loss of an arm, he or she is then considered 60% disabled when it comes to compensation, regardless of how critical the arm was to his or her job. While the guidelines distinguish between the impairment and disability ratings, most states do not, he said.

Mr. Burton said he disagrees with such automatic conversions. He

said states should use the AMA guidelines in conjunction with other factors, such as age, education and work experience to determine the amount of permanent partial disability benefits. In theory, considering these factors should improve the rating system's ability to predict the actual wage losses resulting from the work-related injuries or diseases, he said.

Not all speakers at the March 27-28 forum, however, questioned the validity of the guidelines. Some speakers, who were mainly doctors and attorneys, indicated the AMA guidelines could be tweaked to a lesser extent or are as good as they

can be.

Throughout the conference, members of the ABA did call for the formation of an ABA task force to evaluate the AMA guidelines and make recommendations.

More than 70 doctors and attorneys attended the forum, which featured sessions on topics such as utilizing DNA-based evidence in civil litigation, risk management in occupational medicine and national trends affecting workers compensation.

ABA staff is currently considering whether the seminar will be an annual event. For more information, visit www.abanet.org/.

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Lloyd's: Low cat losses help results

CONTINUED FROM PAGE 3

heavily exposed to the current financial market turmoil either on the underwriting or investment side, according to Luke Savage, finance director.

The market so far has received notifications of about 90 to 100 claims on directors and officers and other financial institutions policies, which is far fewer than in previous financial market crises, he said.

Terms and conditions for such policies have tightened since the subprime mortgage crisis began, he added.

Among other so-called cycle management techniques, a recent change to the way members of Lloyd's finance the Central Fund should help encourage insurers to underwrite for profit, Mr. Savage said. Lloyd's Central Fund acts as a claims backstop for syndicates operating in the market.

For 2008, payments to the Central Fund will be 0.5% of premiums written during the year, Mr. Savage said. Previously, Central Fund levies were calculated as a percentage of capacity.

Basing Central Fund payments on premiums written means that companies will pay less if they write less premium, Mr. Savage said. This may serve to put a brake on market participants writing marginal business, he said.

Among other developments, Mr. Ward said that Lloyd's would look to expand its presence in mainland Europe as well as other markets such as Brazil and China. Lloyd's also is considering opening an office in the Middle East, Mr. Ward said.

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UP CLOSE

Jared Ball

NEW JOB TITLE: Director of risk engineering, International Space Brokers Inc. in Washington.

START DATE: Jan. 14

PREVIOUS POSITION: Principal satellite engineer for Intelsat Ltd. in Long Beach, Calif.

REASON FOR THE SWITCH: ISB's client base includes a cross-section of the satellite industry, and the opportunity to work with such a wide variety of satellite programs that these companies are undertaking was very appealing to me. ISB has placed a high value on my engineering skills, which demonstrates the attention they pay to the clients' needs, including their scientific/technical requirements.

VITAL STATISTICS: I have a master's in aerospace engineering from the University of Southern California and a bachelor's in electrical engineering from the University of Canterbury in New Zealand. I have over 10 years of satellite system engineering experience that includes working at Boeing

Satellite Systems, Sirius Satellite Radio and Space Systems/Loral prior to joining Intelsat.

GOALS FOR NEW POSITION: Given the increasingly technical nature of the space insurance business, it is important for the broker to be able to engage both the client and the insurance community at a high technical level. I aim to enhance the knowledge base at ISB in order to assist the clients in minimizing their insurance risk and to provide an interface to the underwriters that is able to make them comfortable with the technology being deployed by the client. This will enable ISB to provide the best insurance package available to its clients.

FIRST TIME IN THE JOB MARKET: Upon completing my master's degree, I began working for Hughes Space & Communications (now Boeing) in the launch operations and in-orbit test group. The rotating shift during each campaign was tough on my social life, but it was a great experience to be there as they were, by far, the market leader in commercial satellite



manufacturing at that stage.

TOP ADVICE: Don't be afraid to stand up for yourself and express your opinion; otherwise you will always live in the shadow of others.

OUTSIDE THE INDUSTRY, A DREAM JOB: As a child, I was always fascinated by aircraft and dreamt of becoming a pilot. Despite almost pursuing that dream a couple of times, I continued on the engineering career path, which led to me flying satellites in space instead.

Comings & Goings

BROKERS:

Beecher Carlson has appointed **Charles Pierpont** managing director of the national energy practice in Westchester County, N.Y. Previously, he was an area executive president for Arthur J. Gallagher & Co.

Dallas-based **Waldman Bros. L.L.P.** has named **Tom Callanan** president of the commercial insurance division. Before his promotion, he was a senior vp. Replacing Mr. Callanan as senior vp of the commercial insurance division is **Linda Trejo**, who previously was a commercial insurance account manager.

Burns & Wilcox Ltd. has promoted **Angela Bruce** to underwriting manager at its Tampa, Fla., office. She joined the company in 2006 as a commercial underwriter.

U.S. Risk Insurance Group Inc. has named **Kevin Mordarski** senior broker in the health care division at Boston Insurance Brokerage Inc. Most recently, he was assistant vp at CRC Insurance Services.

Wells Fargo Insurance Services Inc. has named **Dan Gowen** professional development officer for employee benefits in Chicago. Previously, he was a principal with Mercer L.L.C.

Risk Strategies Co. has made several senior management appointments in its Chicago office.

• **Mark W. Madigan** is managing director and Chicago office leader. Most recently, he was resident sales director for Aon Risk Services of Illinois.

• **Iyan G. Alfredson** is senior vp and co-practice leader of RSC's national executive liability practice. Previously, he was vp, underwriting, for Great American Insurance Cos.

• **Bobby E. Largay** is senior vp and head of new business development. Before joining RSC, he was a director in the origination group at Aon Corp.

• **John S. Morahan** is senior vp and co-practice leader of the executive liability practice. He most recently was a vp of Aon Financial Services Group.

• **Mark R. Orzechowski** is senior vp. Previously, he was a principal and health and welfare practice leader at Buck Consultants L.L.C.

• **Sherman F. Reynolds** is senior vp at RSC. Previously, he was senior vp at Hilb Rogal & Hobbs Co.

REINSURANCE:

Carvill America Inc. has named **Steve Smith** president of property solutions for ReAdvisory, Carvill's analytical arm. Before his promotion, he was a senior vp. He will be based in Chicago.

James T. Buysse has been named chief executive officer of BMS Intermediaries Inc. in Philadelphia. Before joining BMS, he owned reinsurance intermediary Buysse & Associates Inc.



Mr. Smith



Mr. Buysse

OTHER PROVIDERS:

Chadbourne & Parke L.L.P. has named **John Finnegan** as a partner in the insurance and reinsurance practice based in New York. Previously, he was a partner at Cadwalader, Wickersham & Taft L.L.P.

Atlanta-based **Proudfoot Consulting Group P.L.C.** has named **Dan R. Carmichael**, former CEO of Ohio Casualty Corp., as a senior advisor.

Doreen Devine has joined **Buck Consultants L.L.C.** as a principal in the Secaucus, N.J., office. Previously, she was a vp and key account manager for Aon Consulting. Also at Buck, **Brandon Conroy** has been named director in the firm's Pittsburgh office. Previously, he was an actuary for UPMC Health Plan.

Wil Gaitan has joined the Chicago office of **Aon Consulting Worldwide** as a senior vp in the global benefits practice. Previously, he was a principal for Buck Consultants.

Centerport, N.Y.-based **Omega Risk Management L.L.C.** has appointed **Philipp J. Bischoff** as executive vp. Previously, he was senior vp and assistant manager at Frenkel & Co. Inc.

TO SUBMIT ITEMS

Business Insurance would like to report on senior-level changes at commercial insurance companies and service providers. Please send news of recently promoted, hired or appointed senior-level executives to: Joe Walker, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; jwalker@businessinsurance.com. Photos should be sent to: Kathy Barnes 360 N. Michigan Ave., Chicago, Ill. 60601-3806; kbarnes@businessinsurance.com.

Bias: White worker wins race discrimination lawsuit

CONTINUED FROM PAGE 3

Some courts, including two federal district courts in Alabama and Georgia, have interpreted that passage to mean that a white employee cannot claim that a white supervisor racially discriminated against the worker.

Rejecting that interpretation, the 2nd Circuit panel ruled: "The reason is simple: Where an employee is subjected to adverse action because an employer disapproves of interracial association, the employee suffers discrimination because of the employee's own race."

The 5th, 6th and 11th Circuits have ruled similarly since 1986, as have a majority of district courts within the 2nd Circuit, according to the 2nd Circuit panel, which remanded the case to the trial court.

While employers do not face many such claims, the decision highlights the problems employers can create by giving employment authority to managers who express racial biases, said employer attorney Neal D. Mollen, a partner at Paul, Hastings, Janofsky & Walker L.L.P. in Washington.

Employers should establish termination processes that involve "multiple voices," including an official not directly involved in employee/supervisor relationship, he said.

Beyond that, the decision should not be burdensome to employers, because most have adopted strong policies that prohibit racially insensitive comments in the workplace, said employer attorney Gerald L. Maatman Jr., a partner with Seyfarth Shaw L.L.P. in Chicago.

Still, "once you invite a person with bias into the decision-making circle, I think you're stuck" with that bias as part of the decision, said plaintiff's attorney Lee F. Bantle of Bantle & Levy L.L.P. in New York.

Even so, Title VII essentially allows employers to escape liability

if they can prove they would have acted as they did even if a decision-maker had not been biased, said plaintiff's attorney James Finberg, a partner with Altshuler Berzon L.L.P. in San Francisco.

Under those circumstances, plaintiffs can recover only their attorneys fees, said Mr. Finberg, who also is an adjunct professor at the University of California's Hastings College of Law.

Plaintiffs attorneys also said they expect to see more claims like Mr. Holcomb's, because the number of interracial marriages is growing.

U.S. Census Bureau figures show that between 2000 and 2006, the number of interracial marriages grew 55.3% to nearly 2.3 million while the total number of marriages grew about 2.7% to 50.2 million.

"One of the most disliked areas of racial integration is in love, sex and marriage," said John Brittain, chief counsel and senior deputy director for the Lawyers Committee for Civil Rights Under Law, a Washington-based organization created at the request of President Kennedy in 1963.

That bias, which is evident in white and black cultures, has decreased since the Supreme Court struck down interracial marriage bans in *Loving vs. Virginia*, a landmark 1967 case, "but it's still prevalent," Mr. Brittain said.

But, having a relationship with someone of a different race is not enough for an employee to win a discrimination case, he said. The employer must have known about the relationship and made it "a factor in the workplace," he said.

For example, Mr. Brittain, a former college dean, said Iona's decision to bar Mr. Holcomb's wife from booster events is problematic for the school, because it is "counter to most academic practices."

Craig Holcomb vs. Iona College, 2nd U.S. Circuit Court of Appeals, April 1; No. 06-3815-cv.

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OFC: Possible adoption of optional federal charter seen as years away

CONTINUED FROM PAGE 1

es of Congress, although neither has moved very far.

The House version of the National Insurance Act of 2007 was introduced by Reps. Melissa Bean, D-Ill., and Ed Royce, R-Calif.; its Senate counterpart was introduced by Sens. Tim Johnson, D-S.D., and John Sununu, R-N.H. Not surprisingly, all four praised inclusion of the OFC in the larger reform package even though the blueprint specifically declined to endorse any particular OFC bill.

OFC supporters welcomed the administration's position, while acknowledging that the proposal may have come too late in the current Congress.

"It's of moderate importance," said Eli Lehrer, a senior fellow at the Competitive Enterprise Institute in Washington. "There are still a sufficient number of congressional Republicans who will follow the administration's lead; I expect this would result in some more co-sponsors. Ultimately, the real decision will probably be made under the next administration, and this administration certainly has given more momentum to it."

"We're delighted to see the Treasury come forward with a proposal that addresses all of the issues that we feel are important to the global reinsurance market," said Frank Nutter, president of the Washington-based Reinsurance Assn. of America. "I see it as a kind of en-

lightened discussion document."

The OFC "is really not likely to move in this Congress, but consideration of the optional federal charter may move in the next Congress," Mr. Nutter said.

"I think it mainstreams OFC, because it has for long time been a debate within the insurance industry, but now it is a debate not only within the financial services industry but within the broader public policy" arena, said Leigh Ann Pusey, chief operating officer of the American Insurance Assn. in Washington. "It's a shorter congressional year because of the (presidential) election and there's an awful lot on the to-do list, but I think it will create momentum for further congressional activity."

"I think he (Mr. Paulson) put it in the right context," said Joel Wood, senior vp of the Council of Insurance Agents & Brokers in Washington. "I think it is a pivotal moment in a debate that has been raging since John Dingell introduced his first OFC proposal in the early '90s. The first time that any presidential administration embraces this kind of approach doesn't make it inevitable, but it does significantly enhance its long-term prospects. If you combine the political developments with the pace of globalization and financial convergence, I'd draw the conclusion that we are headed toward an ultimate enactment, but I can't quite yet connect all of the political dots."

THE PROPOSAL

The Treasury Department's insurance reform proposal recommends:

- That Congress approve as soon as possible the creation of an Office of Insurance Oversight within the Treasury Department. This office would deal with international regulatory issues and advise the secretary on major domestic and international insurance issues.
- The creation a new Office of National Insurance within the Treasury Department to issue federal charters and oversee federally chartered insurers. The ONI, into which the Office of Insurance Oversight would be rolled should Congress enact significant insurance reforms, would be headed by a commissioner of national insurance. The commissioner would be empowered to address international issues with other national regulators and oversee insurer solvency, although federally regulated insurers would continue to participate in state guaranty funds.
- That the ONI would be funded by assessments on federally regulated insurers.

Source: Department of Treasury Blueprint for a Modernized Financial Regulatory Structure.

"It's highly consistent with all the major tenets of the National Insurance Act in both the House and the Senate and I think this will be the launching point for hearings in the next month in the House and the Senate on the quality of the current state of the insurance regulatory structure," Mr. Wood said.

The Risk & Insurance Management Society Inc. "is excited to see that the administration proposes an optional federal charter for insurance," said Terry Fleming, a RIMS board member and director-division of risk management for Montgomery County in Rockville, Md. "We've long supported this concept and look forward to positive reaction by Congress. Many of our members have multistate or global interests, and an optional federal charter would provide an effective and much more efficient process to manage insurance transactions for their operations."

OFC skeptics took a dimmer view of the Treasury document and its impact.

Sandy Praeger, president of the National Assn. of Insurance Commissioners and Kansas' insurance commissioner, blasted the call for an OFC.

"While we welcome a review of the federal (regulatory) failures, we strongly caution against federal intervention in a state-based system that is working for consumers and industry alike," she said in a statement.

Treasury "just included it as part

of the larger debate," said Ben McKay, senior vp in the Washington office of the Property Casualty Insurers Assn. of America, which supports enhanced state insurance regulation rather than the creation of a federal regulatory system. "The economic crisis has required Treasury to respond, and I think if you look at Paulson's history as someone who wanted to consolidate regulatory functions, that part of the report makes sense. The OFC doesn't make as much sense. There's actually mandatory regulation in there—it gives mandatory authority over state-chartered insurers."

"This sets up a very strong federal regulator and it seems to suggest that Treasury wants sort of an uber-regulator, which is ironic given what we're experiencing in the banking sector," Mr. McKay said.

An opponent of the OFC said the Treasury move might mean "a little bit of a pickup in support" for the OFC. But Carl Parks, senior vp in the Washington office of the National Assn. of Mutual Insurance Cos., added that "it's the same debate that's been going on for a long, long time. It's interesting and certainly Treasury now has spoken, but it's no surprise where they came out. We're still disappointed."

He called the blueprint "such a disconnect in so many ways to the underlying problems that we've heard from members on the Hill, that it's just too late, and too much."

Docs: Provider project may give boost to consumerism

CONTINUED FROM PAGE 1

such as the National Committee on Quality Assurance and/or the Utilization Review Accreditation Commission, both based in Washington.

Because NCQA has already developed a set of standards that meet the criteria set out in the Patient Charter, the NCQA's Physician and Hospital Quality Program is likely to be the first to be used, said Peter Lee, executive director for national health care policy at the San Francisco-based Pacific Business Group

on Health, which is a member of the Disclosure Project. Mr. Lee is co-chair of the Disclosure Project.

The quality program, once part of the NCQA's health plan accreditation program, now is a stand-alone program that evaluates how well health plans measure and report the quality and cost of physicians and hospitals, an NCQA spokesman said. The program was updated and released for public comment last month and is expected to be finalized by July, he said.

However, it is possible that more than one set of standards could meet Patient Charter criteria, eventually providing insurers with an option of choosing one or more of the accreditation programs, Mr. Lee said.

For example, URAC last week released for public comment revisions to its Health Plan and Health Network Accreditation standards that could meet criteria set forth in the charter, he said.

After the first set of standards receives the Disclosure Project's endorsement in less than six months, the first four insurers to support the Patient Charter—CIGNA, Aetna Inc., WellPoint Inc. and UnitedHealthcare—will have three months to begin the review process and six months to complete it, said Debra Ness, president of the Washington-based National Partnership for Women & Families and co-chair of the Disclosure Project.

CIGNA could become the first

insurer to complete the review process since it has had a head start as a result of its work with the New York attorney general, she said.

In the meantime, the Disclosure Project will encourage other insurers to undergo the review process, Mr. Lee said.

Several members of the health benefit community view the Patient Charter as an important step that will give consumers reliable information to help them make informed choices about their health care.

"Our employees and their dependents need these programs so they can better navigate the health care system and select physicians they can put their trust in," said Andrew Webber, president of the National Business Coalition on Health, at a press conference last week in Washington announcing the Patient Charter, according to a transcript of his speech. The NBCH, a coalition of employer health care coalitions based in Washington, is among supporters of the accord.

"NBCH believes the Patient Charter will promote national consistency and transparency in how health care plans establish these important physician-level measurement programs, something that is critically important, particularly to national employers who have a workforce spread throughout the country," Mr. Webber said.

Standardizing doctor performance measures also is likely to

expand the health care consumerism movement by finally providing employees the tools they need to select their doctors, said Francois de Brantes, Fairfield, Conn.-based chief executive officer of Bridges to Excellence, an employer pay-for-performance initiative that also backs the charter.

"Consumers really don't trust the payers to deliver objective data on the quality of physician care, even if it's well-done. So taking it out of that setting and making it more objective should greatly improve the credibility of the data and, hopefully, its actionability by consumers," Mr. de Brantes said.

"The move toward consumerism...will definitely get a boost from having this information available," said a spokeswoman for America's Health Insurance Plans. The Washington-based health insurer trade group is among supporters of the Patient Charter, which is similar to principles endorsed by the AHIP board in last November, the spokeswoman said.

But Regina Herzlinger, the Harvard Business School professor credited with launching the health care consumerism movement, said the Patient Charter may not have everything consumers need to safely navigate the health care system.

"Virtually all the measures focus on process," Ms. Herzlinger said. "Until we have outcome measures, we are wasting our time."

PATIENT CHARTER SUPPORTERS

CONSUMER, LABOR AND EMPLOYER ORGANIZATIONS

- AARP
- AFL-CIO
- Bridges to Excellence
- Care Focused Purchasing Inc.
- Center for Medical Consumers
- Childbirth Connection
- Employer Health Care Alliance
- General Electric Co.
- General Motors Corp.
- HealthCare 21 Business Coalition
- Health Policy Corp. of Iowa
- Iowa Health Buyers Alliance
- Leapfrog Group
- National Business Coalition on Health
- National Business Group on Health
- National Consumers League
- National Partnership for Women & Families
- Pacific Business Group on Health
- St. Louis Area Business Health Coalition
- Savannah Health Alliance
- Small Business California

PHYSICIAN ORGANIZATIONS

- American Academy of Family Physicians
- American Medical Assn.
- American College of Cardiology
- American College of Physicians
- American College of Surgeons

HEALTH PLANS

- America's Health Insurance Plans
- Aetna Inc.
- CIGNA Corp.
- UnitedHealthcare
- WellPoint Inc.

Source: Consumer-Purchaser Disclosure Project

ADVERTISER

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News
In Brief

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defined benefit plan system continues. Employees hired on or after Jan. 1, 2009, will be covered by a new 401(k) plan, to which 3M will make an automatic contribution equal to 3% of pay. It also will fully match employees' salary deferrals, up to 6% of pay. The diversified products manufacturer is retaining pension plan coverage for current employees and is raising its 401(k) plan match. 3M now matches 35% to 50% of deferrals, up to the first 6% of pay. At the end of 2007, 3M's pension plan was overfunded, with \$11.1 billion in assets and \$10.2 billion in obligations. St. Paul, Minn.-based 3M reported \$4.1 billion in net income in 2007 on \$24.5 billion in sales.

APIW honors Deloitte exec
Rebecca Amoroso

Rebecca Amoroso has been named the 2008 Insurance Woman of the Year by the Assn. of Professional Insurance Women. Ms. Amoroso is vice chairman and United States

insurance industry group leader of Deloitte L.L.P., where she has worked for the past 22 years. Previously, she was employed by American International Group Inc. Ms. Amoroso will be honored by the APIW at a June 19 ceremony.

Swiss Re to set up
health TPA in China

Swiss Reinsurance Co. has received approval to establish a health care consulting company and third-party administrator in China. Beijing Prestige Health Consulting Services Co. Ltd., which is expected to open later this year, will provide consulting and outsourcing services to hospitals, insurers, policyholders and employers. CheeKok Poh, currently head of life and health with Swiss Re's medical insurance group in Beijing, will be the new unit's chief executive officer.

Charman, Kramer honored
by Bermuda institute

The Bermuda Insurance Institute has named John R. Charman as its 2007 (Re)insurance Person of the Year and Donald Kramer the 2007 recipient of its Lifetime Achievement Award. Mr. Charman has been chief executive officer and president of AXIS Capital Holdings Ltd. since the specialty insurer and reinsurer was founded in 2001. Mr. Kramer is CEO and chairman of the board of Ariel

Reinsurance Ltd., a subsidiary of Ariel Holdings Ltd. Mr. Kramer set up Ariel Re after the 2005 hurricane season. Before that, he was a senior executive at ACE Ltd. He joined ACE in 1996 as vice chairman after the company's acquisition of Tempest Reinsurance Ltd., a catastrophe reinsurer he founded in 1992 after Hurricane Andrew. The awards will be presented May 10.

S.D. high court upholds
ruling on comp diagnosis

South Dakota's Supreme Court has sided with an administrative law judge who gave more weight to the diagnosis of a state medical expert, rather than that of the plaintiff's medical care providers, in denying workers comp benefits to a state worker. The case of *James Gerlach vs. State of South Dakota* weighed whether an administrative law judge erred in denying the plaintiff's assertion that a 2003 injury was aggravated by driving a tractor as part of his job in 2004. The plaintiff maintained that the tractor's rocking caused him pain, gait abnormalities and loss of balance. Four medical care providers he sought for treatment determined his injuries to be work-related. But a medical doctor the state hired to examine the claimant disagreed, and the administrative law judge adopted the state's opinion that he is not entitled to benefits.

Chubb places bond for
North American cats

Chubb Corp. has placed a \$200 million catastrophe bond to protect it against losses from natural disasters in North America. The cat bond, East Lane II Ltd., will cover Chubb and its subsidiaries, including Federal Insurance Co., against various exposures in the United States and Canada, including hurricanes, earthquakes, winter storms and wildfires, according to New York-based Standard & Poor's Corp., which rated notes for the bond's first two tranches at BB, while those for the third were rated B-.

Maine requires cover
for colon cancer screens

Maine Gov. John Baldacci has signed into law legislation that requires group health insurance policies sold by insurers to provide coverage for colorectal cancer screening. Under the measure, L.D. 2109, coverage for the cancer screenings must be provided for three groups of enrollees: those who are at least 50 years old; those under age 50 and at high risk for colorectal cancer according to applicable cancer-screening guidelines; and those under age 50 and showing symptoms of colorectal cancer or other colon diseases. The law applies to group policies issued or renewed on or after Jan. 1, 2009.

Poe: State of Florida sues insurers' management

CONTINUED FROM PAGE 1

to comment on the suit's allegations, but suggested that regulators filed the complaint in retaliation for a Poe affiliate's pending lawsuit charging that the state-run Citizens Property Insurance Corp. illegally terminated its agency agreement.

"We assumed all along the state would attempt to fight our claims any way it could," Mr. Poe said in the statement. "We view this action as an attempt to try and intimidate our side before our case goes to jury trial later this year."

The events surrounding the litigation represent a sharp reversal of fortune for Mr. Poe, who built Tampa-based Poe & Associates Inc. into one of the nation's largest insurance brokers before selling the business to Brown & Brown Inc. in 1993.

Mr. Poe and his son, William F. Poe Jr., then turned to underwriting, starting Southern Family in 1996 to assume business from Florida's residential joint underwriting association. They expanded into commercial property and added Atlantic Preferred and Florida Preferred, becoming the largest privately held property insurance group in the state—with more than 300,000 policies in force—before the disastrous 2004 and 2005 hurricane seasons.

State regulators placed the three Poe insurers in receivership in May 2006, and Citizens terminated Poe's agency agreement. The bankruptcy filing by Poe Financial and litigation

with Citizens soon followed.

Florida regulators' lawsuit against Poe group management and shareholders, filed last week in Leon

'We assumed all along the state
would attempt to fight our claims
any way it could.'

William F. Poe Sr., Poe Financial Group Inc.

County, Fla., Circuit Court, is the latest twist in the saga.

Named in the complaint in addition to Mr. Poe and his son are nine other members of the Poe family, all

of whom have been officers, directors or shareholders of Poe Financial or its affiliates; nine executives of Poe Financial units; and three holding and investment companies controlled by the Poe family.

Regulators charge that Poe management misrepresented the financial condition of the three insurers in 2004 and 2005, understating reserves, improperly reporting deferred tax assets and overstating other assets in statutory financial statements.

Over those two years, Poe Financial and its shareholders, mostly Poe

family members, collected \$143.5 million in dividends through a management subsidiary, including \$117.2 million paid during periods when the management company was operating at a deficit and the three insurers were insolvent, the lawsuit charges.

The management unit, Poe Insurance Managers L.L.C., and a Poe agency subsidiary also improperly retained \$31.6 million and \$3.9 million, respectively, in unearned commissions when they entered Chapter 11 reorganization along with Poe Financial, the complaint alleges.

The lawsuit levels a variety of charges, including conspiracy, fraud and breaches of fiduciary duties.

POE HISTORY

Major events affecting insurers formed by William F. Poe Sr.

- 1956:** William F. Poe Sr. starts a one-man insurance agency in Tampa, Fla., that becomes Poe & Associates, one of the largest brokers in the United States.
- 1974-1979:** Mr. Poe takes a break from the insurance business to serve as mayor of Tampa, Fla.
- 1993:** Poe & Associates merges its brokerage business with Brown & Brown.
- 1996:** Mr. Poe and family members form holding company Poe Financial Group Inc. and Southern Family Insurance Co. to assume property policies

- from Florida's residential joint underwriting association. The insurer expands to write nonpool business, including commercial risks.
- 2001:** Poe Financial, through intermediate holding company Poe Insurance Holdings, acquires another Florida insurer, Atlantic Preferred Insurance Co.
- 2002:** The Poe group forms Florida Preferred Property Insurance Co.
- 2004-2005:** Eight hurricanes devastate Florida.

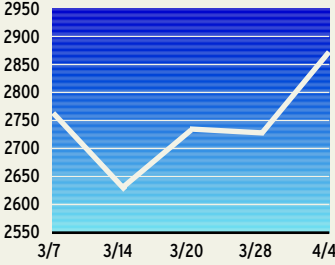
- 2006:** The three Poe insurers, battered by storm losses, are declared insolvent and ordered liquidated. The state-run Citizens Property Insurance Corp. terminates Poe's agency contract, and Poe Financial and three subsidiaries file for Chapter 11 bankruptcy protection. Poe Financial sues Citizens over the termination.
- 2008:** Florida regulators sue Mr. Poe, several Poe family members and others, alleging they diverted millions of dollars from the insurers before the companies collapsed.

Stock Index

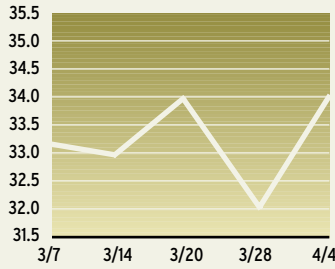
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Up-to-the-minute data for all 82 companies that comprise the BI Stock Index can be found at www.IndustryFocus.com.

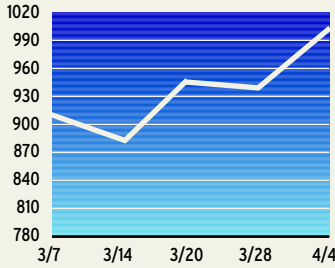
BI STOCK INDEX



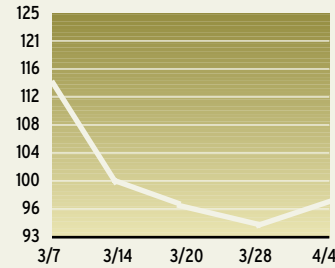
BI BROKERS INDEX



BI INSURER/REINSURERS INDEX



BI MANAGED CARE ORGANIZATIONS INDEX



Percentage change of BI Stock Index vs. key indicators

BI STOCK INDEX	2864.01	▲ 4.75%
DOW JONES	12609.42	▲ 3.22%
S&P 500	1370.40	▲ 4.20%

LARGEST GAINS

Citigroup Inc.	15.60%
MBIA Inc.	13.51%
AIG	10.51%
Old Republic International	10.21%
AEGON N.V.	10.21%

LARGEST LOSSES

Gainsco Inc.	-11.65%
UNICO American Corp.	-3.49%
Health Net Inc.	-2.79%
Humana Inc.	-2.39%
Berkshire Hathaway	-2.32%

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

Study finds achy, breaky heart may indeed lead to death

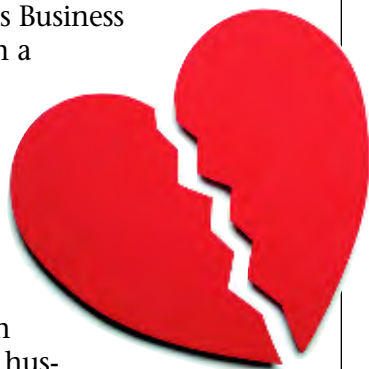
Love not only hurts; it kills.

According to research by Cass Business School in London, people in permanent relationships have an increased chance of dying in the year immediately following the death of a partner.

The research, sponsored by the London-based Actuarial Profession—a professional body governed jointly by the Faculty of Actuaries in Edinburgh and the Institute of Actuaries in London—and based on analysis of more than 11,000 life annuity contracts over five years, reportedly shows women are up to twice as likely to die and men are up to six times as likely to die during the initial 12-month mourning period as in subsequent years.

Paul Sweeting, chairman of the Actuarial Profession's Research Steering Committee, said in a statement that this proof of broken heart syndrome and how long it lasts could help make premiums "fairer" for life insurance policies and annuities.

The study's author, Jaap Spreeuw, senior lecturer in actuarial science at Cass Business School, said in a statement: "We all know that the death of a loved one will have a massive impact on the life of the husband or wife left behind, but this research shows it will have a direct impact on their mortality."



Business Insurance END PAGE



Writer and director Woody Allen has filed a suit over the use of his likeness in a clothing company ad campaign.

Allen not laughing about clothing ad

A clothing maker says advertising that used the likeness of filmmaker and actor Woody Allen was a parody, but Mr. Allen isn't laughing.

Mr. Allen sued American Apparel Inc., seeking more than \$10 million for the unauthorized "blatant misappropriation and commercial use" of his likeness in billboard ads in New York and California as well as online.

Mr. Allen filed the suit last week in New York federal court. The May 2007 ads are "especially egregious and damaging," according to court documents.

The billboard used a still shot of Mr. Allen from the 1977 film "Annie Hall," in which he won four Oscars that included best picture, showing him dressed as a rabbi with Yiddish text that translates to "The Holy Rebbe."

Mr. Allen claims the ads falsely portrayed that he sponsors and endorses American Apparel. The complaint also notes that the company's Web site promotes itself as being known for

"provocative photography."

"Mr. Allen has achieved considerable commercial and cultural success in his career by, among other things, maintaining control over the projects with which he is associated," the complaint stated, adding that he does not do any advertisements or endorsements in the United States.

Mr. Allen sought compensatory and exemplary damages and attorney fees.

In response to the suit, American Apparel said it sincerely regretted offending Mr. Allen and the ads were intended as a "vehicle for noncommercial social and political commentary."

"Our use of his image dressed as a Hasidic character alongside Yiddish text was meant as a social parody," American Apparel said in a statement. "We had no intention of selling garments through the use of Mr. Allen's image. The billboards were up no less than one week back in May 2007. We will make every effort to resolve this with Mr. Allen in an amicable way."

Contributing: Jeff Casale,
Kristin Gunderson Hunt, Sally Roberts



'Responsibility' is word from insurer sponsor of TV movies

Liberty Mutual Group Inc. is underwriting two new programs for NBC Universal Inc., but they have absolutely nothing to do with insurance or transferring risk.

Rather, the Boston-based insurer has agreed to sponsor two original movies that will air on NBC TV as part of a strategic marketing partnership announced last week. Terms of the deal were not disclosed.

The partnership is based on the common desire of NBC Universal and Liberty Mutual to promote The Responsibility Project, Liberty Mutual's multiplatform initiative that encourages personal responsibility. In addition to television programming, The Responsibility Project uses independently produced short films and other online content to examine the decisions that confront people trying to do the right thing. The initiative is an offshoot of the insurer's TV advertising tagline, "Responsibility. What's your policy?"

The theme of the two original movies will center on personal responsibility and will be promoted by both companies.

The first two-hour film, "Kings," will air this fall and serve as a pilot for a potential series. It centers on a brave young soldier who rescues a king's son from enemy territory, setting events in motion that will bring peace to a country, the statement said.

The second as-yet untitled original movie will air during the 2008-2009 season on NBC and its affiliate cable outlet USA Network.

'Borat' suits not having great success

A lawsuit filed by a man seen "fleeing in apparent terror" from comedian Sacha Baron Cohen in the movie "Borat: Cultural Learnings of America for Make Benefit Glorious Nation of Kazakhstan" has been thrown out by a New York federal judge.

Jeffrey Lemerond filed the suit against 20th Century Fox last June, claiming that the movie producers unlawfully used his image without his consent in both the film and its promotional trailer.

Last week, however, U.S. District Court Judge Loretta Preska said the

film fell under an exception to the law—newsworthiness—that negated Mr. Lemerond's claim.

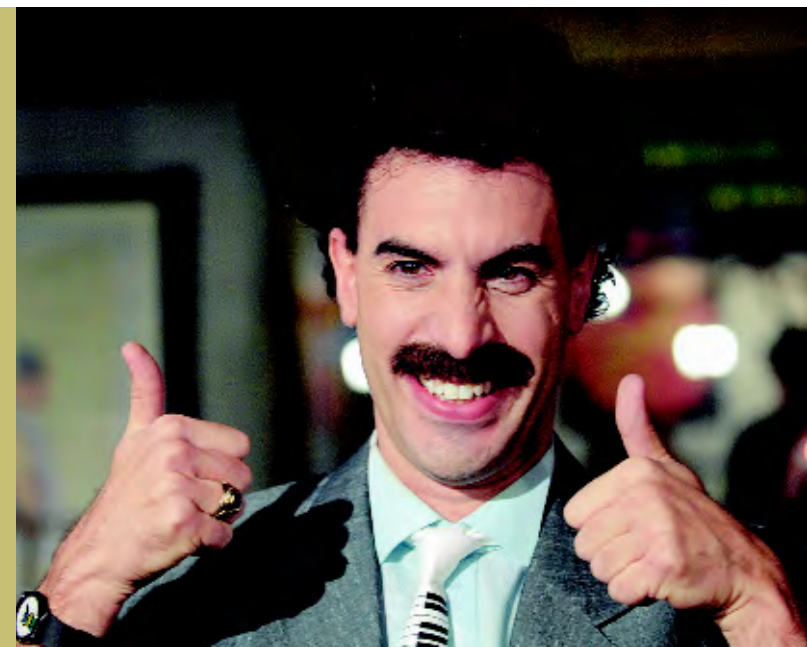
In the 2006 movie, Borat, a fictional TV reporter from Kazakhstan, approaches Mr. Lemerond on a New York street. When Borat attempts to hug Mr. Lemerond, he runs away in "apparent terror, screaming, 'Get away' and, 'What are you doing?'" according to court documents. The 13-second scene ends with Borat asking, "What is the problem?"

In her decision, Judge Preska said though humor in the film appealed

"to the most childish and vulgar in its viewers," it was an attempt to make "an ironic commentary" on modern American culture.

Mr. Lemerond's attorney reportedly was considering an appeal, saying New York law does not allow a corporation to subject citizens to "public humiliation in order to make a buck."

Separate lawsuits brought on behalf of others who also were unaware they were being filmed for "Borat" have been thrown out of court.





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