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Australian report on HIH cites mismanagement, calls for broad reforms

Shake up Down Under

By MICHAEL BRADFORD

CANBERRA, Australia—An analysis of the factors behind HIH Insurance Ltd.'s spectacular collapse is likely to spur sweeping changes in Australia's insurance market.

The report, released last week by the Australian Royal Commission investigating the $5.3 billion Australian ($3.20 billion) failure of the insurer, blames HIH's demise on mismanagement that left it unprepared for future claims. The report also included 61 recommendations that would bring about changes in corporate governance, insurance regulation, financial reporting and other insurance-related activities.

The report, written by Australia Supreme Court Justice Neville Owen, head of the commission, said a flawed management response to international insurance conditions was partly to blame for HIH's failure in March 2001. The insurer's overseas expansion, which the justice said was based on "bad decision making and a lack of business judgment in circumstances of adverse insurance market conditions," was part of its undoing, the report says.

Shortfalls in reserves, a lack of corporate governance and a host of other missteps are outlined in the report, which covers three volumes and hundreds of pages.

There could be civil or criminal charges resulting from the commission's work. The report suggests that the country's corporations law may have been breached by former HIH Chief Executive Ray Williams and Rodney Adler, a director of the insurer, in their management of HIH.

HIH reinsurers GeneralCologne

See HIH/page 34

UnumProvident claims litigation generally not driving away corporate buyers

By ROBERTO CENICEROS

Corporate buyers of group disability coverage do not share the same concerns and complaints as the many individual claimants who are suing UnumProvident Corp., alleging improper claims-handling practices.

The disability insurer has been a target of hundreds of lawsuits brought by individuals alleging unfair claims denial and termination, which also has attracted critical coverage of the company in the general media. UnumProvident also has been fined $1 million by the Georgia Insurance Department and placed on probation for its claims-handling practices.

But benefit experts say that most employers report largely positive experiences with the insurer and they are continuing to purchase UnumProvident group disability insurance products. If employees were complaining about the insurer's

See CLAIMS/page 32

Many employees still reluctant to use Internet for health info

By JOANNE WOJCIK

You can lead employees to the Internet to obtain health care information, but you can't necessarily make them use it, two recent studies have found.

In fact, most people are more likely to use the Internet to research buying a new car or planning a vacation than to obtain information on a medical condition, a study by CIGNA Corp. shows.

And those who do use the Internet to gather health information are more likely to be white, well-educated and higher-paid, according to a study by the Center for Studying Health System Change.

Although such findings appear to be a setback for consumer-driven health care, which relies heavily on Web-based tools to educate health care consumers, employer advocates of the approach are undaunted. They say it will take some time for people to become accustomed to using the Internet to seek health care information, just as it did for them to accept managed care when it was first introduced.

In the meantime, communications experts advise employers to use multiple distribution channels to educate their employees about health care and to not rely solely on the Web.

"The problem is, the Internet is still the Wild West in terms of information. You don't know where it's coming from or the agenda of those

See INTERNET/page 32

Late News

HHS to aid employers on HIPAA compliance

The U.S. Department of Health and Human Services initially will focus on helping employers comply with the recently issued privacy regulations in the Health Insurance Portability and Accountability Act, rather than on punishing offenders, according to an interim rule published Thursday in the Federal Register. The HHS' Office of Civil Rights will enforce the privacy rules, which took effect April 14 for most organizations. Violators, though, still face fines of up to $100 per violation.

IRS sets notice period for pension changes

Final regulations issued by the Internal Revenue Service this month require employers to give pension plan participants, in general, 45 days' notice of changes in plan design that would reduce future accruals. The notice itself will have to give employees an easy-to-understand explanation of the employer's current pension formula, the new benefit formula and the extent of the reduction. The rules closely track regulations the IRS proposed last year (*BI*, May 13, 2002), which were mandated by the Economic Growth and Tax Relief Reconciliation Act.

PHOTO: ZUMA

A court ruled AXA must pay claims from the financier of the 2000 film "The Crew."

AXA Re ordered to pay in film financing case

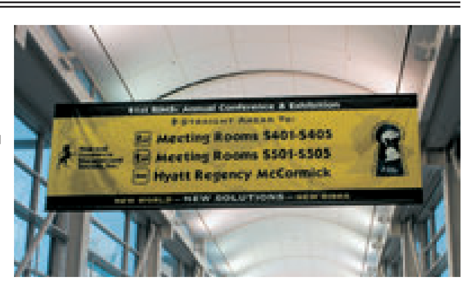
AXA Reassurance S.A. is liable for $14.4 million in losses suffered by Chase Manhattan Bank on a pair of loans backing the producer of the 2000 Burt Reynolds film "The Crew," the New York State Supreme Court's Appellate Division ruled Thursday. The appeals court rejected AXA's charges that Chase and its broker fraudulently misrepresented the film finance risks and that the

See LATE NEWS/page 35

RIMS 2003

CONFERENCE REVIEW

Begins on page 10



NEWSPAPER

Court denies multiple limits under multiyear policies

By DOUGLAS McLEOD

BOSTON—A reinsurer of W.R. Grace & Co. liability risks is not required to treat its multiyear contracts' liability limit as an annual limit even though ceding insurers annualized their own limits in settling massive Grace environmental losses, a federal judge has ruled.

Swiss Reinsurance America Corp. is liable for only one limit per occurrence for each of several three-year facultative reinsurance certificates it issued to units of CGU Insurance Group covering Grace risks, U.S. District Judge Douglas P. Woodlock ruled.

The judge rejected CGU's claim that it is entitled to one limit per occurrence for each year during the term of the three-year contracts. CGU billed Swiss Re $18.3 million for its share of a $57.6 million settlement of pollution claims with Grace, but Swiss Re paid only $7.8 million and disputed the balance, the ruling notes.

"There is no language in the (reinsurance) certificates remotely suggesting that 'each occurrence' should be read as 'each occurrence each year,'" Judge Woodlock concluded.

The CGU units—now part of Bermuda-based White Mountains Insurance Group Ltd.—have asked Judge Woodlock to reconsider his decision or to allow an immediate appeal. Along with the annualization issue, Swiss Re is also disputing CGU's allocation of the Grace settlement to nine polluted sites and policies triggered by those sites. A trial on this issue could be stayed if the judge allows CGU to appeal the annualization ruling, court filings say.

The court battle stems from a 1998 agreement in which CGU's Commercial Union Insurance Co. and American Employers Insurance Co. agreed to pay $57.6 million in cash to settle Grace pollution claims in exchange for a full release of further liability under excess policies they issued in the 1960s and 1970s.

The four multiyear CGU policies carried limits of $5 million per occurrence and aggregate and sat above seven primary policies written by other insurers. Between 1965 and 1971, a Swiss Re predecessor company issued three multiyear facultative certificates assuming

See LIMITS/page 35

$5 million grant launches new RRG for nursing homes

Pennsylvania funds RRG

By JERRY GEISEL

HARRISBURG, Pa.—Another state is giving long-term care facilities the financial support needed to launch their own captive insurance company.

PELICAN Insurance (A Reciprocal Risk Retention Group), licensed last month in Vermont, will provide LTC facilities in Pennsylvania with general and professional liability coverage. The RRG will be available to Pennsylvania county-owned and -operated LTC facilities and nonprofit facilities that are members of the Pennsylvania Assn. of County Affiliated Homes.

PELICAN was launched with a $5 million grant from the commonwealth of Pennsylvania, making it the first risk retention group to be started with state funds that do not have to be repaid. Earlier this year, a Florida state agency provided an interest-free $6 million surplus note to enable LTC Risk Retention Group Inc., which provides professional liability coverage to LTC facilities in Florida, to get off the ground (*BI*, March 31). Those funds, though, must be repaid.

See RRG/page 6

County-owned nursing homes in Pennsylvania will be eligible to join a new risk retention group to obtain liability coverages.

TORT SYSTEMS IN THE U.S.

Overall ranking of state liability systems, 2003 vs. 2002

Best

State	2003	2002
Delaware	1	1
Nebraska	2	6
Iowa	3	5
South Dakota	4	9
Indiana	5	12

Worst

State	2003	2002
Mississippi	50	50
West Virginia	49	49
Alabama	48	48
Louisiana	47	47
Texas	46	46

Source: U.S. Chamber of Commerce

Ads target states with 'unfair' tort systems

By MEG FLETCHER

A recent ranking of states on the fairness or reasonableness of their tort liability systems is garnering broad employer and industry support.

The rankings, based on the second annual survey of corporate attorneys and senior litigators for large companies, "continues to find a majority of states deserve a grade of fair to poor," according to a statement by the U.S. Chamber of Commerce. The Washington-based business organization sponsored the survey through its Chamber Institute for Legal Reform.

Essentially, 65% of the 928 respondents gave state court liability systems a "C-" letter grade in their responses to a telephone survey conducted in January and February of this year. That compares with 57% who gave the states such a grade last year, according to Harris Interactive researchers, who conducted the survey.

The U.S. Chamber of Commerce is publicizing its ranking of state tort systems in a series of newspaper advertisements that highlight survey findings, both nationally and in specifically troubled states. A key supporter of this ad campaign is Maurice R. Greenberg, chairman and chief executive officer of New York-based American International Group Inc. (*BI*, April 14).

Supporters are hoping to educate state legislators so "states must know that if they maintain legal systems that are unfair for companies, those companies can and will go elsewhere," according to a statement by Thomas Donohue, president and CEO of the U.S. Chamber.

The Risk & Insurance Management Society Inc. "is well aligned with the interests of the insurance industry" in supporting this campaign, said Chris Mandel, RIMS' outgoing president.

In addition, the American Tort Reform Assn. "is very supportive of the Chamber's efforts," said Sherman Joyce, president of the Washington-based organization. In fact, ATRA took liability system monitoring one step farther when it began its campaign last year to highlight plaintiff-friendly "judicial hellholes," Mr. Joyce said (*BI*, Oct. 7, 2002).

Not surprisingly, plaintiffs' attorneys oppose the Chamber's efforts.

Chamber members "are seeking corporate welfare by limiting the legal rights of American families," said a spokesman for the Assn. of Trial Lawyers of America. Instead of trusting juries to decide cases, businesses want "to impose their corporate will as law," the spokesman said.

The Chamber survey reports

See STATES/page 35

Inside Business Insurance

Catastrophe losses hit $1.4 billion in quarter

Insured losses from winter storms account for the lion's share of first-quarter catastrophe loss. Page 4

Employers back from 'contribution vacation'

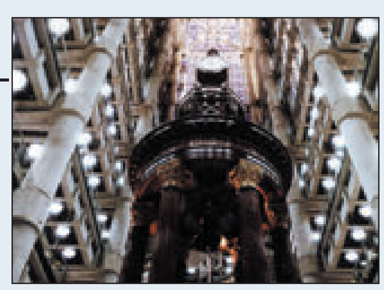
Surveys show pension plan contributions rising, as surpluses are eroded by investment declines, low interest rates. Page 4

New pension reforms worthy of support

Employers should support new pension reform legislation in Congress, one of this week's editorials says. Page 8

Special treatment for special interest?

Doug McLeod writes that the gun industry doesn't deserve a free pass out of the courthouse. Page 28



FSA plan to add Lloyd's to guaranty fund

Lloyd's of London and U.K. insurers oppose a proposal to make Lloyd's policyholders eligible for guaranty fund protection. Page 29

Online

- The **Datebook** calendar lists upcoming industry seminars and meetings and allows you to add info on your own event.
- Searchable **directories** of all the listings of industry vendors found in *BI*'s Market Sourcebook.
- Streaming video of the 2003 **RIMS TV broadcasts.**
- New **Opinion Poll** for readers: Do you think the Supreme Court's recent ruling limiting the scale of punitive damage awards will lead to lower liability insurance rates?

Departments

REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS.

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Employers boost pensions as surpluses erode

By JERRY GEISEL

Hammered by the huge decline in the stock market over the last couple of years, the once hefty surpluses enjoyed by many, if not most, of the nation's pension plans have disappeared, two newly released surveys show.

In a survey of 100 U.S. employers with the largest pension plans, Milliman USA found that just 13 employers had fully funded pension programs in 2002, a huge change from 2000, when 80% of the employers had fully funded plans.

According to another survey, 67% of 455 multiemployer plans surveyed by The Segal Co. were fully funded in plan years that ended in 2000 or 2001, down from 83% in the previous survey of plan years closing in 2000 or 1999.

Had the Segal survey included financial information from 2002, funding levels of multiemployer plans likely would have declined even more, the New York-based benefit consultant reported.

Both surveys offer evidence that the "contribution holiday" many employers enjoyed during the bull equities market of the late 1990s—when hefty investment returns on plan assets eliminated the need for employers to make new contributions to plans—is over.

Indeed, last year, according to the Milliman survey, employer plan contributions more than tripled, rising to $33.6 billion, compared with $9.2 billion in 2001. This year, employers likely will double what they contributed in 2002, said John Ehrhardt, a Milliman consulting actuary in New York.

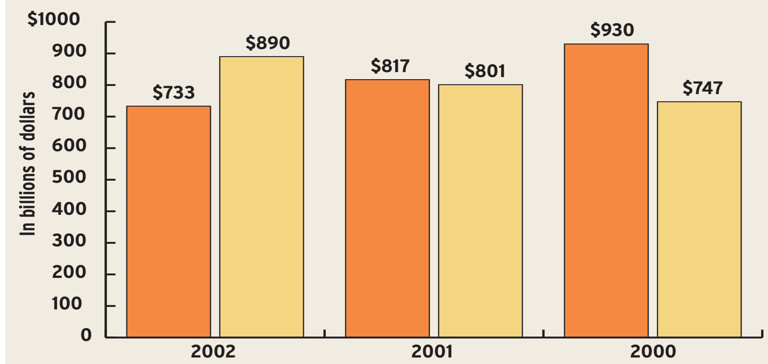
Employers are pumping money into the plans because the value of equities held by the plans has dropped sharply as the stock market has slumped.

At the end of last year, for example, the total market value of assets

See **PENSIONS**/page 34

ASSETS VS. LIABILITIES

The value of assets have fallen in the largest employer pension plans while their liabilities have increased



Source: Milliman USA

Spencer grant helps launch enterprise risk education

ATLANTA—An investment in risk management education by the Spencer Educational Foundation will start to pay dividends starting this fall at Georgia State University in Atlanta.

The Spencer foundation this year awarded a $175,000 grant to Georgia State to develop and offer an advanced management education program in enterprise risk management. With that investment, Georgia State's Robinson School of Business has launched the Center for Enterprise Risk Management and Assurance Services, which will begin admitting applicants in the fall of 2003.

The yearlong executive education program will consist of one full week of on-campus instruction every quarter, with the remainder of coursework conducted using the Internet, conferencing and distance-learning technology.

The CERMAS program is aimed at middle- and senior-level risk management professionals who want to raise their skills to become more involved in managing the exposures of their own or a client's firm. Participants will have a chance to immediately apply what they learn at their own firms.

Of the initial Spencer grant, $125,000 was used to develop the program, while the remainder will provide five $10,000 CERMAS scholarships. The cost of the CERMAS program is $10,500, which includes tuition, textbooks, course materials and fees.

CERMAS is now accepting applications for the fall 2003 term, beginning Aug. 1, and the spring 2004 term, beginning Jan. 1, 2004.

An application form can be downloaded at *www.cermas.gsu.edu.*

For more information about the CERMAS program or about the scholarships, contact Martin C. Leinweber, managing director of CERMAS by phone, 404-651-2738, or e-mail, *cermasamp@gsu.edu.*

For more information about the Spencer Educational Foundation, visit its Web site at *www.spencered.org.*

—By Paul Winston

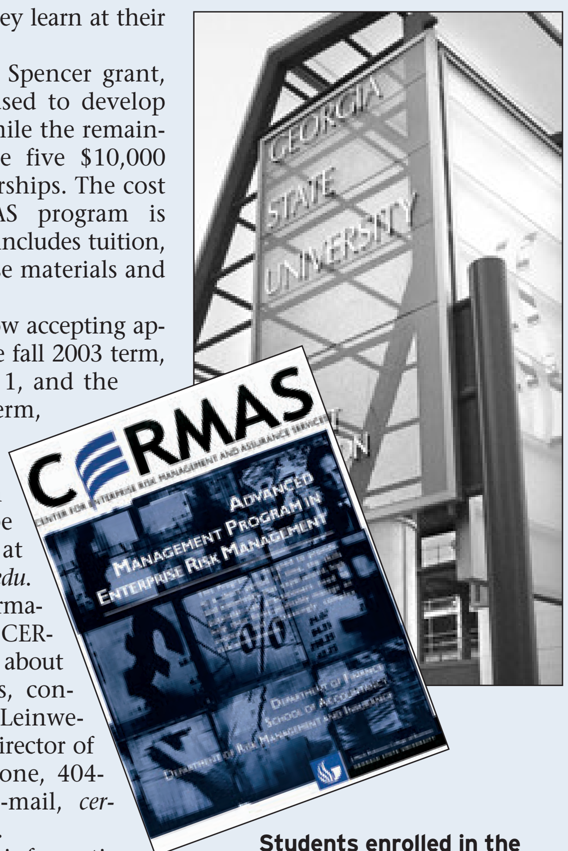


PHOTO: COURTESY GEORGIA STATE UNIVERSITY

Students enrolled in the Center for Enterprise Risk Management and Assurance Services will spend one week each quarter on the campus of Georgia State University.

Study finds net gain in captives was limited

Consolidation, closures offset record captive creations: A.M. Best

By RODD ZOLKOS

While new captive insurance companies were formed at a record pace in 2002, continued growth in the number of captive liquidations kept the total number of captives worldwide relatively flat, according to a study by A.M. Best Co. Inc.

The Best study found that while 462 new captives were formed around the world last year, 311 also were liquidated. Adding the impact of late reported prior-year liquidations, along with "continuing enhancements to data quality in Best's Captive Directory," the total number of active captives worldwide stood at 4,526 at the end of 2002, up only slightly from 4,521 at the end of 2001, Best said.

"It's hard to get a whole lot of detail on liquidations," said Carol Pierce, an assistant vp at Oldwick, N.J.-based A.M. Best and the report's author. But, she said, many appear to be the result of consolidation of captive programs.

"What we're seeing is a lot of consolidation because of a lot of the mergers and acquisitions that went on over the past five-plus years," Ms. Pierce said. She cited the example of an energy company that had eight captives as a result of acquisition activity and chose to shut down seven of them last year.

"And that's just one example that we're seeing," Ms. Pierce said, adding that many companies are acting to eliminate costs associated

See **CAPTIVES**/page 33

CAPTIVE TRENDS

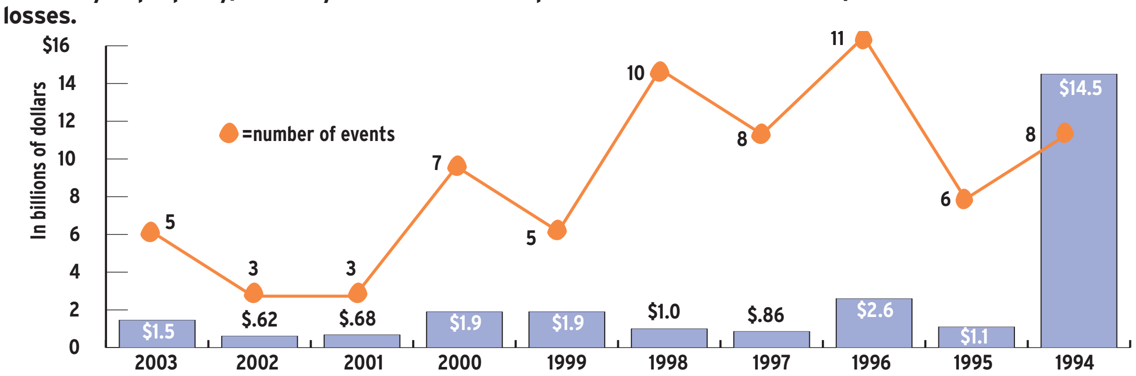
Formations and liquidations

Year	No. of new	No. liquidated
2002	462	311
2001	316	202
2000	245	170
1999	250	156
1998	305	154
1997	294	135
1996	290	102
1995	243	103
1994	289	113
1993	238	150

Source: A.M. Best Company Inc.

First-quarter property/casualty cat losses put at $1.46 billion

A history of property/casualty losses. A catastrophe is an event that causes $25 million or more in insured losses.



Source: Insurance Service Office Inc., Property Claim Services

JERSEY CITY, N.J.—Insured property losses from U.S. catastrophes in the first quarter of 2003 are expected to reach $1.46 billion, according to the Property Claim Services unit of the Insurance Services Office Inc.

The losses are more than double the $615 million in first-quarter catastrophe losses in 2002 and $680 million in the first quarter of 2001 but are well shy of record losses.

Jersey City, N.J.-based PCS estimates that businesses and homeowners will file more than 345,000 claims related to the five catastrophe losses in the first quarter of this year.

The five events included three winter storms that caused $1.1 billion in insured property damage across 15 states. The other two catastrophes were windstorms that together left $365 million in insured losses.

PCS also revised its catastrophe loss estimate for 2002 to $5.85 billion, up $50 million from its original estimate.

—By Michael Bradford

RRG: State shows support

Continued from page 3

The push to develop the Pennsylvania RRG stemmed from the soaring rates and scarce coverage in the traditional insurance market, said John Sallade, managing director of insurance programs at the County Commissioners Assn. of Pennsylvania in Harrisburg, which played a pivotal role in the formation of PELICAN.

While LTC facilities, principally nursing homes, once paid $60 a bed for coverage, rates have shot up to between $600 and $1,000 a bed, he said. However, he said, there was no evidence that hikes of that magnitude were justified based on the loss experience of the facilities, Mr. Sallade said.

"This has been very frustrating to nursing home administrators," he said.

Mr. Sallade envisions PELICAN as a long-term solution to coverage problems faced by the facilities. "This is about ownership" and helping to provide rate stability as well as improved loss control services, he said.

PELICAN will offer general liability coverage of $1 million per claim/$1 million annual aggregate and professional liability coverage of $500,000 per claim/$1.5 million annual aggregate. Rates are expected to be in the range of $470 per bed.

The program could generate a premium flow of about $1.5 million in its first full year of operations. So far, three LTC facilities have joined the program, which is reinsured by various Lloyd's of London syndicates. Willis Management (Vermont) in Burlington provides captive management and accounting services.

Both the Pennsylvania and Florida LTC programs mark a striking change in state regulators' attitude toward risk retention groups. Under legislation Congress enacted in the 1980s, an RRG, which is a type of multiple-owner group captive, is exempt from most state regulation, except in the state in which it is domiciled.

In perhaps the most serious state attack on the groups, then Louisiana Insurance Commissioner Jim Brown in the mid-1990s said that RRGs licensed in other states would have to meet a wide range of Louisiana requirements, including capital and surplus levels, in order to do business in the state.

Risk retention groups argued that, had that move been allowed, it would have gutted the Risk Retention Act.

Mr. Brown's action, though, was struck down by a federal court, whose ruling was affirmed by a federal appeals court.

Since then, RRGs' difficulties with state regulators generally have been less extensive, typically involving attempts by states to impose annual licensing and filing fees on the groups.

Currently, just over 100 risk retention groups are operating, with the largest proportion—38—offering coverage for those in the health care industry, such as physicians and hospitals, according to a recent analysis by The Risk Retention Reporter, a Pasadena, Calif.-based monthly newsletter.

Paul Winston

White Sox security must get on the ball

In 1983, the then-ascendant Chicago White Sox adopted the theme "Winning Ugly" for the baseball team's march to the American League Championship Series.

Now, 20 years later, team executives might consider adopting the theme "Losing Ugly" after a game last Tuesday against the Kansas City Royals, during which unruly Sox fans jumped onto the field on four separate instances, disrupting play in the game. In the fourth and most serious instance, a fan jumped out of the stands and tried to grab first base umpire Laz Diaz as he called the eighth inning's final out against the White Sox.

Luckily for Diaz, two nearby Royals players quickly wrestled the fan to the ground and were joined by teammates who demonstrably conveyed their displeasure with the unidentified man. News photos of the sullen miscreant in the back seat of a Chicago police car show his head wrapped in bandages, suggesting he got the message. The Sox, which had been leading at the time, went on to lose 8-5 to an adrenaline-fueled Kansas City team.

Paul Winston

The incident was especially unnerving for the Royals, though, because they have been here before—and with more serious consequences.

Last September, in another match in Chicago lost by the Sox, the Royals' first base coach Tom Gamboa was assaulted by a drunken loser who had jumped out of the stands with his son. Mr. Gamboa suffered cuts and bruises and partial hearing loss in his right ear as a result of that attack.

The boy was sentenced to five years of probation, while criminal charges against the father—who initially pleaded innocent (despite thousands of stunned witnesses) to charges of aggravated battery and mob action—are still pending.

After last week's attack—which has me wondering what it is about the Royals that drives Chicago fans wild—the Kansas City team had had enough. The team complained to the office of the commissioner of baseball and threatened to boycott the next game in the series unless security at U.S. Cellular Field (formerly Comiskey Park), was improved.

Most major league sporting venues are capable of handling the risks that arise in such settings without forcing contestants to take such drastic measures. Indeed, any assessment of the risks facing a stadium full of people—especially one full of agitated sports fans with unfettered access to liquor—will take into account the threat of violence by unruly fans.

Given the recurring nature of the problem in the White Sox home field, though, it would appear the club's risk management team needs to spend some time in the minors working on their fundamentals. This is especially true because the field will host baseball's All-Star Game in a few months.

Basic risk management includes such simple steps as making sure security staff are well trained in crowd control, beefing up the number of personnel in the aisles to prevent folks from jumping out of the stands, checking tickets to prevent unauthorized persons from moving into seats nearer the field that are not their own—and ejecting them if they do—and, of course, restricting liquor sales to overserved fans.

It also requires tougher deterrence. Would-be trespassers need to know that there are consequences for their actions beyond the legal equivalent of a slap on the wrist. They ought to face not only tough criminal penalties but, as last week's thug learned, the fact that ballplayers don't take kindly to attempted assault.

ESPN.com columnist Ray Ratto gamely suggests a way to turn risk into opportunity—especially for clubs like the White Sox that are challenged to fill seats. He proposed spicing up baseball games by embracing loutish fan behavior and creating a gladiator-like arena for the amusement of fans. Under his plan, celebrity enforcers such as Dick Butkus or boxing's Klitschko Brothers would be on hand to personally and forcefully welcome fans running onto the field.

Instead, I suggest letting baseball players address the problem. I think any fan foolish enough to run onto the field and try to hurt athletes who use wooden bats and small hard balls for a living gets what he deserves.

It would probably take only one or two of these jerks getting cold-cocked for the message to take hold: Stay in your seats.

Once upon a time, people running onto a field of play seemed a fairly harmless diversion. You probably remember streakers with bags on their heads, the San Diego Chicken and Morganna the Kissing Bandit interrupting play. Maybe you even cheered their irreverence and efforts to avoid capture. But when drunken thugs are out to hurt people on the field, it's no longer cute; it's ugly. It's time for risk management to play hardball.

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Editorial

More pension reforms necessary

IS A NEW ROUND of pension reform needed?

Reps. Rob Portman, R-Ohio, and Ben Cardin, D-Md., who introduced a comprehensive reform measure this month, think so. And we agree.

The two highly regarded legislators were the driving forces behind a sweeping set of pension reforms that ultimately were incorporated into a tax measure—the Economic Growth and Tax Relief Reconciliation Act—that Congress passed two years ago.

EGTRRA, as that law is known, marked a big departure from the pension-related legislation in the 1980s, when Congress passed several bills that dramatically cut back the amount of benefits that could be provided through pension plans and added layer after layer of complex rules.

EGTRRA went in the opposite direction. The law boosted the amount employees could defer to 401(k) plans, while benefit and contribution limits for other types of pension plans also were increased.

The law also introduced less onerous nondiscrimination testing rules for employers that offer pretax and aftertax contribution features in their savings plans, and it made it easier for employees who move between the private, nonprofit and governmental sectors to roll over funds between each sector's plan type—a minor but overdue common-sense change.

As welcome as EGTRRA was for those who support the employer-sponsored retirement plan system, it was only a first step. Clearly, more reforms—along the lines of what Reps. Portman and Cardin are now proposing—are needed.

Their new bill, for example, proposes a more logical way for employers to value their pension liabilities, which determine how much employers must contribute to their pension plans. Under the proposal, the Treasury Department would be given authority to create a new index—based on the yields of long-term, top-rated corporate bonds—that employers would use to value liabilities.

Currently, the index is based on yields on 30-year Treasury bonds. Those bonds no longer are issued, though, and the resulting scarcity has driven down yields. As a result, employers have had to contribute more to their plans than is necessary.

Other proposed changes include allowing retirees to take tax-free a portion of pension plan distributions to pay for medical insurance premiums. That strikes us as eminently sensible. If employees can use pretax dollars drawn from salary deferrals to pay health insurance premiums, while shouldn't retirees have a comparable tax-favored way to pay premiums?

Similarly, just as employers with defined benefit plans now can designate a part of their contributions to the plans to prefund retiree health care costs, the new bill would allow employers with defined contribution plans to do the same. That is another change that is so logical we are surprised no one proposed it before.

This is good and necessary legislation, and it is a proposal employers should enthusiastically support.

Workplace security a worthy goal

WHEN IT COMES to terrorism insurance, many risk managers say the price isn't always right. But some savvy risk managers who deem the coverage too expensive are finding other ways to address the risks their companies face.

As we report on page 10, few risk managers attending the 41st Risk & Insurance Management Society Inc. Annual Conference & Exhibition recently in Chicago said they're buying terrorism insurance, because they feel the additional premium is just too high for the perceived risk. The Terrorism Risk Insurance Act of 2002 was a welcome piece of legislation aimed at keeping coverage available, but TRIA has not kept insurers from charging exorbitant rates. Not surprisingly, most companies are unwilling to pay those prices.

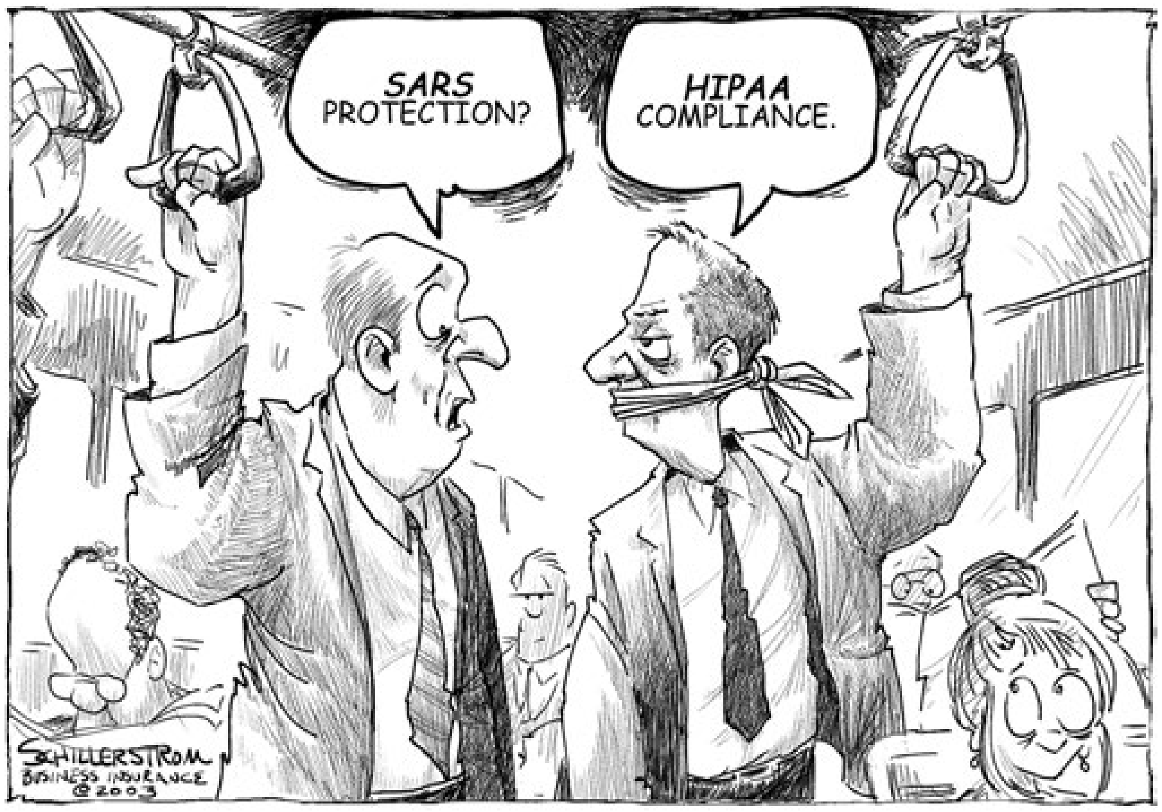
We fervently hope there will never again be losses on the scale of the Sept. 11, 2001, attacks, but the fact remains that terrorism losses are rare. Other perils need attention, too. Some risk managers attending the RIMS conference report that they are working to address terrorism risks by making their facilities more secure and helping employees feel safer.

We applaud risk managers who are taking steps to help people cope with terrorism fears. Anxiety caused by fear of terrorist attacks—or indeed any kind of risk—can cause a string of workplace problems. For example, employee anxiety may lead to reduced productivity, absenteeism and even injury.

Besides making the workplace environment safer, protecting against terrorist attacks carries another important benefit: organizations that demonstrate good risk management are in the best position to negotiate more-favorable rates.

An environmentalist slogan advises people to "think globally and act locally." That's a good approach for risk managers in these times of uncertainty.

Schillerstrom



Letters to the Editor

Broaden focus in looking at onshore domiciles

To the editor: Your March 17 article, "Captive Sponsors Face Host of Issues in Picking Domiciles," was timely and well-written, but it would have been more informative if it did not focus exclusively on Vermont when comparing domestic vs. offshore domiciles.

Specifically, South Carolina has become the domestic domicile of choice for an increasing number of captive insurance programs. While there are certainly similarities between the two domiciles, there are also sufficient differences to warrant distinct reporting.

We hope that *Business Insurance* continues to cover developments in the captive insurance industry and that your editorial staff will keep in mind that South Carolina is now a viable alternative to Vermont as well as offshore domicile options.

James A. Kinder
President
South Carolina
Captive Insurance Assn. Inc.
Fountain Inn, S.C.

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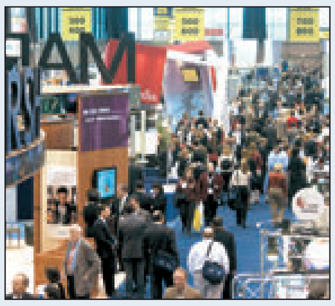

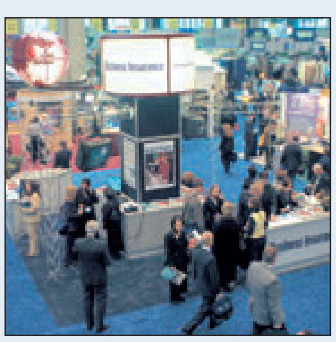

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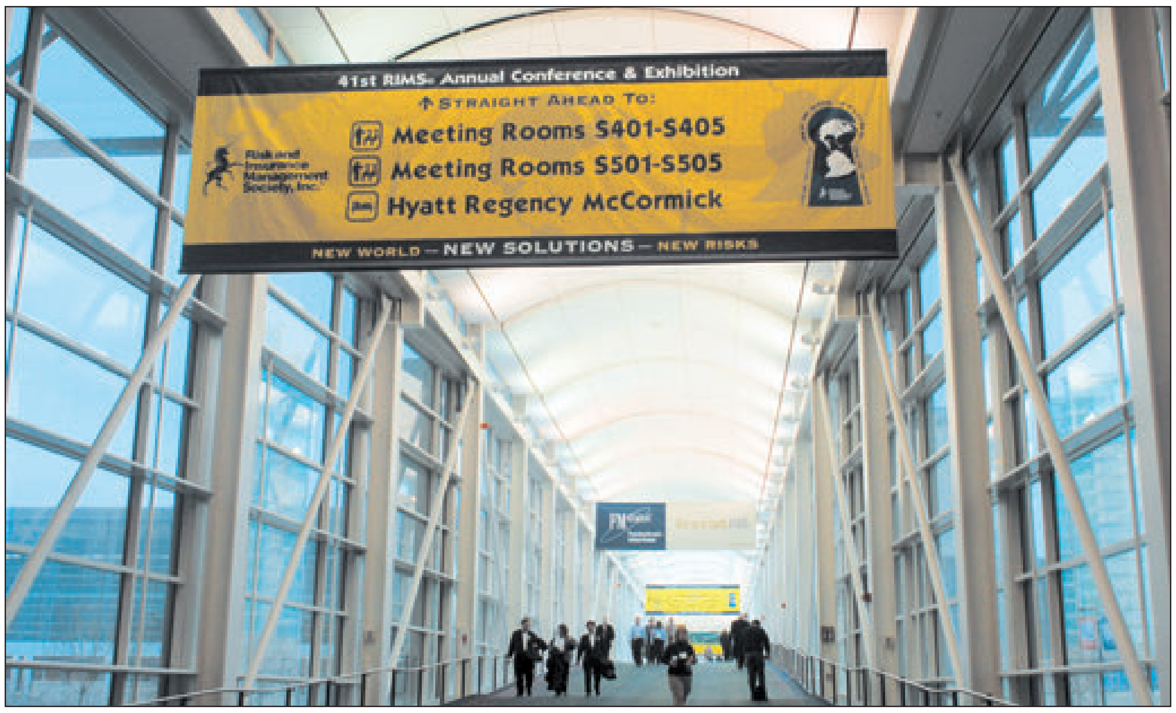

PHOTO: MICHAEL MARCOTTE

RIMS 2003

High rates for terror cover shift focus to preparedness

By DAVE LENCKUS and ROBERTO CENICEROS

CHICAGO—Risk managers came to their annual national conference with several complaints about government-backed terrorism insurance, but some still picked up insights on terrorism risk and risk financing.

A chief complaint revolved around pricing for the coverage, which many risk managers said their organizations do not need because they do not view themselves as either likely targets or victims of collateral damage.

Improving facility security and making employees feel safer is a better approach to protecting corporate assets than is purchasing expensive insurance, some risk managers said.

Still, some risk managers learned a little about insurers' pricing philosophies as well as possible alternative coverage and some new terrorism-related risk management products during the Risk & Insurance Management Society Inc.'s 41st Annual Conference and Exhibition in Chicago earlier this month.

Under the government-sponsored terrorism reinsurance program established by the Terrorism Risk Insurance Act of 2002, insurers in the United States must offer terrorism coverage through several lines: property, general liability, auto liability, construction, surety, financial and professional liability, aviation, marine and workers compensation.

With the exception of workers comp coverage, policyholders are not required to purchase the insurance.

Besides pricing, several coverage provisions trouble risk managers. TRIA insurance covers losses only at U.S. sites and only if the U.S. Treasury Department declares that foreign terrorists caused the losses. Even so, the coverage would not be triggered unless aggregate losses from a single act of terrorism exceed $5 million, and total covered losses would be capped at $100 billion.

Insurers this year are subject to a deductible equal to 7% of the written premiums they generate from the insurance lines for which they must offer terrorism coverage. In-

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RIMS 2003

Mold claims likely to spread

Risk management plan needed to minimize risk: Panel

By DAVE LENCKUS

CHICAGO—While losses resulting from toxic mold claims likely will not rival asbestos-related losses, contractors, property owners and property managers should have a risk management plan in place to prevent claims and minimize losses, according to a panel of experts.

"Frankly, we're probably past the worst in terms of run-away verdicts; however, we certainly are not past the worst in terms of the number of claims," warned attorney Daniel A. Berman, a partner with Wood, Smith, Henning & Berman L.L.P. of Los Angeles.

Because mold is now excluded from most commercial insurance policies, every dollar spent on "investigating, remediating and eliminating a mold claim means that's going to come off your bottom line," said attorney Stephen J. Henning, another partner with Wood, Smith.

Messrs. Henning and Berman and other toxic mold experts offered their risk management advice during a session at the Risk & Insurance Management Society Inc.'s 41st Annual Conference and Exhibition in Chicago earlier this month.

The attorneys noted that mold claims are emanating from occupants of many different kinds of structures, including schools and other public buildings, commercial buildings, apartments, single-family homes and health care facilities.

Health care facilities' claims probably have attracted the least amount of publicity, but that is where exposure to mold is most dangerous, Mr. Henning said. While toxic mold defendants argue that healthy claimants exposed to mold at worst suffer only transitory health problems akin to hay fever symptoms, the health risks to patients with compromised immune systems are much more severe and could be fatal, Mr. Henning acknowledged.

Dr. Janet Weiss, director of toxicology for indoor air consultant TheToxDoc of Berkeley, Calif., agreed. Dr. Weiss is seeking up to $600,000 of funding to complete a study on whether exposure to mold causes serious illness in individuals who previously were healthy. Early findings suggest no causal relation-

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RIMS 2003

Business interruption terms prove complex

By ROBERTO CENICEROS

CHICAGO—Underwriters frequently take advantage of inexperienced brokers and risk managers by offering unfavorable business interruption coverage terms, according to one member of a panel of coverage experts.

Knowing how the coverage works in advance and understanding policy terms is crucial to avoiding unpleasant surprises when a claim arises, the panel agreed.

Underwriters, for example, will offer coverage terms—such as a 100% average daily value deductible—that may preclude the payment of business interruption claims in many situations, said James Rubel, senior vp and director of global property for broker Lockton Cos. Inc. in New York.

Some purchasers think that a 4x100% average daily deductible is the same as a four-day deductible, but the two are calculated quite differently.

A 100% average daily value deductible can be "very dangerous and tricky," Mr. Rubel said. Some purchasers, for example, mistakenly think that a 4x100% ADV deductible under a business interruption policy is the same as a four-day deductible, he said, but the two deductible types are calculated quite differently.

Under a four-day deductible, for example, a policyholder that experiences a 20-day business interruption occurrence would have a deductible equal to four days of production, Mr. Rubel explained.

Under a 4x100% ADV deductible, though, if a plant with four production lines were to lose only one line, then the loss would be treated as only 25% of ADV. The actual loss in this scenario must last for four days before it equals one day under a 100% ADV deductible, making the total deductible 16 days, not four, Mr. Rubel explained.

That type of deductible calculation stunned one unsuspecting client, said Steven N. Ambort, Midwest director of business insurance consulting in Chicago for Deloitte & Touche Financial Advisory Services.

The client operated a chemical plant in the Midwest and suffered a reactor explosion. It forced the company to shut down a portion of

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Mold: Plan recommended to curb spread of claims

Continued from page 10

ship, she said (*BI*, April 14).

Meanwhile, there are a growing number of mold-related claims filed by former litigants who are dissatisfied with the investigation, identification and remediation of their mold problems, as well as their legal representation in such cases, Mr. Henning noted.

Because mold can begin growing on any carbon-based material 24 to 48 hours after moisture is introduced, "you need an immediate response to water intrusion" as well as to mold complaints, Mr. Henning said.

That plan should be in place before contractors, and property owners and managers face their first complaint, he stressed.

Verdicts in toxic mold litigation to date underscore the importance of having a risk management plan, Messrs. Henning and Berman asserted. Most often, property owners or managers have been found liable because they responded too slowly to mold claims, he said.

The various elements of a good risk management plan revolve around a 24- to 48-hour response to mold complaints, Mr. Henning said.

Russell Nassof, president of consultant Environomics Southwest L.L.C. of Phoenix, agreed. A prompt sympathetic response is critical "to defuse the anxiety that goes along with a lot of these claims," he said.

If an inspection in response to a complaint indicates mold may be present, then remove it immediately, even before testing the substance to determine whether it is mold, Mr. Berman said.

The substance should be removed, not just chemically treated, Mr. Berman stressed. Dead mold still can cause allergic reactions, he explained.

After the suspicious substance has been removed, Mr. Nassof suggested, still test to determine whether it is mold if it was in an area where individuals with compromised immune systems claim they were exposed, if claimants already have performed testing using experts of questionable quality, or if litigation is threatened.

But testing would not be helpful if it likely would validate a plaintiff's claim, because the plaintiff would be able to obtain those results during the discovery phase of litigation, Mr. Nassof observed.

Property owners and managers should keep on retainer various qualified experts to investigate and analyze mold claims and remediate mold problems, Mr. Henning said. Those experts include separate mold investigation and mold cleanup vendors and a certified microbial testing laboratory.

But risk managers have to be careful in selecting experts, several of the session's panelists warned.

"There are a variety of people who call themselves mold experts out there," but many have received meaningless certifications after only minimal training, Mr. Nassof warned. Some of those self-proclaimed experts have almost no remediation experience, he said.

Unqualified experts could worsen or create problems, Mr. Berman said.

'There are a variety of people who call themselves mold experts out there,' but many have received meaningless certifications after only minimal training.

Russell Nassof
Environomics Southwest L.L.C.

For example, experts should not test whether mold is growing inside of walls or on carpets, he said. Any wall interior or carpet sample likely will test positive for mold, and such findings are irrelevant, he asserted.

Tests should be conducted first to determine the level of airborne mold and then the level of mold on walls in a room, he said.

Mr. Henning noted that vendors who perform mold test also should not cause alarm by wearing protective clothing that looks like "space suits."

Test labs "run the spectrum very much like consultants do" in terms of quality, Mr. Nassof asserted. Labs qualified to evaluate mold samples will hold Environmental Microbiology Laboratory Accreditation certifications, he said. They also should send out 10% to 12% of their work for independent review as a quality control measure.

Mr. Berman recommended inserting confidentiality provisions in vendor contracts and insisting that the experts name the risk manager's organization as an additional insured under their professional liability coverage.

Experts should carry no less than $5 million of professional liability insurance, which indicates that they are qualified and likely are stable operations, Mr. Nassof said.

Meanwhile, contractors, and property owners and managers should retain their own insurance policy records indefinitely, because mold claims can come decades after a structure is built or, in the case of minor children, after exposure, Mr. Henning noted.

John B. Hughes, director of risk management at Alex Lee Inc. of Hickory, N.C., moderated and coordinated the session.

Terms: Understanding policy wording is crucial

Continued from page 10

the plant that accounted for 10% of the daily production at that facility.

The client had a 10x100% ADV on its business interruption policy. The average daily value is the amount that facility would have earned each day had a loss not occurred at the facility, Mr. Ambort explained.

Under the 10x100% ADV deductible. the plant's loss of 10% of production capacity meant the client ended up with a 100-day deductible, Mr. Ambort said. In effect, the client did not have any business interruption coverage for the loss that was corrected within that period.

"They were absolutely shocked at the way the calculation was performed under the policy," Mr. Ambort recalled. "They were very surprised at how that cover had been placed. They had no idea what they were facing when they bought that coverage, and it cost them a pretty penny to learn a lesson."

Pay special attention to ADV deductibles that apply to "affected plants" or "locations," Lockton's Mr. Rubel cautioned. Such wording can drastically increase the actual number of deductible days by applying the ADV formula to each of several production locations, either upstream or downstream in a manufacturing process, he said.

For example, consider a policyholder that manufactures parts at one plant, assembles them at another and then paints them at a third site. The ADV calculation would apply to each one of those sites, increasing the amount of deductible days by each affected site, the broker said.

Waiting periods for deductibles are another area to scrutinize, Mr. Rubel said. There is a critical difference between a 24-hour deductible and a 24-hour waiting period. Underwriters can take advantage of purchasers and inexperienced brokers who fail to distinguish between the two, he warned.

"A lot of underwriters know what they are doing, and a lot of brokers don't know what they are doing in terms of accepting a waiting period as a deductible," he said.

When a loss occurs under a 24-hour deductible, insurers simply deduct from the final settlement the loss amount that occurs during a 24-hour period, Mr. Rubel explained. But a 24-hour waiting period requires that the disruptive event take place for a continuous period of 24 hours.

Consider, for example, a chemical manufacturer that loses production because of a blown transformer but regains power after 23 hours.

That would not satisfy a 24-hour waiting-period deductible even if the company cannot resume production for days after regaining power, because it must first remove spoiled chemicals from production process, Mr. Rubel said.

Maximizing coverage for a business interruption claim can also depend on policyholders understanding the difference between expediting expenses and extra expenses, added Claudia A. Wolf, senior manager at Deloitte & Touche L.L.P. Management Solutions & Services in Chicago.

Extra expenses, or pure extra expenses, cover "above normal" costs incurred to continue operations, she said. They pay costs such as those required to maintain market share, complete a contract or maintain customer goodwill during an interruption.

Extra expenses coverage may be subject to sublimits, though. Knowing that can help policyholders decide how to structure a claim. Under certain circumstances, a policyholder might have a better chance of recovery by filing a claim against a property policy rather than tapping its extra expense sublimits or its overall business interruption limits, she said.

Such claims strategies are increasingly important as business interruption insurers continue to shrink the limits they make available under certain policies, Ms. Wolf said.

In contrast to extra expense, expediting or mitigation losses are expenses that a policyholder incurs to reduce the overall cost of a business interruption.

Policyholders have a duty to mitigate their losses under every legal jurisdiction in the United States, said Alan J. Martin, a policyholder attorney at Mayer Brown Rowe & Maw in Chicago.

In general, there are two rules determining whether policyholders will recover their expenditures to meet the duty to mitigate losses, Mr. Martin said. The first applies to situations where the insurer looks back on the policyholders' behavior and determines, for example, that they spent up to 99 cents for every dollar in business interruption expenses they saved, he said.

Of greater concern to policyholders is a situation where it is unclear whether their mitigation efforts will indeed result in reduced losses, Mr. Martin said.

Some jurisdictions will look to see whether the policyholder's conduct was reasonable at the time undertaken, he explained. If so, they have a right to recover their expenses even if the amount expended exceeded the amount saved, he said.

The session was moderated by Allyn C. Tatum, vp of claims and assistant risk manager at Tyson Foods Inc. in Springdale, Ariz. It was coordinated by Daniel S. Hughes, senior manager for Deloitte & Touche L.L.P.

RIMS 2003

Governance push creates new risk duties

By MICHAEL BRADFORD

CHICAGO—As attention to corporate governance grows, risk managers have a role in making sure their companies don't run afoul of such rules.

"Recent developments globally are forcing companies to rethink their concept and definition of corporate governance," said Niver Rubenyan, director-operational risk at Sun Life Assurance Co. of Canada in Toronto, which has operations in the United States. Scandals at such high-profile companies as Enron Corp. and the responsibilities for meeting new regulatory demands in the Sarbanes-Oxley Act have caused companies to pay much more attention to corporate governance, she noted.

Management has been forced to "recognize that corporate governance is a tool that can enhance the growth and sustainability of their companies," Ms. Rubenyan pointed out. But she added that the tool, if not used properly, "can be the demise of their organizations."

Speaking at the Risk & Insurance Management Society Inc.'s recent conference in Chicago, Ms. Rubenyan and two other panelists emphasized that risk managers must work to meet the corporate governance challenge.

Regulators are demanding "risk management be embedded in the system," and "nervous investors are demanding visible corporate governance improvements," according to Ms. Rubenyan. "Incidents which would have been ignored in the past are now newsworthy," and investors are making sure such incidents are addressed, she said.

Part of risk managers' role is to make sure that boards of directors are well informed, Ms. Rubenyan said. "Boards are feeling the increasing need to understand the mission-critical risks of their organizations," she said. "They are expected to monitor all the risks of their organizations, whether it's market, credit, operational, etc."

The "key issue for a sound risk management is to help them focus their attention to the appropriate risks and issues," said Ms. Rubenyan, who moderated the session.

Diane MacDiarmid, a partner with Mercer Delta Consulting Ltd. in Toronto and a panelist at the session, pointed out that boards that in the past were considered little more than a "ritualistic appendage" have become more independent and empowered. Risk managers can work with the boards to make them more effective, she said.

Ms. Rubenyan said that "the role of risk management is to provide the senior management and board of their company with the information...and tools they need to strengthen the governance process and help shape strategic decisions. It's not enough to give them data to work with; you have to give them information that they understand in terms that they understand, so that they can use it as a tool."

Risk managers, she said, need to help their management improve "the transparency of disclosure, so that investors and customers better understand the operations of the firm. Tell them not only what is required but also what they should know."

Ms. Rubenyan urged risk managers to "implement a program which gives a structured process for identifying the material risks to the organization and how to address those risks." Some companies, such as Sun Life, have a process in which the top 10 risks faced by an organization are identified and presented to senior management, Ms. Rubenyan noted.

U.K. risk managers also face the challenge of corporate governance regulations, and some are meeting it by making sure risk management is part of the process.

Ray Mattholie, group risk manager at the BT Group, telecommunications company based in London, pointed out that regulations call for "embedding risk management" as a way to cover corporate governance responsibilities but give little guidance on how to do so.

It was decided at BT that "there should be a risk culture," Mr. Mattholie pointed out. Risk management should even become a part of recruitment and promotion of personnel, and "there should be training of risk management within the organization," he added.

BT has a process similar to that at Sun Life that identifies the company's top risks, and Mr. Mattholie has established a risk review panel to help pinpoint risks and make recommendations that are included in the company's strategic planning. BT is moving toward an enterprise risk approach.

Ms. MacDiarmid pointed out that one way risk managers can help their companies is by teaching them how to respond to information that is presented by increasingly vocal shareholder activists.

Activists often are informed only by what they read in the press and may not have a full picture of the activities that have sparked their complaints, she said.

"And I would offer to you as risk managers that there is a role in thinking about the risks associated with that," she said.

Ms. MacDiarmid said risk managers could help determine how "appropriate information is both available to and digested by the board," as well as properly disseminated to the public.

RIMS 2003

Rolls Royce steers own property loss control effort

By ROBERTO CENICEROS

CHICAGO—Risk managers need to take control of their property programs, so that insurer underwriting decisions are not entirely based on their own bottom-line priorities.

That is the advice of Robert H. Osha, director of risk management-the Americas for Rolls Royce North America Inc. in Chantilly, Va.

A hardening insurance market led Rolls Royce to wrest control of its property program from its insurers and to implement loss control practices that meet its own—rather than its insurers'—interests.

A fortuitous event also helped Mr. Osha's risk management department gain the support of senior managers, Mr. Osha told attendees at a session during the Risk & Insurance Management Society's annual conference earlier this month.

More policyholders are taking control of their insurance and loss control programs away from their insurers, added Robert J. Smith Jr., senior vp of Marsh Risk & Insurance Services in Chicago.

Mr. Smith noted that policyholders have varying opinions on exactly what constitutes control and whether such decisions should be based on insurance buying conditions or business objectives.

"We recommend you focus on your business, and, if all the right things are done, that should help the insurance side," he advised.

Given insurance cycles, Mr. Smith said that basing decisions on insurance market shifts, rather than business objectives, disrupts a policyholder's loss control plans and business direction.

Rolls Royce didn't always have control over its property loss control programs.

In 1997, the company—which develops and manufactures power systems for civil aerospace, defense, marine and energy entities—signed a five-year property insurance contract. The insurers drove Rolls Royce's loss control program, determining which facilities to inspect and when to inspect them.

Rolls Royce didn't object, Mr. Osha explained. The coverage was inexpensive, and the company was busy with other business concerns. Meanwhile, insurers' property protection recommendations never got past site managers, who usually declined to implement them.

"Upper management was not seeing these recommendations at all," Mr. Osha said.

Then, in 2000, with a hardening insurance market pressing down and renewals just two years away, the risk management department determined it needed to take some control over its insurance program. The department found that the property protection recommendations insurers had been making were not based on Rolls Royce's operational needs.

"We realized that the insurers' recommendations were heavily slanted to protecting their dollars," Mr. Osha said. "So we went to the insurers and started asking them to focus on some other things in their (property) surveys, and they did not like that approach at all."

Around this time, the United Kingdom introduced new corporate governance guidelines requiring public companies to acknowledge all risks faced by their companies.

So, Rolls Royce formed a risk committee made up of senior-level executives. They asked what would happen to the company's business operations if certain production facilities were lost.

The answer "scared them to death," Mr. Osha said. It forced them to focus on property loss and business interruption exposures. It also presented Rolls Royce's risk managers with an opportunity to press for greater cooperation from senior business unit leaders.

"So, really, it was a fortuitous event, and we took full advantage of it to get the message out," Mr. Osha said.

Meanwhile, Rolls Royce has decided to see whether it can control the entire property underwriting survey process.

The company told its broker at renewal time that it would work only with property insurers that would allow Rolls Royce to conduct its own risk engineering. It also hired a third party to conduct its property surveys; the surveys are now based on Rolls Royce's business protection priorities, rather than on the insurers' interests.

"We still have to provide underwriting information insurers want, but the focus of surveys is not on them. It's on us," Mr. Osha said.

Taking greater control of its property insurance program has paid off, Mr. Osha said. During its last renewal, when the market was particularly hard, Rolls Royce was comfortable enough with its loss control program that it doubled the amount of risk held by its captive, he said.

Robert R. Frenson, senior vp risk control strategies, Marsh Risk Consulting in Morristown, N.J., coordinated the session.

Karen A. Kennedy, assistant risk manager, Prime Hospitality Corp. in Fairfield, N.J., was the moderator.

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RIMS 2003

Tips for winning respect for risk management efforts

By JOANNE WOJCIK

CHICAGO—During tough economic times, risk managers must be prepared to defend their positions to prevent them from being eliminated or outsourced.

"Taking full responsibility can build credibility," Allen Hyman, managing director at Marsh Inc. in Fort Lauderdale, Fla., said during a panel discussion at the Risk & Insurance Management Society conference in Chicago earlier this month.

"Sometimes, you've got to accept the blame to get credit," said Beau Rowell, director of insurance and risk finance at Nokia Corp./Nokia Inc. in Espoo, Finland, who moderated the panel.

Conversely, when the solutions offered by risk management are successful, "you've got to take credit," said Mr. Hyman. "Raise your profile."

It also pays to be "solution-oriented," suggested Millicent Workman, director of risk management at Mueller Industries Inc. in Memphis, Tenn. "They don't want you to merely be a naysayer. Your challenge is to help them, not throw up roadblocks."

"You also need to understand the team you're dealing with," Ms. Workman said, referring to upper management. "What are their hot buttons?"

It's essential that risk managers speak in a language that higher-level executives understand, Mr. Rowell concurred. "Make your presentation in a format that the person likes and in a way they'll understand," he said.

To do this effectively, risk managers must constantly be learning, he added. "Find areas you're not sure of and make yourself sure of them," either through research or by knowing whom to call in the organization to get answers, Mr. Rowell said.

Risk managers also can improve their job security by demonstrating to upper management how well the risk management strategy aligns with that of the overall organization.

"Know what gets management's interest. What quantifiable things is management looking at to determine whether a company is successful? Translate risk management into something that management will understand," said Mr. Hyman. "You need to translate insurance-ese into business-ese."

It's also essential that risk managers communicate regularly with upper management, so there are no surprises, he said.

When building a case against outsourcing, stress that "no one outside the organization would know the organization as well as an insider," Mr. Hyman suggested. Furthermore, he said, "the outsourced entity won't take as in-depth of an approach to researching your firm."

In addition, it pays for a risk manager to "stay in the loop" by finding out who else in the organization is involved in major projects and networking with those individuals, suggested Mr. Rowell.

> **'They don't want you to merely be a naysayer. Your challenge is to help them, not throw up roadblocks.'**
>
> *Millicent Workman*
> *Mueller Industries Inc.*

Ms. Workman went so far as to suggest that risk managers eavesdrop from time to time. "My office is right across from the CFO and general counsel, and I recommend developing your hearing," she said.

Being well organized and knowing when to delegate will make a risk manager's job easier and enable him or her to concentrate on areas where expertise is most needed, according to Ms. Workman. "Take a hard look at what you do and decide whether it's really necessary to touch everything. If you don't prioritize and delegate, you'll take on more than you can do well," she said.

Sometimes stepping away from the task at hand and looking at the larger picture can help, Ms. Workman added. "I have meetings with myself. It's so easy to get caught up in the day-to-day. Maybe I'll walk to a different room, away from the office, and spend some time thinking," she said.

Dan McGarvey, senior vp at Marsh in Charlotte, N.C., suggested doing "a desk audit" to evaluate how time is being allocated and to determine whether efforts need to be redirected.

Assembling an exceptionally competent staff is a positive reflection on a risk manager as well, the panel said.

"You can't rise and expand if those below you aren't rising, too," said Mr. McGarvey.

Furthermore, Mr. Hyman suggested, "if you become an organization for 'rising stars,' talented people will want to become part of your organization," which is a positive reflection on the risk management department.

INSURER TOPICS

A MONTHLY EDITORIAL SECTION SENT EXCLUSIVELY TO INSURERS AND REINSURERS

Employee Recruiting & Training

Talent pool broadens with soft job market

Grads interested in industry

By MEG FLETCHER

The uncertain economy is making campus recruiting a good way for insurance brokers and insurers to find candidates for full-time jobs and internships.

"The job market is very soft right now. It's a buyer's market," said John Foulds, a second vp with Stamford, Conn.-based General Reinsurance Corp. As primary overseer of staff recruiting for the company's operations in the United States, he expects to interview about 300 graduating seniors this year to hire about 15 facultative underwriters. The company employs about 4,000 people worldwide.

Brokers with increased staffing budgets are benefiting from cutbacks by other industries, which have "broadened the talent pool," said Robert Meder, director of marketing and client services for Hagedorn & Co., a New York-based middle-market broker. His firm recruits at New York schools to hire an average of one or two graduates annually.

"In previous years, a lot of students who would have looked at dotcoms or Wall Street are giving insurance a second look because of the availability of jobs," said Terry Hennen, director of training and communications at broker Arthur J. Gallagher & Co. in Itasca, Ill.

"We have had a tremendous increase in the number of internship applications, especially in the past two years," Gallagher's Mr. Hennen said. He expects to hire at least 50 students—especially sophomores or juniors—for summer intern sales jobs this year. Students who successfully complete one or more summer internships often are offered full-time employment after graduation, he said.

"There are more candidates, but we still battle for the cream of the crop," said Allison Keeton, director of college relations for Travelers Property Casualty Corp. in Hartford, Conn. The company typically seeks to hire recent graduates for its Hartford-based leadership programs, including financial management and auditing and its national program for underwriters and account executives providing claims services. In addition,

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Market: Graduates showing interest in insurance industry

Continued from previous page

Travelers hires about 100 college students for annual summer internships, some of whom then work part-time for the company throughout the school year.

Broker Willis Group Holdings Ltd. is also vying for talented prospects, said Nicole Seiffert, regional human resources manager for the northeastern United States. "Campus recruiting for Willis is an extremely important program," Ms. Seiffert said, noting that she expects to hire applicants numbering "in the double digits."

In New York, generally, the "insurance industry is seeing a skills gap," as some people have chosen to leave the city, Ms. Seiffert said.

Some programs, such as leadership programs offered by Endurance Specialty Holdings Ltd. and Travelers, prefer students that have majored in subjects such as math that give them a good foundation in analytical and quantitative thinking.

Others, such as those at Gallagher and Gen Re, are more open to hiring undergraduates who have majored in a variety of disciplines, including biology and humanities.

"The key is the applicant's personality and potential for development, not specific insurance knowledge," said Gallagher's Mr. Hennen. "We'll teach them what they need to know."

"Our goal is to hire very bright, talented people with communication skills who can then deal effectively with clients," Gen Re's Mr. Foulds said.

Many observers say the process of recruiting and hiring candidates for insurance-related jobs has become easier because of the increased use of Internet tools by college placement offices, applicants and recruiters.

For example, a company recruiter might post an opening on a college recruiting Web site, and interested students could send their resumes to college placement officials. The resumes would then be batched and sent to the recruiter, who would use e-mail to schedule interviews.

The Internet "has really simplified communications," Mr. Foulds said. "It has tightened up the timeliness and made it a much more seamless process."

Many brokers and insurers also receive many applications from their own companies' Web sites, they say.

"The hard problem is wading through the large number of unqualified applicants," Mr. Foulds said.

Meanwhile, companies are using other approaches to attract new talent to the insurance industry.

Kenneth J. LeStrange, chief executive officer of Bermuda-based Endurance Specialty, previously relied on personal referrals from college professors and others to find job candidates for his company, which was established in December of 2001. Now that his staff has grown to 138 employees in three offices, he plans to begin recruiting on campus to find three to five new graduates to hire, he said.

The Independent Insurance Agents & Brokers of America is taking a different approach to

'Our goal is to hire very bright, talented people with communication skills who can then deal effectively with clients.'

John Foulds
General Reinsurance Corp.

developing future insurance industry talent through a for-credit course offered in 235 high schools and community colleges in 35 states, said Jim Armitage, chairman of the board of InVEST, which stands for Insurance Vocational Education Student Training.

The course teaches students by having them operate a mock auto insurance agency, but the scope of the program should be expanded by the fall to include commercial lines and, ultimately, home and life insurance, said Mr. Armitage, vp of the Arroyo Insurance Services Inc. in South Pasadena, Calif.

"We are getting calls all the time" from producers looking to hire course graduates, especially for part-time jobs, Mr. Armitage said. In addition, the organization offers scholarships and internships, he said.

Meanwhile, John K. Rauschenberger, a partner at OPTIS Partners L.L.C. in Chicago who specializes in helping agencies recruit and develop new producers, said that he has a bias toward recruiting new producers between the ages of 28 and 45.

Mr. Rauschenberger said an agency can be more successful by hiring an individual who has had more life experiences than a recent college graduate.

For continuing education, in-house sessions stand out

Onsite programs offer more control and greater candor

By MICHAEL PRINCE

When Aon Corp.'s Paul Angeli walked into the conference room at his office in New York for a continuing education class, he saw only familiar faces.

More importantly, he did not see any brokers from rival firms in the room. While Mr. Angeli said he has nothing personal against his competitors, he feels their presence would have hampered him and his colleagues from freely discussing the topic of brokers' errors and omissions issues in the class.

Because this was an in-house education class, filled only with Aon personnel, the participants could engage in a more candid discussion, said Mr. Angeli, a director at Aon in New York. That comfort level made the daylong class more productive and informative, he said.

"We all can be very honest," Mr. Angeli said. "You're hesitant to talk about real situations" when brokers from other firms are present, he added.

The give and take among students and the instructor turned out to be perhaps the most valuable part of that class, Mr. Angeli recalled. But if brokers from competing organizations had been present, this freewheeling discussion would not have been possible, he said.

"It's much more valuable doing it in-house," he said.

Greater comfort and more in-depth learning is one of many benefits of running in-house continuing education programs, brokers and insurers say.

"There is a lot of continuing education out in the world that is not very good," said Denis Finnegan, assistant vp of corporate education for The Hartford Financial Services Group Inc. in Hartford, Conn.

Two years ago, Hartford launched Corporate University, an intranet-based hub that encompasses all of the company's various training programs. With the online service, employees can log on and search for the learning they need, whether it's live, virtual or even a book on the topic.

'There is a lot of continuing education out in the world that is not very good.'

Denis Finnegan
The Hartford
Financial Services Group Inc.

Part of the program includes a growing use of online training. The online classes have the big advantage of allowing people to take them when they want, Mr. Finnegan said. "It's to the point. It's quick. They get the learning they need," he said.

The key to any training program is using the proper medium. For some, it's a live classroom, where the give and take enhances the education. For others, online learning is best for the convenience, he said.

Chubb & Son Inc. is still striving to find the right blend of online and live training for its in-house continuing education, said Frances Barfoot, vp of learning services for the insurer in Whitehouse Station, N.J. Each medium offers its advantages, she said.

Online training can deliver new information faster to larger numbers of employees, she noted. Live training is better suited to really develop certain skills, as the group setting allows for more interactive learning, she said.

"There is still a viable need to bring people together in a group," Ms. Barfoot said.

Online classes are growing more common as part of Chubb & Son's program. Last year, about 22% of the company's 74 programs were offered online. The number will rise to about 34% this year, she said.

Sometimes, Chubb & Son combines both. For example, to teach employees about a newly emerging topic, the insurer enrolled a group of employees in an online training program. That was followed by a live classroom session to further delve into the topic. With this blended approach, the online portion greatly shortens the amount of time needed for the live class work, Ms. Barfoot explained. "That is the ideal," she said.

ACE INA Holdings Inc. is in the initial phases of a pilot program to evaluate the effectiveness of online education, said David Wisniewski, senior vp of learning and development in Philadelphia.

This month wraps up a four-month program where 25 employees in New York have sampled the online offerings of various outside continuing education vendors. The workers have taken some online courses and provided feedback to ACE INA on their value and whether the courses have made them more knowledgeable in those fields, Mr. Wisniewski said.

The Philadelphia-based insurer's goal is to develop a full-fledged online training program, he said. Having online training is especially important for a far-flung organization like its parent, Hamilton, Bermuda-based ACE Ltd., he said, as it's hard to conduct classroom sessions in the nearly 50 countries in which the company operates.

"It's very hard to do face to face education in every office," he said.

Some insurers also benefit from less formal education programs. At Travelers Property Casualty Corp., much of the education takes place in informal reviews of underwriting situations by senior underwriters. These reviews provide a great opportunity for more experienced underwriters to teach younger ones.

"This enhances our formal training," said Karen Marchetti, vp of human resources for commercial lines at Travelers Property Casualty Corp. in Hartford.

In-house continuing education classes let the insurer or broker control the course content and decide who attends, said Janet Pane, compliance officer for Willis Risk Solutions North America in New York. Each Willis office has its own in-house program, offering both half-day and full-day classes.

Because Willis hosts the sessions, attendees can still get some work done during the day.

"At a break, the guys can jump back to their offices," Ms. Pane said.

In addition, onsite classes create a better learning environment, she said.

The class size is smaller than they are for most outside classes, which are often held in large lecture halls. Furthermore, the brokerage has total control over the quality of the instructor and the written materials, she said.

With smaller-sized classes, Willis can create an environment in which attendees can truly learn, Ms. Pane said. Willis' philosophy is to use the classes to enhance its brokers' knowledge, not simply to fulfill state-mandated continuing education requirements, she said.

In addition, the more intimate settings generate robust discussions of the issues.

"There is a more open forum when it's an in-house session," she said.

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INSURER TOPICS

Online education specialist finds his niche in insurance

CE University's industry-related courses designed to aid continuing education efforts

Mr. Gersony

With a doctorate in the management of technology and a university teaching background, it's only logical that Neal Gersony would end up developing an online continuing education company. Why he decided to target the insurance industry, however, is another story.

As Mr. Gersony tells it, it was a combination of a new law in Connecticut requiring continuing education for insurance professionals, and a dinner party he attended with his wife.

"My wife worked for a bank, and it had just bought an insurance operation. I was at one of their dinners and told them that I had this new way of delivering continuing education," Mr. Gersony recalled. "They practically got down on their hands and knees and said, 'Do it for us, because we've got this new law and we don't know where to get our credits from.'"

CE University Inc. had found its niche.

Created by the 2000 merger of Mr. Gersony's Online Learning International L.L.C. and the Graduate School Online Inc., a similar learning management system created at Yale University for the medical industry, CEU.com continues to grow at a quick pace.

"From the time that I started in 1998 until 2000, I had come up with a format that the Connecticut Department of Insurance accepted as a format for continuing ed, and by 2000 we were up to five courses and we were approved in four states," Mr. Gersony said. "In the three years since, we've moved into an office in downtown New Haven, we have 18 approved courses and another 12 in the pipeline, and we've gone from four states to 48 states. We're still waiting on the two last ones and hope to get that shortly," he said.

Mr. Gersony, chairman and chief operating officer of CEU.com, recently spoke with Senior Editor Sally Roberts about the company and the growth in online continuing education in the insurance industry.

Q: When you began this venture, who did you think would take your courses?

A: It was kind of an unknown. We expected younger agents, who are more computer oriented, to take our courses. We expected more of a rural population rather than a population in an area with more classroom courses available. And for people who were extremely busy, we thought this would be a good way to go.

Q: What was the result?

A: It seems to be a lot of people who are very close to their deadline. We get a lot of calls from people who say, 'I hear that you're the people to go to if our (CE) deadline is tomorrow.' And they're right; we can get them signed up, get the courses taken and get the courses out all in the same day.

So that ended up being a large market for us.

Q: Is it just independent agents that you're targeting?

A: We're very oriented to the independent agent. The independent agent can go onto our site, look at all the courses, look at

Continued on next page

INSURER TOPICS

Continued from previous page

our delivery system without giving us any information and, if they like it, they can register and pay for the course online and go right into our system, which is very self-explanatory.

While we started off being very easy to use for the independent agent or someone in a rural location who could not get the courses, we're now integrating into learning management systems.

Q: What are learning management systems?

A: It's an elaborate piece of software purchased by an insurance company or financial services company that allows their employees and agents to log in and take a variety of courses. This software also allows for third-party vendors, like us, to plug in, so agents can come in and take our courses and the insurer's learning management system keeps track of it.

Q: Have you integrated into any insurer's LMS?

A: We're in the process. We have one major customer that is using a particular LMS, and then once we're integrated into that one, there are a number of others who are interested in using us as well.

Q: What are the benefits of taking a course at CEU.com?

A: There's an efficiency in our courses, where you can really focus on information that you may not be particularly strong in. And if you go through areas of the course where you are highly knowledgeable, you can go through that pretty quickly.

And it's in a fun, easy-to-use way with lots of color, graphics and sound, so you don't have to pour over lots of books and text material.

Q: How has your background in teaching at a university helped?

A: Coming out of higher education myself, I feel like I have a pretty good understanding of how people learn. And the way they learn is that they learn in different ways. So we offer our courses—we have a certain content material—but we offer it in different ways, like a text version they can print out and take with them or they can listen to it. We have sound for all our courses and slides. And then we have graphic slides, which summarize the information for each topic.

Part of the theory behind our system was to be a "pull" theory of education, where you go into our system and you don't get the whole kitchen sink thrown at you. You go through and pull out what is important for you. This allows you to go through the course faster and have better retention and understanding of particular areas so you're not wasting time on stuff that you've been doing for 20 years.

It's a more efficient use of your time.

Q: Do you think online continuing education will eventually replace classroom learning?

A: There's always going to be a place for classroom learning, because there are certain things you can do in the classroom that you can't do online.

Q: Such as?

A: Sometimes people like a break from their work and look forward to being in a different environment where they can sit quietly and get their material. Or they may want to fly off to Bermuda for a conference to get their credits from a conference. And then there's also networking. Some people go to these things to network.

Q: How does online learning compare to classroom learning in terms of market share and growth?

A: It's extremely fast growing, but only 3% to 4% of the market is done online right now. We think it will be on par with classroom learning, about 50/50, in four to five years. So it's going to be moving pretty rapidly. And I think five to 10 years after that, it will be reversed, where online learning will be the dominant way to do it.

Q: Is changing a person's mindset the biggest challenge for CEU.com?

A: The hardest thing to do is to get people to do things in a different way. I think it's mostly momentum. This is how they've always done it. They've got their classroom they drive a half-hour to, and they've been doing it that way for the last 10 to 15 years and they know it works and they are comfortable with that. So, it's a matter of slowly chipping away at that and getting a few people to try us. So as word of mouth percolates out there and people try us once, we think it's very unlikely they are going to go back to the classroom.

Q: How many insurance professionals have taken a course on CEU.com?

A: We're getting close to the 2,000 mark.

Q: What's in the future for CEU.com?

A: We keep making our courses better. We've upgraded...to a flash system so now the connection speed makes no difference whether you're on a high-speed modem or a 56K modem, you can access our courses just as easily. Now we're looking to do other things.

Q: Like what?

A: Features like video and three-dimensional graphics and more interactive things, so people can click and drag objects on the screen so we can illustrate points by having them do various exercises.

INSURER TOPICS

Roles changing for insurer finance, risk execs

CFOs, CROs assuming broad strategic, analytical duties

By Dylan Roberts

IT Perspective

Over the past decade, the finance and risk functions of insurance companies have come under tremendous pressure caused by the increasing complexity of the institutions themselves, a more difficult business environment and rapidly changing financial technologies.

The result has been rapid evolution of finance and risk roles.

A recent survey by Oliver, Wyman & Co. and Korn/Ferry International involving the chief financial officers and chief risk officers of more than 40 leading financial institutions in North America and Europe set out to explore the nature of this evolution and the principal issues it raises.

One of the key findings was that chief financial and chief risk officers at insurance companies are taking on responsibilities well beyond traditional, "pure" measurement and reporting roles.

Financial and management reporting have traditionally been central to most CFOs' roles. Survey results showed, however, that at a majority of the firms, CFOs are assuming a broader role, in many cases taking on responsibilities that might once have been reserved for the chief executive officer or another member of the senior management team.

Almost 90% of CFOs reported that they are responsible for strategic planning, 70% of CFOs said they are responsible for investor relations, and three-quarters reported responsibility for corporate development and mergers and acquisitions. In addition, many CFOs indicated that they are heavily focused on investment management, seeking both to maximize yields and, in many cases, to manage out of troubled positions.

The general trend among insurance CROs, meanwhile, is toward focusing on enterprisewide risk analysis, a role held by more than half of all respondents. This development represents a significant departure from traditional transaction-level risk management.

These new responsibilities are positioning CFOs and CROs in the insurance industry as "business partners" to the line—or front office business units—with the aim of creating shareholder value. "What are we all about?" asked the CFO of a large insurance company. "Are we about being the fiscal traffic cops, or are we about partnering with the businesses to solve business problems? We want to be the latter."

At the same time, CFOs and CROs are striving to ensure that their institutions' risk and financial controls remain robust. In the current environment, there is almost no tolerance for error—particularly when CFOs must personally certify financial reports.

These new roles are creating new human capital demands. Finance departments once typically drew on individuals with accounting backgrounds; now, as the participants report, they are increasingly looking for individuals

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Roles: Risk, finance executives see responsibilities changing

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with finance backgrounds and even line experience.

Partly as a consequence of this development, the "next-step" opportunities available to CFOs and CROs are changing radically. Several CROs felt that line opportunities are becoming less likely. At the same time, however, CFOs and CROs now have excellent prospects for senior management positions, including the CEO position.

While "modern" CFOs and CROs at insurance companies can create tremendous value for their institutions, the survey also revealed that today's CFOs and CROs face a handful of major challenges along the way:

- Senior finance and risk professionals must find a way to balance their sometimes conflicting business and fiduciary responsibilities, and to demonstrate that their role as "business partners" to the line is not undermining the objectivity and robustness of financial controls.
- CFOs and CROs cannot succeed as technical experts alone; leadership and general management skills are increasingly required for their expanding roles.
- At insurance companies that are basically holding companies for legally separate life/health and property/casualty companies, many CFOs and CROs are struggling to assert a stronger role for the corporate center and to centralize functions traditionally housed in the operating companies.
- Economic performance measures are relatively new to the insurance industry and have not been thoroughly integrated into internal education efforts.

New responsibilities are positioning CFOs and CROs in the insurance industry as 'business partners' to the line—or front office business units—with the aim of creating shareholder value.

At many firms, strategic planning is still limited to the business profit and loss, or, at worst, is just another name for budgeting. To plan and manage the creation of true shareholder value, strategic planning must evolve into a process that integrates all major aspects of business value: P&L, risk and capital planning.

In conclusion, CFOs and CROs at insurance companies are increasingly being positioned as senior strategic advisers within their organizations. This evolution is creating tremendous pressures on their traditional fiduciary roles and on the "human capital" traits required for senior risk and finance professionals to succeed.

But, on the other hand, this change is also creating extraordinary opportunities to broaden individual career horizons, to influence the firm's strategic direction and, ultimately, to drive the creation of shareholder value more directly than ever before.

Dylan Roberts is a director of Mercer Oliver Wyman. He joined the firm in 1989 and is a senior member of the firm's finance and risk and corporate strategy practices.

IT Briefs

NAMIC to present Franklin awards

WASHINGTON—The National Assn. of Mutual Insurance Cos. will present its Benjamin Franklin Public Policy Award to 240 members of the 107th Congress.

Eligibility for the award is based on roll call votes taken during the previous Congress. The award is presented to those senators and representatives who supported NAMIC's position on issues such as ergonomics, a health care patients' bill of rights, insurer access to criminal records, class-action reform and terrorism risk insurance.

NAMIC members will present the award to recipients during their annual lobbying trip to Washington.

NAMIC created the award in honor of Benjamin Franklin and his commitment to public service. In 1752, Mr. Franklin, with his fellow Philadelphia volunteer firemen, founded America's first mutual insurance company, The Philadelphia Contributionship for the Insurance of Houses from Loss by Fire. With this public policy award, NAMIC pays tribute to the 250th anniversary of the Contributionship and the ongoing commitment of Congress to the insurance industry.

InsuranceNoodle to offer products from SAFECO

CHICAGO—InsuranceNoodle Inc. has signed an agreement with SAFECO Insurance Corp. to distribute SAFECO's small commercial insurance products to more than 3,600 independent commercial insurance agencies using the InsuranceNoodle platform.

Using InsuranceNoodle, independent insurance agencies can provide clients with access to more than 1,200 types of businesses nationwide. The company's Web-based technology screens risks, collects all underwriting information required by top-line carriers and allows agencies to view proposals and bind quotes online within a few business days.

Chicago-based InsuranceNoodle's current line of commercial insurance products includes businessowners policies, commercial auto, umbrella insurance, workers compensation, employment practices liability insurance, professional liability and surety bonds.

Separately, InsuranceNoodle announced recently that professional liability insurance products from Philadelphia Insurance Cos. are now available to insurance agencies using the e-broker's online platform to submit quote requests, review proposals, make purchases and service small commercial accounts.

Under the agreement, InsuranceNoodle's agency partners will have access to Philadelphia Insurance Cos.' product portfolio in all states except Alaska, Louisiana and Montana. In addition to miscellaneous errors and omissions, Philadelphia Insurance Cos. offers professional liability insurance to small accounting and law firms nationwide. The company also offers commercial multiperil products to nonprofits and schools.

Docucorp to distribute ISO P/C policy forms

DALLAS—Docucorp International Inc. and the Insurance Services Office Inc. have entered into an agreement allowing Docucorp to distribute all ISO property/casualty policy forms.

Providing application software, application service provider hosting and professional consulting services, Dallas-based Docucorp works with client companies on acquiring, managing and presenting enterprise information.

The company has a base of more than 1,200 customers, including many of the largest insurance, utility and financial services organizations.

Fox Paine to buy majority of UNG

BALA CYNWYD, Pa.—The United National Group of insurance companies, a leading provider of specialty and surplus lines property/casualty insurance, has agreed to sell controlling interest in UNG to Fox Paine Capital Fund II L.P., an investment fund managed by Fox Paine & Co. L.L.C., and certain other funds under common control with Fox Paine Fund II.

Under the deal, the financial terms of which were not disclosed, UNG's present ownership would maintain a minority interest.

In conjunction with this transaction, Fox Paine intends to make a substantial capital contribution to position UNG to take advantage of the strengthening market conditions in the U.S. property/casualty insurance industry.

Bala Cynwyd, Pa.-based UNG is composed primarily of four operating insurance companies: United National Insurance Co., Diamond State Insurance Co., United National Specialty Insurance Co. and United National Casualty Insurance Co.

The transaction is subject to customary closing conditions, including certain regulatory approvals.

Insurer Topics

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RIMS 2003

Higher retentions don't always result in lower costs

By SALLY ROBERTS

CHICAGO—With skyrocketing rates for commercial property/casualty insurance, risk managers' thoughts often turn to boosting self-insured retentions to save money on premiums.

Although this seems logical, retaining more or less risk is not just a qualitative decision, according to two financial experts. Rather, it also is an economic decision that should be based on an objective, financially based analysis.

"Conventional wisdom says that higher retentions result in lower costs; higher retentions improve loss control; therefore, large retentions are good and buying risk transfer is bad," said Daniel J. Osterbaan, a vp with Marsh USA Inc. in Detroit.

"There are problems with this approach," Mr. Osterbaan said. It not only ignores market conditions at a given time, but also assumes that the risk transfer cost avoided results in lower costs. "That may be true… but we don't know it's true," he said.

Whether risk managers should retain more risk depends on the nature of the risk and what additional losses the company can bear, Mr. Osterbaan said. Risk managers need to figure out how much premium they would save, how much the retained expected losses would cost and how much volatility would be added to the equation.

During a session at the Risk & Insurance Management Society Inc.'s annual conference and exhibition in Chicago, Mr. Osterbaan explained how not to approach retention management.

"Historically, risk managers and financial managers have taken nonanalytical approaches" to retention management, he said.

One common reason risk managers decide to increase retention levels is that premiums are too high. In these cases, the premium expense is either not in the budget or the quote is too high for the perceived benefit, he said.

While there may be an immediate cost and cash flow savings associated with increasing a company's retention, there often is no objective consideration of the risk and reward, Mr. Osterbaan said. Not only are unanticipated claims within the retention not budgeted for, but also consideration is rarely given to whether stakeholders will consider that premiums were too high after a loss occurs, he said.

In other cases, risk managers look to their peers when making retention decisions, he said. While this provides an easy fallback, it assumes peers are doing the right thing and are efficient, Mr. Osterbaan said.

Mr. Osterbaan noted that insurers sometimes compel risk managers to increase retention levels. While this may be a good decision at the time, it is externally controlled, does not measure the risk reward and may not be the least costly option for the company, he said.

In some cases, retention levels are based on "management feel," he said. While this approach leaves risk managers off the hook because the retention is increased through a directive, the decision is based on reaction rather than objective analysis.

Scott M. Sanderson, senior vp-Advanced Risk Solutions for Marsh USA in Minneapolis, suggested a better way for risk managers to make retention decisions.

"The easiest way to deal with a rational decision is to turn it into a financial decision," Mr. Sanderson said. Specifically, he told risk managers to look at retaining risk as an investment decision.

With risk retention, a corporation's capital is contingently exposed, Mr. Sanderson explained. If losses occur beyond expectation, income and net worth both decrease, he said, and when income and net worth decrease, ongoing interest expenses are affected. At the same time, he said, by retaining risk, an immediate reward of premium savings is achieved.

The result is much like an equity put option decision, he said. With put options, individuals buy the right to sell a specific number of shares at a specified price by a certain future date, he said. Individuals basically are buying protection that the stock price won't drop below a specified price, he said.

"That feels a little like an insurance decision when you think about it," he said. "If the stock price doesn't drop, you've got no return, but if it does drop, you've got protection, just like an insurance policy," he said. In other words, if there is no loss, the premium is lost, and if there is a loss, the buyer is made whole, Mr. Sanderson said.

At the same time, an option seller exposes its capital to gain the premium in the same way as one who retains risk avoids paying the premium, he said.

Marian O. Ivan, vp-director of risk management with Real Estate Investment Managers in San Francisco, moderated the session.

RIMS 2003

Attention to fiduciary liability exposures growing

By RODD ZOLKOS

CHICAGO—With a weak economy, a recent wave of corporate scandals and increased litigation related to employee retirement plans, fiduciary liability issues have become an increasingly significant concern for retirement plan sponsors.

And, as those concerns increase, fiduciary liability insurance has gone from being a "sleeper" coverage for many employers to a more significant part of their insurance program, according to a panel discussing fiduciary liability issues earlier this month at the Risk & Insurance Management Society Inc.'s annual conference in Chicago.

"From an underwriter's perspective, the environment is definitely an evolving one at this point," said Laurie Banez Lopes, senior vp-field operations, financial insurance solutions at AXIS U.S. Insurance in Berkeley Heights, N.J.

Employee stock ownership plans have always concerned underwriters, Ms. Lopes said. But the issue of investing in company securities has come to the fore lately because of cases where employees of companies involved in accounting scandals have seen the value of their plans plummet.

For an underwriter looking at a company with an ESOP plan, a particularly important question is whether plan restrictions on participants' ability to sell their employer's stock discriminate between management and nonmanagement employees, Ms. Lopes said.

"The other issue, which has been an ever-larger issue in the past, has been the unfunded or underfunded liabilities in the defined benefit plans," Ms. Lopes said. "Quite frankly, the underfunded plan is not something that we're surprised to see as an underwriter today."

Another panelist, Ann M. Longmore, senior vp and leader of the global financial/executive risks practice at Willis of New York Inc. in New York, outlined several factors driving the increase in fiduciary liability litigation.

"Class actions are really what the plaintiffs bar is aiming for," Ms. Longmore said. "The plaintiffs bar has sort of wakened to these opportunities and these situations."

Some fiduciary liability cases are particularly troublesome, she said, especially those involving early retirees suing after the value of their plans drop. "The early retirees have really good cases," Ms. Longmore said. "You gave them a special written promise as to what they were going to get if they took that early retirement."

In terms of the value of fiduciary liability insurance, "the biggest benefit you get out of a fiduciary policy is the defense costs," Ms. Longmore said. "Usually, there's no more money left after the defense of the claim because of inadequate insurance."

'The biggest benefit you get out of a fiduciary policy is the defense costs.'

Ann M. Longmore
Willis of New York Inc.

Ms. Longmore noted that while the fiduciary policy does not pay benefits owed employees, "assets lost to the plan is not the same as benefits." And, "interest on benefits due is not benefits due," she said, so, if the company has adequate coverage, those costs might be paid by the insurance.

"I would also suggest that you consider your fiduciary liability coverage with your GL," Ms. Longmore said, suggesting that there might be ways of getting benefits owed plaintiffs covered under the employer's liability extension in the general liability policy.

The speakers offered several suggestions for companies looking to reduce exposures and make themselves more attractive to fiduciary liability insurance underwriters.

"The marketplace right now is definitely very unstable," Ms. Lopes said. "The pricing, the premium, is definitely on the rise," due to the increase in both the frequency and severity of losses in fiduciary liability cases, she said. "It follows the same trend, just not at the same level, as D&O," she said.

But, she said, "we still see carriers putting up $25 million in capacity, depending on the types of plans."

"When you're starting out in the renewal process or your submission, (do so) far in advance," Ms. Lopes said. And, she added, "communication is extremely key at this point."

Ms. Longmore also had several suggestions.

"I actually recommend (Employee Retirement Income Security Act) compliance audits," she said. An attorney should conduct such audits, she said, so the findings will be subject to attorney-client protections. Also, when companies are having financial problems, it can help to bring in independent fiduciaries to make plan decisions.

Mary C. Gardner, director, risk management at Sears, Roebuck & Co. in Hoffman Estates, Ill., moderated the session.

RIMS 2003

Written plan, practice vital for disaster preparation

By MICHAEL PRINCE

CHICAGO—Employers need to adopt written emergency plans and take them out for a test ride on occasion, said a speaker at the Risk & Insurance Management Society Inc.'s Annual Conference & Exhibition, held earlier this month in Chicago.

A comprehensive plan details what an organization needs to establish before an emergency, how to react during an emergency, and how to recover from an emergency, said John Sullivan, managing partner at Loss Control Innovations in Richmond, Va.

At the outset, an organization should determine what risks it faces and rank them in the order in which they are most likely to occur.

Beware of omitting obvious exposures, Mr. Sullivan warned. Risks such as power outages or civil disorder are real and can have devastating consequences on companies. "They have a far larger impact on business than ever before," he said.

Once identified, steps can be taken to eliminate the risks, if possible. For example, a storage room jammed with inflammable material can be cleaned up, Mr. Sullivan said.

For those risks that can't be eliminated, such as natural disasters, an emergency plan should be drafted that directs everyone how to respond in the event of a disaster. "It will tell employees what you want them to do in the event of an emergency," Mr. Sullivan said.

While it's tempting to copy another organization's plan, Mr. Sullivan discourages such an approach. Each organization is unique and requires its own customized plan, he said.

"Don't copy someone else's plan and expect it to work for you. It won't," he said.

The written plan should be distributed to every employee and posted by elevators, emergency telephones and fire alarms, he said. In it, the first steps to be taken in the event of an emergency should be clearly laid out, broken down by type of emergency. For example, one page should deal with how to respond to a fire, while another should outline how to react to a hurricane, he said.

Some uncommon procedures should also be covered in the plan, he said. For example, often a factory can't be safely evacuated with the equipment still operating. An emergency plan, therefore, must detail how to safely shut down the equipment before evacuation, Mr. Sullivan said.

But evacuation is not always the appropriate response. A plan needs to spell out when to evacuate the premises, such as during a fire, and when to stay put, such as during a tornado or chemical terrorist attack, he said. In addition, a premise's alarm system should sound differently for each of the various disasters so employees can immediately recognize what type of emergency they must respond to.

The plan should also contain a list of whom to contact. This list should include not just the home telephone numbers of key personnel but their addresses and cell phone numbers. Addresses are critical if an individual can't be reached by phone and someone must go to his or her home to establish contact, Mr. Sullivan said.

A plan should also detail to employees how they should respond. Mr. Sullivan recommends that companies adopt what he referred to as "the RED approach"—React, Evaluate, Decide. With this approach, workers are told that when they first hear an alarm they are to react immediately; they should not assume it's a drill. Next, workers should evaluate the situation by looking at what is going on—whether, for example, smoke or excessive heat is present or there has been an explosion. Workers then should decide on a course of action. This could include evacuating the premises or staying put and trying to defend themselves in a safe room until help arrives, he said.

No plan, no matter how thoroughly drafted, will work unless it has been practiced, Mr. Sullivan said. He recommends that emergency drills take place every three months. Through such exercises, he said, employees gain valuable experience in addressing potential emergencies, allowing them to respond swiftly should a real disaster strike.

But Mr. Sullivan noted that no plan can get off the drawing board without the approval of upper management. Lack of top-level support is the most common reason that emergency plans don't get implemented, he said.

The session was moderated by Noreen Klink, manager of risk and insurance at Clark Retail Enterprises Inc. in Oak Brook, Ill.

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RIMS 2003

Studying disasters can aid response plans

By SARAH VEYSEY

CHICAGO—Risk managers must ensure that crisis management plans are thoroughly tested and communicated to be effective after a catastrophe, a panel of experts advises.

Citing golfer Gary Player's famous line, "the more I practice, the luckier I get," Mark Harman, regional managing director for Continental Europe, the Mideast and Africa for Crawford & Co., said that crisis management and recovery plans need to be read, updated and regularly tested.

"There is a vast difference between companies in terms of the quality of their disaster recovery planning," Mr. Harman said. Risk managers must ensure that their organizations put an emphasis on learning about disaster recovery and taking lessons away from actual events.

Mr. Harman said that, in his opinion, "post mortems" after incidents should be mandatory. "In my experience, this doesn't happen nearly enough," he said.

Risk managers attending the session at the Risk & Insurance Management Society's annual conference earlier this month were given a first-hand case study of how to deal with a catastrophic event by a risk manager whose company was affected by an earthquake in Turkey.

The Aug. 17, 1999, earthquake forced the risk management team at tire manufacturer Pirelli to put their crisis management skills to use and prove their worth to both employees and the local community, according to Jorge Luzzi, director of risk management for the Americas, the Far East and Australia and deputy group risk manager for Pirelli S.A. in Sao Paulo, Brazil.

Pirelli operates a plant at Izmit, the epicenter of the magnitude 7.4 earthquake, said Mr. Luzzi.

The earthquake caused some $20 billion in losses in Turkey, though only $1 billion of this total was insured losses, Mr. Luzzi noted.

Some 20,000 people died in the earthquake and many more were injured, Mr. Luzzi said. Two employees were killed at the Pirelli plant, while 11 others died in their homes and many more were injured, affected by family bereavements, made homeless or all three, he noted. "It was a humanitarian catastrophe for our company," he said.

Mr. Luzzi said that Pirelli provided food, water and shelter for employees; about 50% of the workforce lived in tents at the plant for several days after the earthquake.

"Our philosophy was that part of our job is to save lives, save jobs and help society recover," he said.

The Pirelli risk management team traveled to the site as quickly as possible, Mr. Luzzi said. By Aug. 19, the risk managers had assessed the damage and set up a first crisis management plan, and cranes had already started to remove some of the rubble, he said.

And on Sept. 9, 1999, the first tire to be made at the plant since the earthquake rolled off the production line.

The Pirelli risk management team discovered that communications and connections were vital in their disaster recovery plan, Mr. Luzzi said. It was important to keep employees informed about what was going on, he noted. And coordination with local authorities also proved necessary, he said.

A company hit by a crisis faces two challenging tasks, said Mr. Luzzi—concentrating on getting back to business, and handling big and complicated losses.

"The actions of the policyholder after the loss can have a significant effect," he said. A disaster recovery plan should have a checklist of steps for risk managers to follow that includes notification of insurers, verification of policy limits, reinstatement of coverage needed and loss mitigation efforts, among other things, he said.

Then risk managers should designate their own experts to handle the loss and build up a team with one official spokesperson, he said.

In assessing possible business interruption losses, another expert must be designated and "forensic accounting" employed, Mr. Luzzi said. "Don't leave your analysis to past records; consider foreseen trends."

Mr. Luzzi advised risk managers to try to document all activities they are undertaking.

Risk managers should also try to negotiate advance payments from their insurers in order to have ready cash to mitigate losses and maybe reduce the amount of the final claim, he suggested.

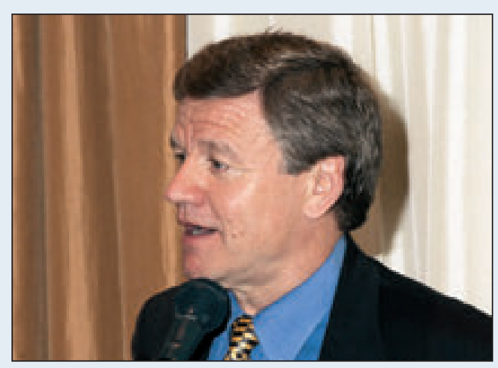
Mr. Harman warned, though, that in some organizations there is a "financial" barrier to setting up good disaster management plans. "It is difficult getting budget dollars for 'what-ifs.' Left alone, operations managers will tend to underinvest—why pay for something that might never happen?" he said. So, risk managers must try to push the addition of such plans into their organizations' budgets, he added.

"And with more self-retention of risk, it is more important to learn about and monitor uninsured risks," he said.

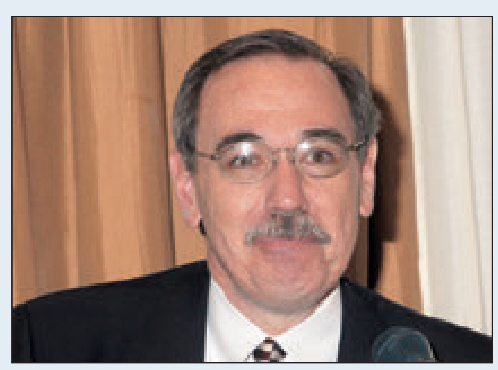
Marlene R. Wilson, vp corporate insurance department, Bank of America Corp. in Charlotte, N.C., moderated the session.

Roland Oppinger, director of risk management services at Swiss Re New Markets, also spoke at the session, which was coordinated by Maurizio Castelli, group risk manager at Pirelli S.p.A.

Risk managers honored at Chicago luncheon



At left, 2003 Risk Management Honor Roll member Roger L. Andrews, director of risk management for E.D. Bullard Co. of Cynthiana, Ky.



2003 Risk Management Honor Roll member William G. Chapin, director of facilities and risk management for the Diocese of Rockville Centre in Rockville Centre, N.Y.

PHOTOS: MICHAEL MARCOTTE

2003 Risk Management Honor Roll member Johanna M. Zschomler, director of the risk management division of the State of North Dakota in Bismarck.

Terrorism: Risk focus shifting

Continued from page 10

surers also are subject to a 10% coinsurance requirement.

Pricing a deterrent

TRIA rates have discouraged most insurance buyers from purchasing the coverage, according to various studies.

At a mini-session at the Marsh USA Inc. exhibit hall booth, Marsh executive Jill Dalton said 32% of organizations have purchased TRIA coverage, though she noted that figures fluctuate significantly by industry.

For example, among Marsh's clients, 52% of financial institutions, 43% of health care organizations and 39% of government entities have purchased the coverage, while more than 75% of manufacturers and real estate concerns have rejected it, said Ms. Dalton, a managing director and the broker's national property practice leader.

The risks that most often rejected the coverage typically could have purchased it for less than the higher-risk organizations that did purchase it, according to Ms. Dalton's statistics.

Based on an analysis of 1,800 TRIA coverage quotes insurers made to 400 Marsh clients, the broker found that pricing varied widely. For property risks—insurers' greatest exposure—the additional premium for the coverage ranged from nothing to more than 1,000%, with the average a 24.5% increase, according to Ms. Dalton.

Excluding the most expensive quotes, the average additional premium was 9.4%, Ms. Dalton noted. The most expensive quotes, which accounted for 22% of all quotes, sought at least 28% of additional premium, and one-third of the highest-priced quotes sought at least 100% of additional premium, according to Ms. Dalton.

Little return on investment

Former Risk Managers of the Year Daniel H. Kugler and Jeffrey W. Pettegrew said they rejected TRIA coverage because they saw little return for the investment.

Mr. Kugler, director of corporate risk management for Pleasant Prairie, Wis.-based Snap-on Inc., noted that the company's key facilities are not located in areas considered at a high risk of terrorism.

In addition, at those facilities, the manufacturer and distributor of professional auto tools and equipment does not have a high concentration of employees, said Mr. Kugler, the 2002 Risk Manager of the Year.

Mr. Pettegrew, the 1989 Risk Manager of the Year, did not buy TRIA coverage for temporary staffing provider Westaff Inc. of Walnut Creek, Calif., for the same reasons.

Moreover, Mr. Pettegrew, vp-risk management and insurance for Westaff, said he has philosophical problems with the coverage.

"To me, it's the Chicken Little situation," he said. Referring to the chances of suffering a loss in a terrorist attack, he said: "The odds are so far off I think it's a waste of corporate money. It's better to put that into safety and security."

Mr. Kugler agreed. Snap-on had been tightening security significantly at its facilities before the Sept. 11, 2001, terrorist attacks to minimize workplace violence risks.

Some employees initially questioned the need for those measures, but "now, you get buy-in" from employees, who view the measures as a means of preventing both workplace violence and terrorism, he said.

A new benefit at Westaff that Mr. Pettegrew expects will be more valuable than terrorism insurance is an employee assistance program. "Terrorism insurance can't help them" the way an EAP program can in dealing with anxieties triggered by world events as well as personal problems, he said.

Sheryl A. Pixler, another award-winning risk manager, said her company's risk profile did not warrant the coverage and its additional cost.

Ms. Pixler, risk manager for information storage provider Storage Technology Corp. of Louisville, Colo., and a 1999 Risk Management Honor Roll member, also was concerned that TRIA coverage is not "clear cut."

Coverage triggers are much clearer under stand-alone terrorism insurance, Ms. Pixler said she learned from her peers at the conference.

Ms. Pixler also is confident that StorageTek's "solid business continuity plans" would mitigate business interruption losses if the company or one of its suppliers suffers losses in a terrorist attack.

That kind of analysis continues at the company. StorageTek is evaluating whether to relocate one of its European facilities because its current seaport location may expose the company to a greater terrorism risk than it is comfortable taking, Ms. Pixler noted.

Among the risk managers who purchased TRIA coverage for their organizations, some were able to beat the average additional cost significantly.

For example, Roseville, Calif.-based Adventist Health Systems purchased TRIA insurance to cover its hospital properties because Factory Mutual Insurance Co. asked for only 2% of additional premium.

"That seemed like a good trade-off of risk for us. Definitely affordable," said Julie Thomas, director-risk and insurance services.

Ms. Thomas also is investigating stand-alone terrorism coverage, which typically covers both domestic and foreign acts of terrorism and has clearer coverage triggers. But if, as Ms. Thomas heard in one of several RIMS sessions on terrorism, stand-alone coverage will cost far more than what Adventist paid for TRIA coverage, then Adventist will not purchase it, she said.

Similarly, Robert H. Osha of Chantilly, Va.-based Rolls Royce North America Inc. purchased TRIA property coverage for 5% of additional premium.

"It would have been a silly decision not to buy it at 5%," said Mr. Osha, director of risk management-the Americas for Rolls Royce.

Mr. Osha said he will re-examine his decision to purchase TRIA coverage when his property coverage renews. His decision again will be price-driven, he said, noting that he had planned to reject the TRIA coverage when early research indicated that Rolls Royce would face a 50% additional premium.

Other factors

For some risk managers, forces other than price compel them to purchase TRIA coverage. For example, many financial institutions are demanding that borrowers purchase the coverage, insurance market executives note.

Aware of this trend, Zilber Ltd., a Milwaukee-based real estate developer and property owner, has purchased TRIA coverage under several policies, including property and builders risk.

Its lenders have not demanded that Zilber purchase the coverage, but some have inquired about it, noted Fran Halas, corporate director of insurance. Ms. Halas purchased it because she did not want to find herself under a tight deadline if Zilber's lenders later demanded the insurance.

In addition, even if Milwaukee is not a prime target for terrorists, Zilber has a large concentration of properties in the city. Plus, the company is developing a time-share project near Cape Canaveral, Fla., which could be an attractive target for terrorists, Ms. Halas said. The Kennedy Space Center and a U.S. Air Force base are located nearby.

Ms. Pixler noted that a related, complicating factor for risk managers who see no need to purchase TRIA coverage could arise if landlords or property leaseholders begin requiring their tenants to obtain terrorism insurance as part of the all-risks coverage the tenants already must purchase.

Mr. Kugler said he already has faced that issue with the landlord of a building Snap-on leases in Detroit, and he refused to purchase the terrorism insurance. Instead, Snap-on agreed to cover the cost of the coverage in its lease payment, but any loss would not hurt Snap-on's loss experience, Mr. Kugler explained.

Mr. Pettegrew said that risk managers who succumb to such demands from landlords or leaseholders risk opening the door to additional insurance mandates.

Commentary

Gunmakers seek more equal status

The Constitution promises equal protection of the laws, but you can bet that some groups will try to get themselves more equally protected than others.

Take the gun industry, which is close to winning a congressional grant of immunity from liability suits stemming from shooting deaths and injuries. The legislation—passed by the House this month and supported by a majority in the Senate—would bar all pending and future suits against gun manufacturers, distributors, dealers and importers for any "unlawful misuse" of weapons.

The National Rifle Assn. refers to its pet measure, appropriately enough, as the "reckless lawsuit legislation." It's reckless, all right.

The NRA and its supporters say they need the law to protect the gun industry from greedy trial lawyers who aim to bankrupt it with dozens of frivolous lawsuits costing tens of millions of dollars to defend.


Doug McLeod

There's no question that the firearms industry has become a target: Local governments and individuals have charged that it knowingly follows distribution practices that put guns in criminals' hands. A licensed dealer, for instance, may legally sell dozens of handguns to a single "straw purchaser," who then resells them illegally. Robert Ricker, a former gun industry trade group official now testifying for plaintiffs, says gunmakers knew long ago of their problem with rogue dealers but decided against doing anything about it—or even discussing the issue—for fear that they might be seen as admitting responsibility.

It's also true that courts have dismissed many of the lawsuits against the manufacturers. (A number of states already have laws on the books barring local government bodies from suing.)

But some courts have upheld plaintiffs' rights to sue, and others have dismissed certain defendants from a case while finding enough evidence to support charges against others. The cases aren't frivolous.

Families of the victims of last year's Washington sniper shootings, for instance, are suing the Washington State gun shop where the accused snipers' assault rifle originated. The dealer had no records of the rifle's sale and reported it stolen only after federal investigators traced it back to the shop; it was one of 238 guns that had "disappeared" from the store in the previous three years, plaintiffs allege. The rifle's manufacturer, Bushmaster Firearms, continued to supply the dealer despite past audits by the federal Bureau of Alcohol, Tobacco and Firearms showing dozens of guns missing from the store's inventory, plaintiffs charge.

Two New Jersey police officers wounded in a shooting, meanwhile, are suing a West Virginia pawn shop that sold the gun used against them—and 11 other weapons—to a straw buyer who allegedly turned them over to a gun trafficker with a felony record. The suit also names manufacturer Sturm, Ruger & Co. for allegedly doing nothing to stop suspicious large-volume sales.

Both of these suits would be thrown out under the proposed federal legislation.

Despite the NRA's claims about "greedy" trial lawyers, not all plaintiffs are looking for monetary awards. In a case against dozens of gunmakers and dealers now on trial in Brooklyn, N.Y., the National Assn. for the Advancement of Colored People is asking for a court injunction restricting handgun marketing and distribution practices. This case would also be thrown out by the "reckless lawsuit legislation."

Gun advocates say it's the job of regulators and law enforcement agencies to rein in rogue dealers. The problem is that while they're saying this, they're also lobbying furiously to rein in the regulators—by, say, limiting surprise federal inspections of dealers to one per year.

No doubt gunmakers and their dealers would be happy to shuck the financial burden of defending themselves in court. What industry wouldn't? The question is, what principle justifies giving one industry a free pass out of the courthouse? We're not talking about the vaccine industry, after all, which arguably qualifies on public policy grounds.

Alas, there is no principle. The proposed "Protection of Lawful Commerce in Arms Act" is a pure expression of the gun lobby's political clout in a Republican-led Congress and is an infringement on ordinary citizens' right to be heard in court.

In George Orwell's "Animal Farm," the pigs use political cunning to make themselves "more equal" than the other animals. Here, it takes an act of Congress.

Senior Editor Douglas McLeod can be reached at dmcleod@crain.com.

Products & Services

Workplace violence CD-ROM offered

NEW YORK—Citigate Global Intelligence & Security has launched a CD-ROM training program that teaches employees how to deal with the problem of workplace violence.

The program, titled "Avoiding Violence in our Workplace," is an hour-long course divided into 20-minute training segments. At the end of each segment, employees must pass an interactive test before moving to the next.

The program shows workers not only how to deal with violence at work but also how to identify and report potential problems. The software includes instruction on defusing situations before they turn violent. New York-based Citigate bases licensing fees for the program on the number of users. More information is available from Paul Viollis at 212-508-3456 or by e-mail at *paul.viollis@citigategis.com*.

Property exposure data available

HARTFORD, Conn.—A new product from GE Commercial Insurance aims to help risk managers gather and use commercial property loss and exposure data.

COPE—which stands for construction, occupancy, protection and exposure—provides standard and customized reports based on surveys conducted by GE Global Asset Protection Service's loss prevention specialists. The information, which also is available to brokers and underwriters, is analytical data that helps users make risk management and underwriting decisions regarding commercial property.

GE Commercial Insurance, a division of Employers Reinsurance Corp., offers COPE surveys by telephone or online.

More information is available from Michael Sutherland at 860-520-6107.

Health cover offered to Canadian expats

MONTREAL—New medical coverage is available through an online service for expatriates working for Canadian companies throughout the world.

XN Holdings, a Boca Raton, Fla.-based online provider of insurance products that operates its Global Service Center in Montreal, has teamed with The Citadel, a unit of Winterthur Swiss Insurance Group, to offer customized medical coverage through Canadian benefit consultants and brokers.

The program, which is administered online, offers employers programs for their expatriate workers that include hospital coverage, medical care, dental services and vision care benefits. Additional coverage for life and disability is available, as is moving insurance and coverage for vacant dwellings, kidnap and extortion, political risks and other exposures.

More information is available at *www.xn.com*.

Ceridian providing whistleblower hotline

MINNEAPOLIS—A new telephone hotline helps employers comply with a portion of the Sarbanes-Oxley corporate governance legislation.

Ceridian Corp., a Minneapolis-based information services company, has released its Ethics Hotline, a confidential telephone service that allows employees of publicly traded companies to report violations of the Sarbanes-Oxley Act. The legislation requires employers to have formal procedures in place by April 26 that will allow their companies to receive and address workers' complaints regarding accounting and auditing issues.

The Ceridian hotline goes beyond the legislative requirements by allowing reporting and tracking of other employee concerns such as harassment, substance abuse, violent acts and theft in the workplace. Ceridian's specialists interview hotline callers and e-mail reports to employers without identifying the callers.

More information on the system is available by calling 800-729-7655, ext. 1213.

Broker report outlines solution for uninsured

PALM HARBOR, Fla.—A partnership funded by public and private-sector entities could provide universal group health care coverage, according to a report compiled by a group benefits brokerage and consulting firm.

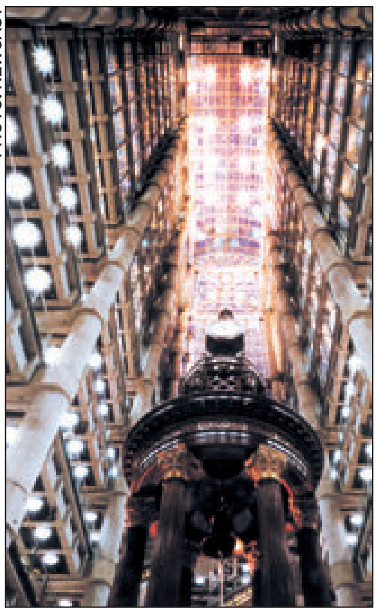
Sinclair-Whitely & Associates Inc. of Palm Harbor, Fla., proposes a two-part system for covering the uninsured. An employer-sponsored group health insurance program would provide coverage up to $100,000 per plan member through front-line insurers, managed care plans or self-insuring employers. Private reinsurers would cover claims between $100,000 and $500,000, and a Federal Backstop Bureau would provide unlimited coverage above that. The FBB would be funded by a $1 monthly payment per insured employee, the report states.

A voluntary group program with limited benefits would cover the about 40 million Americans who lack health insurance. The Frontline Insurers Uninsured Risk Pool would be funded by the FBB and premiums from uninsured applicants seeking individual or family coverage.

Copies of the report are available for $15 from Brian Sinclair-Whitely at Sinclair-Whitely & Associates Inc., P.O. Box 1416, Palm Harbor, Fla. 34682-1416 or by calling 727-585-0063.

Lloyd's, other U.K. insurers criticize guaranty proposal

PHOTO: NEWCAST



Lloyd's companies have slammed a proposal to change the market's policyholder protections.

By NEIL HODGE

LONDON—U.K. insurers and Lloyd's of London say a proposal to bring Lloyd's into the U.K. insurance industry's guaranty-fund arrangement will lead to higher premiums and cause unnecessary exposure to insolvencies for both Lloyd's and non-Lloyd's insurers.

The Financial Services Authority currently requires Lloyd's to operate the Central Fund to provide protection to policyholders—in the event that a Lloyd's syndicate is unable to pay claims—equivalent to that provided by the Financial Services Compensation Scheme.

In its consultation paper published April 10, the FSA says that it has decided to review whether the Central Fund provides adequate protection to consumers, given that "there has been a steady and ongoing concentration of the insurance business at Lloyd's into a small number of large firms."

The FSCS, the guaranty fund for U.K. insurers that are not part of Lloyd's, provides protection for private individuals and businesses with annual revenues of less than £1 million ($1.57 million). Under the FSA proposal, the FSCS would provide additional protection to such policyholders at Lloyd's should the Central Fund be exhausted.

The FSCS is funded through an annual levy based on each insurer's premium volume. Because the Central Fund would provide the initial layer of protection for Lloyd's policyholders, non-Lloyd's insurers participating in the FSCS would have to pick up the costs of a syndicate's failure only if Lloyd's were unable

See **LLOYD'S**/page 31

U.K. age bias law to bring challenges

Retirement, hiring rules expected

By SARAH VEYSEY

LONDON—U.K. employers will face new liabilities when the U.K. government enacts a European Union directive on age discrimination, though the time frame for the law's introduction gives them some time to prepare.

Indeed, after the law takes effect in 2006, employers could be vulnerable to £193 million

PHOTO: NEWCAST

($303.3 million) in age bias claims in the first year alone unless they take steps now to address the problem, according to research by the London-based law firm of Lewis Silkin.

James Davies, a partner at Lewis Silkin, said that figure is based on average awards for sexual discrimination and the likely number of age discrimination claims in the United Kingdom compared with the United States, where similar legislation already applies.

Under the E.U. directive, laws banning discrimination on the grounds of religion or sexual orientation will be brought in later this year, according to Samantha Mercer, campaign director for the London-based Employers Forum on Age, while legislation on age discrimination will be adopted into U.K. law in December 2006.

Draft regulations should be in place by mid-2004.

While the exact form of the new law is not yet known, the most important issues for employers will likely involve retirement and recruitment practices, according to Hilary Larter, a partner in the employment practice at the law firm of Beachcroft Wansbroughs in Leeds, England.

Recent court rulings on retirement age in the U.K. courts have already prompted employers to think carefully about age discrimination issues, Ms. Larter noted.

And Ms. Mercer said that employers must start to address the issue of age discrimination now in order to be sure of full compliance by the time the law comes into effect.

"One of the reasons we are working so hard to get employers to think about age now is because…it impacts just about every area of employment policy. It is not just about recruitment," she explained.

"And that is one of our major concerns—that people will think it is just about taking age off your application forms. But, actually, there are age elements" involved in layoffs; "there are age elements in retirement and the fact that people might not be able to mandatorily retire

See **BIAS**/page 31

PHOTO: REUTERS

Malpractice suits against team doctors, such as one filed by Philadelphia Flyers defenseman Dave Babych, left, have prompted some underwriters to withdraw coverage for such physicians.

Med mal concerns sideline physicians for sports teams

By SALLY ROBERTS

Professional sports teams in Canada have quickly learned that it's no fun to play the medical malpractice insurance game.

A vast majority of Canadian physicians who treat professional athletes lost their medical malpractice coverage in January, after the Canadian Medical Protective Assn., an Ottawa-based mutual insurance cooperative that insures 95% of the doctors in Canada, ceased offering coverage to such practitioners.

That decision forced Canada's professional hockey, basketball and baseball teams to purchase professional liability coverage for their team doctors for the first time, which proved difficult considering the state of the medical malpractice market and the limited availability of such coverage in the private insurance marketplace in Canada.

Although the National Basketball Assn.'s Toronto Raptors and the six Canadian National Hockey League teams have secured medical malpractice coverage for their team doctors, Canada's two Major League Baseball teams—the Montreal Expos and the Toronto Blue Jays—were still without coverage as of last week despite the start of the baseball season.

At the root of the CMPA's decision to withdraw coverage for sports physicians is concern that the litigiousness prevalent in the United States will grow in Canada, especially given the multimillion-dollar salaries professional athletes earn.

The CMPA said that after a review of medical malpractice claims in the United States for team physicians, it decided that the financial risk of insuring physicians who care for professional athletes was too high.

"Even unknown athletes and retired athletes are receiving financial awards and settlements of $3 million to $5 million," the CMPA

See **SPORTS**/page 31

World Updates

Hannover Re posts profit surge

Hannover Re Group's net income for 2002 increased 216.9% to 267.2 million euros ($280.2 billion). Gross written premiums at the Hannover, Germany-based reinsurer rose 8.3% to 12.46 billion euros ($13.06 billion). In property/casualty reinsurance, gross written premiums grew 21.9% to 6.0 billion euros ($6.29 billion). Net income for that business was 154.1 million euros ($161.6 million), compared with a loss of 75.5 million euros ($67.2 million) in 2001, largely due to the Sept. 11 terrorist attacks.

Wellington moves back into the black

Lloyd's of London insurer Wellington Underwriting P.L.C. reported a 2002 profit of £20.2 million ($32.5 million) compared with a loss of £46.1 million ($67.0 million) for 2001, which included claims related to the Sept. 11 terrorist attacks. Wellington's gross written premiums increased 13.6% to £477.9 million ($769.2 million) in 2002. The growth is largely due to the general market hardening, said CEO Julian Avery.

Business growth helps Brit improve

London-based Brit Insurance Holdings P.L.C. recorded a profit of £7.6 million ($12.2 million) for 2002, up from a loss of £89.8 million ($130.7 million) a year earlier. Brit said the profit was largely due to improved underwriting conditions across most lines of business. Brit–which underwrites at Lloyd's of London principally via its multiline syndicate 2987 and in the company market via Brit Insurance Ltd.–said its gross written premiums for 2002 were £662.7 million ($1.06 billion), up 77.2%.

Malaysia mandates SARS prevention

The Malaysian government's department of human resources is issuing guidelines to employers on how to curb severe acute respiratory syndrome in the workplace. The guidelines apply to government and private hospitals, airports and contractors at airports. Failure to comply could result in charges.

Willis launches venture in India

Willis Group Holdings Ltd. has formed a joint venture in India with Bhaichand Amoluk Consultancy Services Pvt. Ltd. to offer insurance brokerage and risk management services. The joint venture, Willis BA India Private Ltd., was licensed April 1.

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Pursuant to a court order dated 9 April 2003 a new scheme of arrangement was sanctioned and became effective on 11 April 2003 (the "New Scheme"). Potential creditors of the Company should note that the key provision of the New Scheme is to introduce a cut-off known as the Final Claims Submission Date by which time all creditors must lodge their claim against the Company. The Final Claims Submission Date will be 11 August 2003, being 4 months from the date that the New Scheme became effective.

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A copy of the Scheme and a copy of the long form explanatory statement required pursuant to section 426 of the Companies Act 1985 can be obtained on request from the Scheme Administrators at 180 Strand, London, WC2R 1WL or on the internet at **www.deloitte.co.uk/chancellorinsurance.**

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Sports: Team doctors face med mal challenges

Continued from page 29

wrote in a letter to its members about its decision. "As an increasing number of professional athletes are signing lucrative financial contracts, potential legal actions arising from the care of high-profile athletes could result in settlements or court awards easily exceeding $50 million," it said.

In one of the more recent cases in the United States, a jury last October awarded former Philadelphia Flyers defenseman Dave Babych $1.37 million in damages in a medical malpractice suit he brought against the team and team doctor. Mr. Babych allegedly was given the OK to play in the 1998 Stanley Cup playoffs despite having a broken foot—an action that he maintained prematurely ended his career.

Mr. Babych's allegation "is not that uncommon in terms of the claims we're seeing out there," said William J. Riina, a partner with Wilson, Elser, Moskowitz, Edelman & Dicker L.L.P. in Newark, N.J., who represented the Flyers in the lawsuit. The Flyers were dismissed from the suit.

The CMPA's decision to withdraw coverage goes beyond physicians for professional sports teams. It also affects doctors providing care at major commercial sporting events, such as tennis and golf tournaments, and doctors working with athletes on Olympic and Canadian national teams that consist largely of professional athletes, such as hockey and basketball.

Physicians working at minor-league events and Canadian Football League games are still covered under the CMPA program.

In all, about 60 doctors out of the association's 62,000 total membership lost their coverage, a CMPA spokeswoman said. While that's a small number, "it's a high, high risk for such a large group," she said.

> **'There are some companies that will insure us, but the premiums are unbelievably high.'**
>
> *Paul Godfrey*
> *Toronto Blue Jays*

Roger Blumencranz, president of BWD Group L.L.C., a Jericho, N.Y.-based broker that specializes in professional sports, said he's "baffled" as to why the CMPA pulled the coverage away from the doctors. "We couldn't find any claims they've paid," he said.

"I guess…they're afraid that one of these days one of their members is going to get sued by a professional athlete…and that it's going to be a big whopping claim," Mr. Blumencranz said.

"This is the first time in anyone's memory that a doctor had to go out and buy his own medical malpractice insurance in Canada," Mr. Blumencranz said.

The NHL, which was in the middle of its season, quickly responded to the situation by purchasing a group policy for its six Canadian hockey teams in December.

"The insurance would likely have been much more difficult and more costly to purchase on a team-by-team basis," said William L. Daly, executive vp and chief legal officer for the NHL in New York.

"Given the timeliness, it was also a situation that we felt needed immediate league attention to ensure that each of our Canadian clubs remained able to offer quality medical care not only to the athletes on their own respective teams but also to athletes on visiting teams," he said.

While the policy was expensive, Mr. Daly said, "at the end of the day, we felt fortunate to find an insurer that was willing to underwrite the policy at all."

Encon Group Inc. of Canada is underwriting the policy, while Montreal-based broker B.F. Lorenzetti & Associates placed the coverage.

A spokesman for the Toronto Raptors basketball organization did not return phone calls, but according to news reports, the team's owner, Maple Leaf Sports & Entertainment Ltd., was able to obtain replacement medical malpractice coverage for team doctors.

But baseball's Toronto Blue Jays and Montreal Expos are still grappling with the situation.

"There are some companies that will insure us, but the premiums are unbelievably high," said Paul Godfrey, president and chief executive officer of the Blue Jays. And some of those Canadian insurers will cover only claims that arise in Canada and not in the United States, he said. Premiums for policies that cover claims in both countries "are so ridiculous, it's beyond being a good business decision," he said.

"So we're still searching around for what we can do," Mr. Godfrey said.

Earlier this month, three team physicians resigned from the Blue Jays due to the lack of coverage. In the meantime, Mr. Godfrey said paramedics not affiliated with the team have been onsite to handle any medical needs that arise during home games.

Bob Nicholson, vp-finance for the Montreal Expos, said he hoped to have malpractice coverage in place for team physicians by the team's home opener on April 22.

"We have searched a lot of different markets and are in the process of finalizing a solution, but we're not quite there yet," he said.

Mr. Nicholson said, though, that like most other lines of business, medical malpractice premiums have "skyrocketed."

"It's clearly a piece of business most companies don't want, so they price it accordingly," Mr. Nicholson said.

Lloyd's: Guaranty plan panned

Continued from page 29

to make good the shortfall from the Central Fund.

David Strachan, director of insurance at the FSA, said: "It would provide the large number of motorists insured at Lloyd's and those with Lloyd's home or travel policies with the same protection as policyholders of other U.K. insurers."

But Lloyd's is concerned that syndicates would have to pay levies to the FSCS and the Central Fund.

A spokeswoman for the FSA said, "while Lloyd's syndicates will still be liable to contribute to the market's Central Fund, it would be the direct responsibility of Lloyd's to pay into the FSCS fund." She added that "it would be up to Lloyd's" to decide whether to pass those associated costs onto the syndicates.

Lloyd's and the Assn. of British Insurers criticized the proposal.

Lloyd's Director and General Counsel Sean McGovern said: "Lloyd's already ensures the Central Fund offers the equivalent protection to the FSCS. In fact, Lloyd's applies that as a minimum and actually seeks to ensure all policyholders get 100% compensation."

The ABI has written to the FSA expressing "deep misgivings" about the proposal, saying that it would leave its member companies exposed to the fate of Lloyd's.

"We just don't think it is the right way to go," said Peter Vipond, head of financial regulation and taxation at the ABI. "If there was a default, we'd have to pick up the bill, which is completely unacceptable. It could be a massive default, if it happened," he said.

While Mr. Vipond said that it is "highly unlikely" that there would be a default due to the Central Fund being depleted, he said that "the high impact that a default could cause could put some of our members out of business if they had to help bail Lloyd's out."

> **'Lloyd's syndicates are paying into two different funds, but customers could potentially only benefit from one of them, because many of Lloyd's corporate customers' would not be eligible.**
>
> *Bob Thompson*
> *Lloyd's Market Assn.*

"It is possible that some insurers may have to increase premium charges to mitigate the risk of a possible default at Lloyd's," he added.

Bob Thompson, manager of agency services at the Lloyd's Market Assn., the trade association representing underwriting businesses at Lloyd's, said the FSA proposals are "unfair" and "punitive."

"In essence, the FSA expects Lloyd's syndicates to pay out if a non-Lloyd's insurer goes bust but that these same insurers would not be expected to help bail out Lloyd's unless the Central Fund was exhausted," said Mr. Thompson.

"This means that Lloyd's syndicates are paying into two different funds, but customers could potentially only benefit from one of them, because many of Lloyd's corporate customers have annual turnovers of more than £1 million, which is the current determinant of who receives compensation from the FSCS," he added.

Presently, Lloyd's syndicates pay 1% of their capacity into the Central Fund, as well as a further charge of 2% on their premium volume to fund U.S. trust fund requirements for alien reinsurers in the wake of the Sept. 11, 2001, terrorist attacks. Also, the Council of Lloyd's has the power to levy a further 3% of market capacity if it needs to rapidly increase the size of the Central Fund. Lloyd's said it will review whether syndicates need to continue paying the 2% charge later this year.

If the FSA's proposals are endorsed, syndicates could be faced with another 0.8% charge on their premium volumes to pay into the FSCS. Syndicates would likely increase their rates to pay for the extra levy, Mr. McGovern said.

Responses to the FSA's consultation paper are sought by July 11.

The document is available online at www.fsa.gov.uk/pubs/cp/177/index.html.

Bias: New risks seen from U.K. statute

Continued from page 29

somebody in the future. Contractual retirement ages might be out the window, and that impacts on how employers run their organizations."

The new laws will cover both direct and indirect discrimination on the grounds of age, according to Ms. Mercer. "Direct discrimination is obvious," she said. "But indirect (discrimination) is much more difficult, particularly with age, because you can indirectly discriminate by, say, specifying that you want five years' experience and that would mean that anybody probably under the age of 23 would find it very difficult to say that they have five years' experience."

Employers must be able to justify why they are asking for a certain length of experience, Ms. Mercer explained.

The Confederation of British Industry is broadly supportive of moves to curb age discrimination in the workplace, and many businesses in the United Kingdom are already taking steps to eliminate potentially discriminatory practices, according to Jamie Bell, a senior CBI policy advisor in London.

But the CBI believes the legislation "will have quite profound implications for the way companies do their business."

One area of particular concern for the CBI is the proposal that mandatory retirement ages—currently 60 for women and 65 for men in the United Kingdom—be removed.

"I don't think the majority of businesses in the U.K. at the moment are geared up for the removal of the retirement age," Mr. Bell said. "But it is clearly going to raise quite serious management issues for companies—particularly small to medium enterprises who perhaps don't have sophisticated human resources systems."

The removal of retirement ages will hamper companies' ability to plan about when to get new staff, he noted.

Another difficulty for employers will be the need to discuss with staff their plans for retirement without implying that they should be looking to leave, and therefore leaving employers vulnerable to employment tribunal claims, Mr. Bell said.

The CBI will ask the government to consider allowing employers to talk with employees about retirement, to enable employers to better plan job succession, he said.

The EFA has, in conjunction with several large U.K. employers, put together a checklist of areas where age bias may be an issue.

"What the checklist is all about is enabling employers to understand where they use age in their own organizations and to come to the decision now whether they are going to be able to justify it and, therefore, whether they are going to need to change it," said Ms. Mercer.

There are 10 questions that all employers should begin by asking, the EFA said. They are:

- Can you justify the use of specified periods of experience in your job advertisements?
- Have you removed age as a selection criterion for layoffs?
- Do you have evidence that all age groups can access flexible working opportunities?
- Can you provide evidence that salaries and benefits are not age related?
- Are you able to monitor by age the dropout rate from different stages of your selection process?
- Are you able to collate and analyze information from exit interviews by age?
- Is the same contractual retirement age applied to everyone in the organization?
- Are you aware of different sickness absence rates among different age groups?
- Do you assess the people entering your graduate, fast-track or management development programs for potential age bias?
- Can you monitor poor performance and age-profile those individuals?

Claims: UnumProvident facing lawsuits

Continued from page 1

claims handling, they say, employers likely would look elsewhere.

Chattanooga, Tenn.-based UnumProvident contends it is a target simply because of its position as the nation's largest disability insurer and says that less than half of 1% of the 421,000 claims received in 2002 resulted in litigation.

Employer response

"They are a top company, and if I were to go out to bid, I would give them a look," said Joe Wozniak, chief financial officer for Disability Management Employer Coalition, a San Diego-based organization founded by employers to advance integrated disability management.

UnumProvident, like other disability insurers, probably errs in approving or disapproving some claims, but overall, employers find the company reliable, according to Mr. Wozniak.

But some employers have shied away from the company in the wake of several stories in the general media, including segments on CBS' "60 Minutes" and NBC's "Dateline," alleging that UnumProvident systematically declines to pay disability claims.

One employer client backed out of purchasing group disability coverage from UnumProvident and stayed with its incumbent disability insurer because of the negative media stories, said Dede Kennedy, a principal and broker of group health products at Garner Insurance Services in Pasadena, Calif.

Another employer client currently purchases UnumProvident products but is soliciting bids from other insurers because employees voiced concerns after seeing the stories on television, Ms. Kennedy said.

But, she stressed, the employers acted because of the media stories or potential reaction of their employees, not because they had negative experiences with the insurer's claims handling practices.

As a provider of disability insurance benefits, UnumProvident is 'a top company, and if I were to go out to bid, I would give them a look.'

Joe Wozniak
Disability Management Employer Coalition

Employers don't often involve themselves in claims disputes between group disability insurers and employees because, industrywide, fewer than 5% of claims are denied, said Kim Stattner, absence management practice leader for Hewitt Associates Inc. in Lincolnshire, Ill.

Hewitt has advised its clients that the disability insurance industry, including UnumProvident, is not facing any significant claims-paying problems, said Ms. Stattner, who added that large employer clients are not complaining.

The disability insurance market is very competitive, and if employers did have complaints they would take their business elsewhere, said John Van Wie, a broker who places disability benefits for Travers O'-keefe Inc. in New York. But Mr. Van Wie said he hasn't seen that happen. Also, he said, to some extent employers want their disability insurers to be strict in handling claims.

Size creates target

A spokeswoman for UnumProvident said, however, that the company believes it receives "the brunt of media attention because of our size and market position" as the nation's largest disability insurer. UnumProvident provides group disability coverage to about 22% of the Fortune 500 companies, she added.

The company does not have access to information to indicate whether it is sued more often than other disability insurers, the spokeswoman said.

Of the 421,000 disability claims that UnumProvident received in 2002, it paid out about 90% of them, totaling $3.7 billion in benefits, she said. The insurer determined that some of the remaining claims were not disabilities or otherwise not covered. Of all the disability claims closed in 2002, about 3% appealed the decision, and less than 0.5% of new disability claimants chose litigation to resolve differences with the company, the spokeswoman said.

Additionally, communication with employer customers has helped address concerns they may have because of the recent media coverage, the spokeswoman said.

Hundreds of lawsuits

The lion's share of the hundreds of lawsuits filed against UnumProvident have been brought by individual plaintiffs claiming UnumProvident wrongly denied or terminated disability benefits.

Several of those lawsuits have resulted in multimillion-dollar verdicts.

For example, on April 2, a federal court jury in Arizona hit UnumProvident and MetLife Inc. with $84.4 million in damages—including a $79 million punitive award—for breach of contract in denying the plaintiff's disability claim. Both companies plan to appeal the decision.

That same day, a California Superior Court judge slashed the size of a January jury award of $31 million—including $30 million in punitive damages—to a California eye surgeon after finding insufficient evidence of total disability. UnumProvident, which is appealing the verdict, says the punitive award was cut 83% to $5.1 million, and that the court cut the emotional damages component of the compensatory award to $15,000 from $125,000.

Lawsuits brought by participants in group disability plans are less common because provisions of the Employee Retirement Income Security Act of 1974 essentially limit damages under ERISA-protected group policies to the value of benefits in dispute, several attorneys say.

But alleged violations of another federal law—the Racketeer Influenced and Corrupt Organizations Act—are expected to increase against UnumProvident, plaintiff attorneys say.

A lawsuit filed last November in a federal court in New Jersey, for example, alleges that UnumProvident's employees schemed to defraud the plaintiff, violating the RICO Act.

Gail Cookson, an attorney at Mandelbaum, Salsburg, Gold, Lazris, Discenza & Steinberg in West Orange, N.J., represents the plaintiff in that case. Ms. Cookson said she is waiting for the judge to rule whether the case can continue based on those allegations. There currently are only two or three other suits nationwide against UnumProvident with RICO allegations, Ms. Cookson said.

But more RICO suits likely are on the way, because one New York at-

See CLAIMS/next page

Internet: Few workers seek health care data online

Continued from page 1

Web sites," said Joe Mondy, e-commerce communications leader at CIGNA in Bloomfield, Conn., who spearheaded the study to better understand how to use the Internet in health care management.

Conducted in January, CIGNA's study, "The Net Effect: Online Health-Care Tools Still Missing the Mark for Consumers," included responses from 1,000 people nationwide, not just CIGNA members.

Only 28% of the respondents said they use the Internet to research health care choices, yet 59% use it to research major family vacations; 52% use it to research new car buying; and 48% use it to research purchasing major appliances or computers.

CIGNA did not report what percentage of respondents have Internet access.

Among the reasons consumers aren't using the Internet to obtain health information are: 33% said would rather discuss such information with a person; 17% said there is too much data to sort through; 15% said they don't know whether Web information is credible; 5% didn't know it was available; 4% said the information didn't meet their needs; and 20% either said they didn't know or didn't respond.

A second study, released last month by the Center for Studying Health System Change in Washington, found that only one in six consumers turned to the Internet for health information. That study, conducted in 2000-2001, included responses from 50,000 adults nationwide.

Though it did not explore the reasons people were not using the Internet for health care research, HSC did collect demographic data that could explain why some are using it while others are not, said Ha T. Tu, a health researcher and lead author of the study.

"As we broke down the demographics, we can draw the conclusion that some segments of the population have less access and less proficiency with the Internet," she said. For example, "minorities and those with lower income and education are less likely to use the Internet."

The findings of both studies should concern employers already using or planning to use the Internet as part of a consumer-driven health care strategy, Ms. Tu said.

"A lot of employees may not be ready to go out and seek information to make informed health care decisions on their own," she said.

Just as when managed care was introduced, it may take some time for employees to get used to the idea not only of using the Internet to research health information, but to do any research at all, suggested Marianne Fazen, executive director of the Dallas-Fort Worth Business Group on Health.

"We're in a transition mode right now," she said. "When you have good information for employees, they'll start using it more."

Ralph Kimmich, director of benefits and compensation at Southwest Airlines in Dallas, and a member of the coalition, agreed.

"People are just now getting used to the idea of using the Web for this sort of thing," he said. "I really see, over time, they will migrate to the Internet, just as they did with managed care."

'We're going to all be forced to become more active medical consumers,' not only because of consumer-driven strategies but medical errors. 'If you don't, you'll be a fool.'

Helen Darling
Washington Business Group on Health

One way to transition employees toward greater Web use may be to provide a little hand-holding, suggested CIGNA's Mr. Mondy. In fact, in response to the survey, CIGNA has introduced a program in which users of myCIGNA.com, CIGNA's personalized Web site for its members, can talk to a nurse over the phone to answer questions and validate information they find online.

"CIGNA's interpretation is that people want a combination of high-tech with high-touch, but they want credible sources and to have someone to talk about it before they go to the doctor," he said.

Employers that use the Internet also need to aid employees with research, such as by steering them to credible online resources, he said. For example, employers may offer access to a reliable clearinghouse of health care data, such as Healthwise Inc., a nonprofit organization based in Boise, Idaho, that publishes self-care manuals endorsed by many health plans, he said.

But some health care experts say there will probably always be a part of the population that is unwilling or unable to use the Internet, making it imperative that employers provide more than one distribution channel for information.

"It's not going to turn on a dime. There's no question it will grow, but a big percentage will continue to look to their doctor or some other caregiver to get that information," said Ted von Glahn, director of consumer information at the Pacific Business Group on Health in San Francisco.

He said that not all PBGH members have online enrollment, "but they do have to have a safety valve for those without Internet access."

"You can have a successful consumer-driven strategy that doesn't require the use of the Web," said Mr. Von Glahn.

"Intranet and Web-based communication has lots of advantages, but people learn in different ways. That hasn't changed," said Marsha Smith, a communications consultant at Hewitt Associates Inc. in Lincolnshire, Ill. And, "in cases where employees have no Internet access, they need to do other forms of communication," she added. Such communications include printed materials and interaction with disease management service providers.

But perhaps the biggest challenge will be persuading employees to actually take charge of their health care by doing research on their own, observed Helen Darling, president of the Washington Business Group on Health.

"We're going to all be forced to become more active medical consumers," not only because of the move toward consumer-driven strategies, but because of the rising number of medical errors, she said. "If you don't, you'll be a fool."

CIGNA's study, "The Net Effect: Online Health-Care Tools Still Missing the Mark for Consumers," is available at www.cigna.com. Details of the The Center for Studying Health System Change's study are in an issue brief, "Seeking Health Care Information: Most Consumers Still on the Sidelines," available at www.hschange.org.

Claims: Suits not driving away UnumProvident clients

Continued from previous page

torney already won a settlement of a case against UnumProvident with RICO allegations, said Michael M. Tobin, an attorney in Coral Gables, Fla. Mr. Tobin also is co-chairman for a disability bad-faith subgroup of the Assn. of Trial Lawyers of America.

Regulatory attention

Complaints against UnumProvident also have attracted the attention of insurance regulators. Insurance departments in California and Tennessee confirmed they are examining complaints about UnumProvident's claims practices.

In March, Georgia Insurance Commissioner John W. Oxendine fined four UnumProvident Corp. units $1 million and placed them on probation for two years because of claims-handling violations.

"We found that the company had a corporate philosophy of pushing the envelope as far as they could and was looking for ways to deny claims," the commissioner said.

Mr. Oxendine also placed an "on-site" monitor within UnumProvident offices in the state to help change its claims-handling culture.

One claimant's story

One risk manager says her family is experiencing first-hand the type of claims-handling problems cited by regulators and plaintiffs.

Fran Halas, a risk manager and employee benefits purchaser for a Milwaukee-based company with 500 employees, is fighting UnumProvident's termination of benefits to her husband under a policy purchased by his employer.

Early in 1999, Mr. Halas, a stockbroker, suffered sudden cardiac arrest followed by several other heart-related episodes. UnumProvident approved his disability benefits request but terminated them in September 2000.

UnumProvident terminated his benefits, in part, based on a report from his doctor stating that the claimant was stable. A company cardiologist also reviewed the claimant's file and found evidence lacking that cardiac disease would "limit you from being able to perform the substantial and material duties of your occupation as a financial consultant," according to documents contained in an appeal filed by an attorney for Mr. Halas.

Ms. Halas contends that the word "stable" in the doctor's report meant only that her husband's condition had neither worsened nor improved; it did not mean he was better or capable of returning to work. UnumProvident physicians, she added, never examined her husband, and the insurer based its findings only on reports written by her husband's doctor.

The insurer has also disputed the amount of time her husband's heart had stopped working in an emergency room, she said.

During that period, her husband's brain did not receive oxygen, accounting for psychological trauma that also kept him from work and warranted continued disability payments, Ms. Halas said.

Her husband has since returned to work and UnumProvident eventually would have cut off benefits because of his earnings, though medical problems persist, she said.

Ms. Halas claims the insurer owes her husband about $50,000, including back disability payments and $10,000 spent on appealing UnumProvident's decision.

UnumProvident declined to discuss the claim.

Captives: Net gains more limited

Continued from page 4

with operating multiple captives.

On the new formation side, activity continues to be driven by the hard traditional insurance market, the report said.

"I'm not surprised by that," Ms. Pierce said. "That's been pretty typical through the last several hard markets."

And in many cases, captive owners that abandoned their captives during the soft market of the 1990s in favor of cheap insurance formed new captives in 2002 rather than reactivating the exiting vehicle, according to Best.

"In most cases, it's easier to start fresh," Ms. Pierce said. "In some cases, they're doing loss portfolio transfers to get rid of the old and putting everything into the new."

The Cayman Islands were host to the greatest percentage of 2002's new captive formations, with 21.0% of the world's new captives forming there last year. The Best report suggested that trend is unsurprising given Cayman's reputation for health-care captives and the current crisis in the traditional medical malpractice market.

Bermuda received the next largest share of new formations in 2002, 17.1%, with 15.2% of new captives forming in Vermont, 10.6% in Guernsey and 9.7% in the British Virgin Islands.

'In most cases, it's easier to start fresh. In some cases, they're doing loss portfolio transfers to get rid of the old and putting everything into the new.'

Carol Pierce
A.M. Best Co.

The Best study also showed that the number of segregated cell companies continues to grow, providing a vehicle for smaller insurance buyers to become involved in captive programs. Best reported that 126 new segregated cell companies formed in 2002, a 20% increase from the prior year.

Copies of the special report "Sizing Up the Captive Market" are available for purchase by telephoning 908-439-2200, extension 5557, or online at www.ambest.com/ratings/specialreports.html.

HIH: Report to spur changes

Continued from page 1

Re and GeneralCologne Re Australia also may have broken Australian law, according to the report. Testimony before the commission said that reinsurance written by the companies for HIH unit FAI Insurance Ltd. was in place only to improve FAI's balance sheet and a "side letter" was signed in which FAI agreed not to make any claims on the policy.

General Re Corp., the reinsurers' parent and a unit of Berkshire Hathaway Inc., has denied any wrongdoing in dealings with HIH or related entities.

Industry sources point out that while many of the recommendations for reform suggested by Justice Owen have been sought for some time, the collapse of HIH could accelerate their adoption.

"Government has accepted the recommendations" and already has established a task force to study them, said Geoff Atkins, a partner with Sydney-based consulting firm Trowbridge-Deloitte. Changes that require federal legislation are expected to be drafted later this year, Mr. Atkins said, and regulators may be able to act in a matter of months on some of the recommendations that fall within their authority. Enactment of some of the recommendations will have to be done at the state and territorial level.

As for corporate governance regulations, although the Australian Stock Exchange recently published voluntary guidelines (*BI*, April 7), Australia doesn't have legislation such as that in the United States and other countries that outlines such responsibilities and provides for penalties when directors and officers breach their governance responsibilities.

"Not yet," said Kevin Knight, president of the Australasian Institute of Risk Management in Brisbane. "But I would guess that within six months we will see it" in light of the attention the HIH report had drawn to corporate governance, he said.

Justice Owen recommends changes to the Corporations Act of 2001 that would more clearly define who is responsible for a company's governance. Such a definition would be broad, and sections of the act would be expanded to include employees other than just management personnel and boards of directors.

The justice also recommended a review of disclosure requirements under the act, as well as accounting standards and the ASX Listing Rules to ensure that they "achieve clear and comprehensive disclosure of all remuneration or other benefits paid to directors in whatever form."

As HIH headed toward its collapse, its management was accused of using company funds to live lavish lifestyles. Justice Owen wrote that the commission heard evidence of personal expenses charged to corporate credit cards, excessive tipping in restaurants, generous corporate gifts and extravagant travel expenses.

There are a number of recommendations that would affect commercial insurers and policyholders.

Among them is a proposal to create some type of guaranty fund that would pay claims in the event of an insurer failure. Justice Owen did not detail how such a scheme would work or which claims would be covered by such a fund. A guaranty fund arrangement already is in place that covers workers compensation and motor vehicle bodily injury claims, which are both statutory coverages.

The commission also considered the impact taxes might have on the solvency of insurers and the competitiveness of the insurance market in Australia.

Stamp duties on general insurance products should be abolished and fire services levies that are charged on top of insurance premiums in some jurisdictions also should be discontinued, the justice recommended.

"It's quite a considerable charge on top of the premium," said Robert Bennett, managing director of Chubb Insurance Co. of Australia Ltd. in Sydney. Insurers favor removal of the charges, he added, but acknowledged that if they are taken off, the government "would have to come up with some other way of funding it."

Mr. Knight said risk managers for years have been campaigning to have the levy that funds fire departments removed from insurance policies. "I'd like to see it happen," he said of removal of the levy and the stamp duty, "but it might prove difficult because it requires the states to do it."

Justice Owen also recommended that governments not impose on insurers any taxes or levies that are prohibited from being passed on to policyholders.

The Australian Prudential Regulation Authority was found not to have contributed to HIH's collapse, but it did fall short in the way it exercised its responsibilities with regard to the insurer, Justice Owen wrote. He suggested several changes be made in the way APRA operates.

APRA's organizational structure and processes should be reviewed to improve accountability and consideration should be given to the creation of a team of specialists that would take primary responsibility for supervision of general insurers, the justice suggested.

The authority's non-executive board should be replaced with one comprised of a chief executive and two or three executive commissioners, Justice Owen recommended. The board would be responsible to the government for APRA's performance.

Mr. Bennett said he hopes the commissioner's recommendations will create a way to highlight potential problems earlier than was the case with HIH. The recommendations will result in regulatory changes, Mr. Bennett predicted, but he acknowledged that there is no way to completely weed out those who are determined to get around them.

"You can regulate to the nth degree, but if you have people who don't want to follow the rules," regulations won't stop them, Mr. Bennett said.

Copies of the report can be obtained at www.hihroyalcom.gov.au/.

Pensions: Surpluses eroding

Continued from page 4

held in pension plans sponsored by the largest employers was about $733 billion, down from about $930 billion at the end of 2000, according to Milliman.

"Over a three-year period, we have wiped out all of the gains of the '90s, and then some," Mr. Ehrhardt explained.

The need for employers to again contribute to their pension plans should reinforce the point that the investment returns many plans enjoyed a few years back were exceptional and that it would be naive for employers to expect such contribution holidays to last.

"The '90s were not normal. The idea that pension plans would not cost anything was not realistic," Mr. Ehrhardt said.

Still, even as employers have to pour billions of dollars in new contributions into their plans to maintain funding levels, terminating the plans is not an option that big employers are considering, Mr. Ehrhardt said.

Such an approach, he said, would be "financial suicide" for many of these employers, he said. That is because, in today's low interest rate environment, the cost of purchasing annuities from insurers to replace the benefits provided through the plans would be extraordinarily high, he said.

But if the stock market slump continues—along with continued low interest rates, which inflate the value of plan liabilities—plan terminations or benefits freezes, in which participants do not accrue new benefits, are moves more employers will consider, Mr. Ehrhardt predicted.

'Over a three-year period, we have wiped out all of the gains of the '90s, and then some.'

John Ehrhardt
Milliman USA

For now, though, the strategy that some big employers are pursuing is looking at how they can pare down the cost of so-called nonqualified executive-only plans, Mr. Ehrhardt said.

Such plans, which are included in the Milliman survey, are, under law, not funded and are a way employers can provide millions of dollars in pension benefits to top executives without violating the benefit limitations that apply to qualified plans. Employer contributions to nonqualified plans are made at the time benefits are paid.

The Milliman survey, which is based on financial reports filed by the employers, shows how sharply the pension funding levels of some well-known employers have declined.

For example, the pension funding level at General Motors Corp.—whose projected benefit obligations of $92.2 billion at the end of 2002 were the biggest of the surveyed employers—was 72.4%, down from 85.3% at year-end 2001 and 99.1% at year-end 2000.

Plan funding levels fell even more at International Business Machines Corp., declining to 90% at year end 2002, compared with 102.6% at year-end 2001 and 120.2% at year-end 2000.

Still, a handful of employers have overfunded pension programs. BellSouth Corp.'s pension program was 117.1% funded at the end of last year, while General Electric Co.'s program was 113.7% funded, the study showed.

Copies of the Milliman USA survey, "2003 Survey of 100 Large U.S. Companies with Pension Plans," will soon be available at www.milliman.com. Copies of the Segal survey, "2002 Survey of the Funded Position of Multiemployer Plans," will soon be available at www.segalco.com. There is no charge for either survey.

Comings & Goings: Buyers

P. Richard Hackenburg has joined FOJP Service Corp., a New York-based risk management and insurance services firm, as vp of insurance and risk control.

Mr. Hackenburg is responsible for risk management and property/casualty insurance services for FOJP clients, which are hospitals and other health care facilities that are members of the UJA-Federation.

He reports to Lisa Kramer, FOJP's president.

Prior to joining FOJP, Mr. Hackenburg was president and chief executive officer of Willis of Missouri Inc. in St. Louis. Before joining Willis, he served as president of XL Market Services in Stamford, Conn., and worked as risk manager at Allegheny International Inc. in Pittsburgh.

In 1985-86, Mr. Hackenburg was president of the Risk & Insurance Management Society Inc. He currently serves as chairman of the Spencer Educational Foundation, which is administered by RIMS.

Mr. Hackenburg earned a bachelor of business administration degree in economics from Westminster College in New Wilmington, Pa.

* * *

Judy Cato has been named manager of benefits and human resources information systems at TriWest Healthcare Alliance, a Phoenix-based provider of managed care administrative services for the U.S. Department of Defense.

In the newly created position, Ms. Cato will oversee TriWest's employee benefits programs and will develop and administer a human resources information system for the company's HR department.

She reports to Lorraine Field, vp of human resources and training.

Before joining TriWest, Ms. Cato was human resources director and benefits manager for Amkor Technology in Chandler, Ariz. She also worked as a benefits supervisor for Bechtel Corp. in Phoenix and as benefits manager for Phoenix Children's Hospital.

Ms. Cato earned a bachelor of arts degree in public administration and master of education from San Diego State University.

We'd like to report on staff changes in your risk management, safety and employee benefits departments. Contact Michael Bradford, Business Insurance, 329 Calhoun St., New Orleans, La. 70118; phone: 504-269-3788; fax: 504-269-8115; e-mail: mbradford@crain.com.

ADVERTISER INDEX

Issue of April 21

Late News

Continued from page 1

losses were not fortuitous because the deals' structure virtually guaranteed claims. The case is one of many that have pitted Chase and other banks against insurers that guaranteed disastrous film finance loans on dozens of money-losing pictures in the 1990s.

Trenwick/Chubb venture entering runoff

Trenwick Group Ltd. has halted new reinsurance underwriting through a facility it created last year with Chubb Re Inc., leaving Trenwick's Lloyd's of London unit as its only ongoing underwriting operation. Trenwick, which wrote $128 million in reinsurance premiums through the facility, will jointly manage the runoff with Chubb Re, which has final authority on claim payments, Trenwick said. At the facility's creation, Trenwick said it would produce up to $400 million in reinsurance business for Chubb Re, with Trenwick America Reinsurance Corp. reinsuring any losses in excess of 100% of the collected premiums and taking two-thirds of any profits. Trenwick's own financial problems scuttled the program.

Suit seeks recision of HIPAA privacy rules

A coalition of patient advocacy groups is seeking recision of the privacy rules created under the Health Insurance Portability and Accountability Act. A suit, brought in U.S. District Court in Philadelphia, names Department of Health and Human Services Secretary Tommy Thompson and charges that HHS effectively eliminated privacy protections for personal health information in revising the rules last August. The revised rules violate the Constitution, the federal Administrative Procedure Act and HIPAA itself, plaintiffs charge.

Mr. Thompson

More insolvencies increase insurer levies

Payments by private insurers to state property/casualty guaranty funds in 2001 hit a 15-year high because of increased insolvencies, an Alliance of American Insurers study states. Insurers paid $735 million in net assessments in 2001, the latest year for which data is available, said Roger Kenney, associate vp of research for the Downers Grove, Ill.-based trade association. In 2000, insurers paid $328 million in net assessments. Specifically, 32 funds levied $739 million in 2001 assessments, which were offset by $4 million in recoveries from two guaranty funds, according to the report.

Canadian risk foundation gets charitable tax status

The William H. McGannon Foundation, an initiative of RIMS Canada to provide grants for risk management studies and initiatives, has been granted "charitable status," which lets the foundation receive donations of any size from individuals or corporations and, in turn, grant income tax receipts that qualify as deductions on Canadian personal or corporate income tax returns, according to the Risk & Insurance Management Society Inc. The McGannon Foundation provides grants for risk management education, research, mentorship programs and work experience programs in Canada.

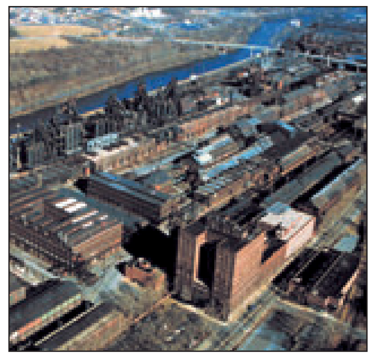


PHOTO: AP/ WIDE WORLD

Bethlehem Steel Corp.'s onsite health care facility is scheduled to close at the end of this month.

Bethlehem Steel shutting onsite clinic

Bethlehem Steel Corp., one of a handful of large employers that operated an onsite health care facility for employees and retirees, is closing the facility at the end of this month. The center, which opened in 1993 in Bethlehem, Pa., had a staff of about 50 and provided preventive and diagnostic services to about 6,000 patients. Bethlehem Steel is working with a local hospital to ease the transition, including storing patients' medical charts and helping patients pick new physicians. Bethlehem Steel is in bankruptcy and has agreed to sell its assets to another company.

Briefly noted

A.M. Best Co. downgraded its financial strength rating of **Allianz Insurance Co.** to A from A+. Best said the Burbank, Calif.-based insurer faces ongoing poor underwriting performance and diminished risk-adjusted capital. AIC, a unit of Allianz A.G. Holding, focuses on large U.S. industrial property risks....Michigan's newly appointed commissioner of its Office of Financial and Insurance Services is **Linda Watters**. She previously was president and chief executive officer of Detroit Commerce Bank....South Carolina is the first state to launch a national grassroots campaign to keep regulatory oversight of insurers at the state level. It is part of the National Assn. of Insurance Commissioners' **Alliance for Sound State Uniform Regulatory Efficiency** program. The coalition, which is supported by Gov. Mark Sanford, includes the South Carolina Captive Insurance Assn., the Alliance of American Insurers and two agents' groups....J. Anthony Clark is the new director of the **Illinois Insurance Department**, following confirmation by the state Senate earlier this month. Mr. Clark served as legal counsel for Montgomery Ward Life Insurance Co. for 10 years prior to establishing his own private law practice.

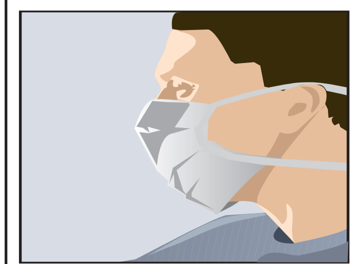
Check out BusinessInsurance.com

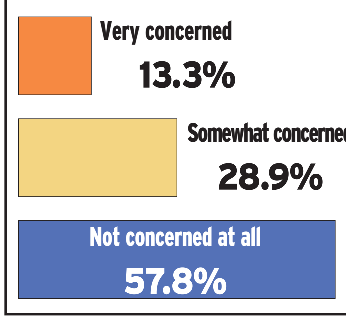
Items in the Late News column originally appeared in *BI*'s Daily News feature on *www.businessinsurance.com*. Visit the *BI* Web site to sign up to receive *BI*'s Daily News by e-mail.

Online Poll

[4/14 - 4/18]

How concerned is your organization about the impact of SARS on its people and business?





BI Stock Index

[4/14 - 4/17*]

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

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

***BI* Stock Index**	1826.75	3.22
Dow Jones	8337.65	1.64
S&P 500	893.58	2.91

Largest gains

Gainsco Inc.	85.71%
Argonaut Group	23.90%
PacifiCare Health Systems	17.24%
UNUM Corp.	16.70%
Baldwin & Lyons Inc.	15.18%

Largest losses

Unico American Corp.	-13.77%
SCPIE Holdings Inc.	-10.31%
ACE Ltd.	-7.98%
Harleysville Group	-6.63%
Meadowbrook Ins. Group	-3.28%

Weekly change by market segment

Brokers	4.27%
Insurers/Reinsurers	4.74%
Managed Care Organizations	2.54%

* Markets closed 4/18
Source: CNET Investor (investor.cnet.com)

States: Tort reform

Continued from page 3

that the most pressing legal issues that "state policymakers who care about economic development should focus on to improve the litigation environment" are putting a ceiling on damages and tort reform.

Some tort reformers already are having an impact. The two "worst" states identified in the survey—Mississippi and West Virginia—have "made reforms to their legal systems that, when fully implemented, may change their future rankings," according to a note on the Chamber's advertisements.

As of Jan. 1, bottom-ranked Mississippi's reforms include capping punitive damages and preventing forum shopping. Effective July 1, 49th-ranked West Virginia will limit the ability of nonresident plaintiffs to maintain a cause of action for personal injuries.

For a copy of the survey containing the full state rankings and samples of the advertisements, visit www.litigationfairness.org.

Limits: Court denies multiple limits

Continued from page 3

quota-share participations of the CGU limits.

In reaching the settlement, CGU allocated the loss among nine Grace sites, with each site treated as a separate occurrence and each policy providing one occurrence limit per year. The underlying primary policies provided annual limits and CGU annualized its multiyear limit, even though its policies did not specifically require annualization, according to Judge Woodlock's ruling.

After Swiss Re refused to pay CGU's bill for the settlement, the two CGU units filed a declaratory judgment action in U.S. District Court in Boston in November 2000.

The ceding insurers argued that Swiss Re is obligated to follow the form of underlying coverage and that the reinsurance certificates included no endorsements limiting Swiss Re's obligation to follow form.

Judge Woodlock, however, found that the certificates included clearly stated per occurrence and aggregate limits that do not permit annualization.

"The fact that no endorsement exists altering or amending the terms of the policy does not mean that the certificate provided no limits whatsoever to Swiss Re's liability to CGU. The crucial terms of a reinsurance contract, namely the policy period, per occurrence and aggregate limits, as well as the premium to be charged, are not generally expressed in the form of endorsements, but rather on the face page of the reinsurance certificates themselves.

"There is nothing in the certificates to suggest that the coverage was understood to apply on an annual basis, rather than on the three-year policy term defined by the certificates," he wrote.

The judge went on to rule that the limits and other terms specifically negotiated with Swiss Re and included in the contracts must be given more weight than standard following-form language.

"The force of the limitations of liability as a specific, bargained-for term decisively outweighs the boilerplate follow-form provisions which CGU claims are controlling here," Judge Woodlock concluded.

The goal of following-form provisions, he added, is to make certain that a reinsurer is covering the same risks as a ceding insurer, and not to govern limits of liability.

"The case law establishes that follow-form provisions like those at issue here prevent a reinsurer from contesting the decision of any underlying insurer to cover a claim, not from denying to indemnify the ceding insurer for sums in excess of its limits of liability," Judge Woodlock wrote.

> **'There is nothing in the certificates to suggest that the coverage was understood to apply on an annual basis, rather than on the three-year policy term defined by the certificates.'**
>
> *Judge Douglas P. Woodlock*
> *U.S. District Court*

Commercial Union Insurance Co. et al. vs. Swiss Reinsurance America Corp., U.S. District Court for the District of Massachusetts; No. 00-12267.