

**PORT AUTHORITY RULED LIABLE FOR FIRST WTC TERROR ATTACK DUE TO LAX SECURITY / PAGE 3**

**CLAIMS FROM SIEMENS CASE COULD LEAD TO D&O RATE HIKES IN GERMAN MARKET / PAGE 3**

**LANGUAGE DEGRADING WOMEN CREATES HOSTILE ENVIRONMENT REGARDLESS OF TARGET / PAGE 3**

## In Brief

**AIG exec released from Mexican jail**

Mexican authorities last week released a jailed American International Group Inc. executive after the insurer settled a commercial policy coverage dispute with TV Azteca S.A. de C.V. In return for settling the disputed directors and officers insurance claim, TV Azteca withdrew a criminal complaint and advocated for the release of Norberto Luis Ferrara Perini, who heads AIG Mexico Seguros Interamericana S.A. de C.V., according to AIG. Mr. Ferrara and an outside attorney for AIG, Nestor Diaz Barriga, were arrested on April 25.

**ING to acquire plan administrator**

ING Group N.V., the Dutch financial services company, has agreed to buy CitiStreet L.L.C.,

See **IN BRIEF** page 29

## Genetic bias bill wins approval

*Limited short-term impact expected*

By **MARK A. HOFMANN**

**WASHINGTON**—Legislation banning health insurance and employment decisions based on genetic information should not have a significant impact on employers for the time being, legal experts say.

But some say the Genetic Information Nondiscrimination Act (S. 358) could expose employers to future litigation even though there's little if any evidence that any employers base employment decisions on genetic information.

GINA, which the House approved last week, seven days after the Senate gave its final approval, prohibits group health plans or issuers of individual health care policies from basing eligibility determinations or adjusting premiums or contributions on the basis of genetic information. The measure bans health plans and insurers from requesting, requiring or purchasing the results of genetic tests. The bill also forbids them from disclosing genetic information.

The bill prohibits employers from firing, refusing to hire or otherwise discriminating against workers with respect to compensation and other terms of employment. Like insurers, employers are banned from requesting, requiring or buying genetic information. Those that do would be subject to compensatory and punitive damages under some circumstances.

The measure, several versions of which were introduced previously, passed both houses overwhelmingly and President Bush has indicated he will sign it into law.

Employment experts say that the measure's impact is likely to be limited, at least for the short term, particularly because there is no evidence that genetic discrimination is widespread.

"The bill has been many years in the mak-

**13 years**

The time it has taken for legislation banning employer or insurer discrimination based on genetic testing to pass both houses of Congress.

See **GENETICS** page 29

## Extended cover laws burden employers

*Adult dependent mandates create headaches*

By **JUDY GREENWALD**

Employers are coping with a growing number of laws that extend the age to which insured plans must offer coverage to employees' adult dependent children.

While there is variation in these laws—which now have been passed in more than two dozen states—they generally require employer health plans to offer continued coverage for adult dependent children still living at home.

And while the cost is not generally considered significant, the laws do create administrative burdens for employers, particularly those with multistate operations.

Previously, these state laws, which do not apply to self-insured plans, generally required that health plans cover employees' children up to age 19 if they did not

attend college, or generally to 24 if they were full-time students. But measures that have been passed over the past couple of years extend coverage in many cases to age 25 or 26. In New Jersey's case, coverage must be offered up to age 30, which is the oldest cutoff among states.

And in many cases, the laws no longer require the dependent to be a student. For example, legislation signed by Kentucky Gov. Steve Beshear last week requires health plans to offer coverage for all young adults up to age 25. Previously, only students had to be covered up to that age.

Observers say the impetus behind the legislation is the large percentage of young adults that are uninsured. According to a 2007 study by the New York-based Common-

See **MANDATES** page 28

## SPOTLIGHT

### RIMS CONFERENCE COVERAGE

Risk managers urged to advance their prospects;



Professional Growth Model nearly ready; RIMS leaders focus on skills, quality and efficiency;

industry's best and brightest honored; C-suite should open up to risk managers; Spencer Foundation to award 36 scholarships this year.

Page 11

## High-deductible plans report rapid growth

*Low premiums, tax breaks fuel wide interest*

By **JERRY GEISEL**

Enrollment in high-deductible health insurance plans linked to health savings accounts continues to surge, with the plans rapidly becoming a mainstream benefit plan offering.

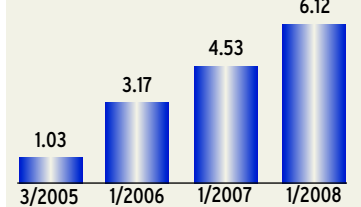
As of Jan. 1, 6.1 million people were enrolled in HSA-linked health insurance plans, a 35% increase over Jan. 1, 2007, according to an America's Health Insurance Plans census released last week.

Enrollment in the plans shot up across all markets, according to AHIP, with the biggest percentage increase in the small-employer market. Employers with 50 or fewer employees had 1.8 million people in HSA-linked plans, roughly a 70% increase over the previous year.

Enrollment also increased sharply in other markets. In the large-employer market—employers with at least 51 employees—enrollment

### SURGING ENROLLMENT

Enrollment in high-deductible health insurance plans with health savings accounts has soared. In millions of lives.



Source: America's Health Insurance Plans

in HSA-linked plans increased to 2.8 million, up about 35%, while enrollment in the individual market climbed to 1.5 million, also about a 35% increase.

Enrollment has been growing "at a very consistent and strong pace," said AHIP President and Chief Executive Officer Karen Ignagni in

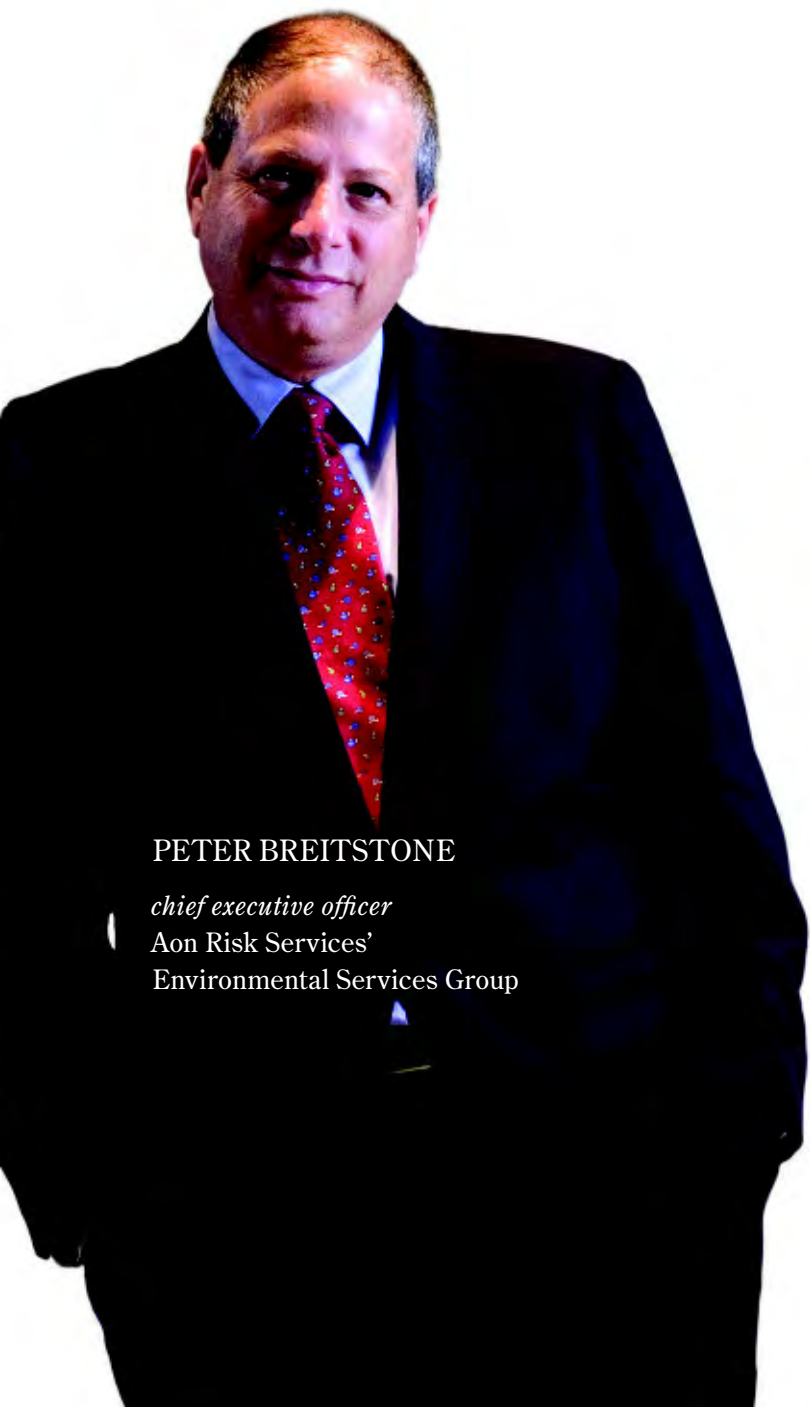
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PETER BREITSTONE

*chief executive officer*  
Aon Risk Services'  
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# Port Authority liable in '93 WTC bombing

## Agency's security lax in 1993 attack, appeals court says

By DOUGLAS McLEOD

**NEW YORK**—A New York appeals court has affirmed a jury's verdict that the Port Authority of New York and New Jersey is liable for damages from the 1993 terrorist bombing at the World Trade Center that killed six people and wounded about 1,000 others.

The Port Authority was warned about the WTC's vulnerability years before terrorists exploded a truck bomb in its underground parking lot, but the agency rejected steps to tighten security and the jury's 2005 decision finding it negligent was reasonable, a five-judge panel of the Appellate Division of New York's

State Supreme Court ruled Tuesday.

At the time of the jury verdict, the Port Authority was facing 575 claims from individuals injured in the attack, WTC tenants, and insurers with subrogation claims for losses paid to tenant policyholders. Most of those claims have since been resolved, and pending claims—mostly for personal injury and business interruption—number fewer than 50, a Port Authority spokesman said.

"We look forward to resolving those cases as well," the spokesman said.

He would not comment on whether the agency will appeal Tuesday's ruling.

In an attack that foreshadowed the WTC's 2001 destruction, terrorists drove an explosives-packed van "utterly unimpeded" into the com-



NYTIMES

Rescue workers head toward the World Trade Center after it was bombed in 1993. A New York appeals court has ruled that the Port Authority of New York and New Jersey is liable for damages from the attack.

See **RULING** page 27

## German D&O insurers brace for Siemens claim

### Big covered losses from bribery charges could turn market

By RICHARD MILLER

**MUNICH, Germany**—Siemens A.G.'s intended claim against insurers that relates to a far-reaching bribery scandal could turn rates in the directors and officers insurance market, which is already braced for major losses from U.S. subprime-related claims, experts say.

Siemens has notified a consortium of companies that insured the engineering group's executives of its intention to file a claim, according to a source familiar with the situation.

The Munich and Berlin-based conglomerate did not specify the amount of the claim in last month's notification, but Siemens has a coverage limit of €250 million (\$391 million), the source said.

The consortium is led by Allianz S.E., with €70 million (\$109.6 million) of exposure, and includes HDI-Gerling, part of the Hanover-based Talanx Group, and Switzerland-based Zurich Financial Services Group. All companies refused to comment.

Results of an internal Siemens investigation released last week led observers to think it is likely authorities will pursue a case against former members of the management board.

Siemens is under investigation by both U.S. and German authorities for allegedly paying hundreds of millions of euros in bribes to win

contracts over several years.

New York-based law firm Debevoise & Plimpton L.L.P. reported to the company's board that it had found evidence of wrongdoing across the company and in several countries, ranging from regulatory violations to outright corruption.

From a D&O standpoint, the initial step of notification of a claim is a long way from being able to judge any impact on the overall market, experts say.

The D&O market in Germany has seen premium rates decline an average of 10% annually over the past few years. It could see an end to that trend should the covered damage claim reach €250 million, some said.

"If it were to come up to the total limit, this would certainly have an effect on the D&O market," said Leberecht Funk, chairman of Funk Gruppe GmbH in Hamburg, Germany's largest independent broker.

Mr. Funk, who also is president of Verband Deutscher Versicherungsmakler e.V., the association of German insurance brokers, said there are additional pressures on the D&O insurance market.

"I think subprime—with its effect on the banks—will gradually penetrate this market in terms of D&O claims as well, so it is painful to the market," Mr. Funk said.

Gerard van Loon, London-based head of German liability business at Liberty International Underwriters, a unit of Boston-based Liberty Mutual Group Inc., said that, based on the estimated annual German D&O market premium volume, "one can only assume that a €250

**\$391M**

Siemens A.G.'s directors and officers liability insurance coverage limits, according to a market source.

See **SIEMENS** page 6

## Hostile workplace ruling could be influential

### Person need not be specifically targeted: Court

By JUDY GREENWALD

**ATLANTA**—Sexually explicit language in the workplace that is not directed at a particular person still can be the basis of a hostile work environment claim, according to a federal appeals court decision that observers say could be influential.

According to last week's ruling in *Ingrid Reeves vs. C.H. Robinson Worldwide Inc.*, Ms. Reeves was the sole woman in her area as a transportation sales representative in the Birmingham, Ala., office of C.H. Robinson, an Eden Prairie, Minn.-based transportation services firm.

Ms. Reeves said "sexually offensive language permeated the work environment" from co-workers and her supervisor, according to the ruling by a three-judge panel of the 11th U.S. Circuit Court of Appeals in Atlanta. Furthermore, sexually explicit radio programming played on a daily basis.

"When Reeves complained about the radio programming, she was often told that she could play her own music or change the station," said the opinion. "She testified, however, that if she did so, the other employees would soon change the radio back to the offensive program."

Ms. Reeves resigned from C.H. Robinson in 2004 and filed a complaint in 2006, charging in part that the sexually offensive language created a hostile work environment. A lower court granted summary judgment to C.H. Robinson, dismissing the case. Ms. Reeves appealed.

In a unanimous ruling, the court panel overturned the lower court ruling and said Ms. Reeves, who complained numerous times about the language, is entitled to having her claims heard by a jury.

The opinion notes a plaintiff must meet five conditions to establish a hostile work environment under Title VII of the Civil Rights Act of 1964, one of which is that the harassment was "based on" her being a member of a "protected" group.

"The specific question that faces us here is whether harassment in the form of offensive language can be 'based on' the plaintiff's membership in a protected group even when the plaintiff was not the tar-

get of the language and other employees were equally exposed" to it, the opinion states.

"It is well-established that racially offensive language need not be targeted at the plaintiff in order to support a Title VII hostile work environment claim," said the court. "Surely, a requirement that a man or woman run a gauntlet of sexual abuse in return for the privilege of being allowed to work and make a living can be as demeaning and disconcerting as the harshest of racial epithets."

The language in the C.H. Robinson office "may be more degrading to women than men. The subject matter of the conversations and jokes that allegedly permeated the office on a daily basis included male and female sexual anatomy, masturbation, and female pornography, all of which was discussed in a manner that was similarly more degrading to women than men. The radio programming that Reeves claims

See **HOSTILE** page 26



# Deal cut without insurer consent warrants zero coverage

## Court rules against Jacksonville, Fla., in \$75 million settlement

By DOUGLAS McLEOD

**ATLANTA**—A liability insurer for Jacksonville, Fla., has no obligation to cover a \$75 million pollution settlement because the city kept the insurer in the dark about settlement talks and agreed to the deal without the insurer's consent, a federal appeals court has ruled.

Affirming a lower court's order, a panel of the 11th U.S. Circuit Court

of Appeals found that the city breached a policy provision requiring it to cooperate with Transportation Insurance Co. in litigation with thousands of city residents over alleged injuries from the incineration of lead, arsenic and other contaminants at city dump sites.

"The undisputed facts demonstrated 'the city's duplicity' throughout the settlement process and that the city's deception rendered Transportation's efforts to secure the city's cooperation futile," the three-judge panel ruled last month.

The coverage litigation stems from a 2003 lawsuit filed by Jacksonville residents against the city, a



county school board and the Jacksonville Electric Authority over physical and emotional injuries allegedly related to years of waste incineration at city dumps.

Transportation, a unit of Chicago-based CNA Financial Corp., issued general liability policies to Jacksonville in the late 1960s and early 1970s, and the city notified the insurer of the pollution suit about 10 months after it was filed, accord-

ing to court records.

Transportation agreed to defend Jacksonville subject to a reservation of rights, and ultimately paid \$3.9 million in legal costs, according to the appeals ruling.

While Jacksonville accepted the defense coverage, the city and Transportation sparred over control of the defense, court records state. The insurer contended that Jacksonville lawyers began formulating a settlement without providing it with adequate information about the underlying claims, and warned Jacksonville not to settle without its consent. The city responded that Transportation was handling the

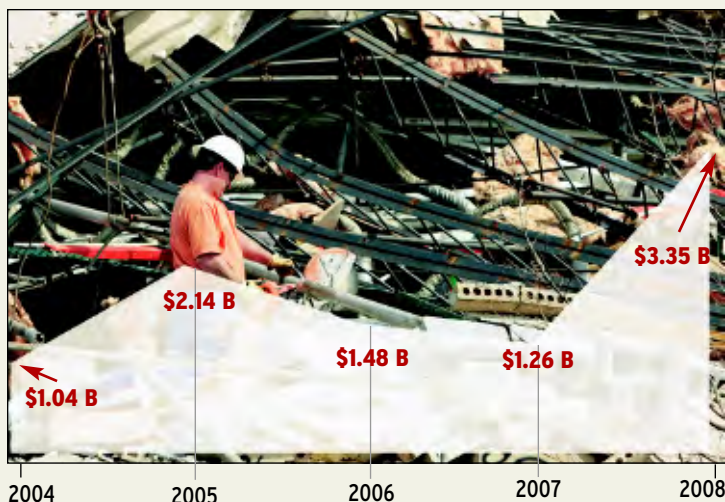
case unprofessionally and had failed to participate meaningfully in mediation sessions.

In November 2004, Transportation filed a declaratory judgment suit against the city, and Jacksonville soon after began settlement talks with plaintiffs' lawyers in the underlying case, court records state.

Over the next several months, the city and plaintiffs' lawyers communicated frequently about various settlement proposals, often without informing Transportation, according to court filings. In August 2005, Jacksonville notified the insurer that

See **COVERAGE** page 27

### FIRST-QUARTER CATASTROPHE CLAIMS FOR THE PAST FIVE YEARS



Source: Insurance Services Office Inc.'s Property Claim Services

AP PHOTOS

## First-quarter cat losses worst in 10 years: PCS

### Virginia tornadoes cap active start for 2008

By MARK A. HOFMANN

**JERSEY CITY, N.J.**—Catastrophes caused an estimated \$3.35 billion in insured property damage during the first three months of this year, the Insurance Services Office Inc.'s Property Claim Services unit reported.

The insured property loss is the largest for any first quarter in the past decade and more than double the \$1.26 billion registered during the same period last year.

Jersey City, N.J.-based PCS categorized nine events during the first three months of this year as catastrophes, meaning each caused at least \$25 million in insured property damage and affected a significant number of policyholders and insurers. Seven of the catastrophes stemmed from severe weather—including high winds, hail, flooding and tornadoes—and one stemmed from a winter storm.

Georgia sustained the largest insured property losses during the quarter with \$610 million, followed by Tennessee with \$535 million,

California with \$360 million, Texas with \$270 million and Arkansas with \$223 million.

The ninth catastrophe stemmed "solely from the workers compensation loss associated with a February explosion at a sugar refinery in Georgia," said PCS, referring to the explosion at Imperial Sugar Co.'s Port Wentworth, Ga., refinery that killed 13 workers and injured dozens more.

"This declaration is in keeping with PCS' commitment to identify events affecting the property/casualty industry," said PCS in its statement concerning the first-quarter results. "Currently, no estimate of the extent of the injured workers compensation loss has been determined."

PCS said its analysis excludes that loss.

Meanwhile, a series of tornadoes caused widespread damage in southern Virginia last week, causing extensive destruction around the city of Suffolk.

The Virginia Department of

See **LOSSES** page 6

## Automatic-enrollment rules clarified

### Labor Department protects employers' prior stable-value contributions

By JERRY GEISEL

**WASHINGTON**—New Labor Department guidance assures employers that they are protected from fiduciary liability for past contributions into so-called stable-value funds for employees enrolled automatically in 401(k) plans.

That guidance clarifies final Labor Department rules that went into effect in December, which laid out default fiduciary-protected investments: life-cycle, targeted retirement-date, balanced and professionally managed funds.

The final rules also gave fiduciary protection for contributions that were made to stable-value funds before the new rules were adopted. But those rules—in the way stable-value funds were described—unintentionally may have excluded the funds from the fiduciary liability protection intended for prior contributions, the Labor Department acknowledged.

Under the final rules, a stable-value fund must guarantee principal and a rate of return that is generally consistent with intermediate investment-grade bond earnings. Such funds also must be guaranteed by a state- or federally regulated financial institution.

Few if any stable-value funds provide such guarantees, benefit experts say.

By contrast, the field assistance bulletin removes the principal and investment return guarantees. Instead, it defines stable-value funds as those that are intended to preserve principal, provide a rate of return that is generally consistent with intermediate investment-grade bonds and products that are backed by state- or federally regulated institutions.

"This is a big improvement. Plan sponsors will be able to use products that will clearly qualify," said Robyn Credico, national director of defined contribution consulting at Watson Wyatt Worldwide in

Arlington, Va.

The clarification applies to billions of dollars that employers contributed to stable-value funds prior to the final rules. Except for a brief period after an employee is automatically enrolled in a 401(k) plan, future stable-value fund contributions through automatic enrollment have no fiduciary protection.

Automatic enrollment plans have grown rapidly in recent years and up to 50% of employers now offer them, according to Hewitt Associates Inc. in Lincolnshire, Ill.

"They definitely have become mainstream," said Bill McClain, a principal with Mercer L.L.C. in Seattle. Factors fueling the growth include the decline of defined benefit plans, making 401(k) plans employers' sole retirement savings plan and increasing the importance of employees' contributing to the plan to assure sufficient retirement income.

## Retiree health care options expand

### HSAs, HRAs can be used to as alternative to expensive traditional plans

By JERRY GEISEL

**WASHINGTON**—Features that make it attractive for employers to offer health savings accounts and health reimbursement arrangements to employees also make them appealing as retiree health care funding vehicles, an expert says.

For employers who contribute to HSAs or HRAs, the costs are predictable; for employees, there are tax breaks such as tax-free accumulation of earnings and tax-free distributions taken to pay for health care expenses.

While neither arrangement will provide all that is needed to cover health care expenses after retirement, HSAs and HRAs are among the most tax-effective vehicles to accumulate savings, said Brad Kim-

ler, executive vp with mutual fund giant Fidelity Investments.

Speaking last month at the 5th annual World Health Care Congress in Washington, Mr. Kimler said employers face a retiree health care coverage dilemma.

On one hand, old-style retiree health care plans have become unaffordable and many employers have terminated the plans, which often extend coverage for younger retirees or supplement Medicare for older retirees. However, without employer-provided coverage, some employees may be unable to afford to retire and will stay on the job longer than either they or their employers would like, potentially blocking advancement of younger employees.

HRAs and HSAs can be an attrac-

tive middle ground between providing coverage that may prove unaffordable or offering no coverage at all.

"Employers are taking a step back...and looking at what is the most effective mechanism" to help fund retiree health care coverage, Mr. Kimler said.

That middle ground—approaches that incorporate HRAs or HSAs—is attracting employer interest.

Earlier this year, Ford Motor Co. put in place an HRA-linked program for nonunion retirees. For both pre-Medicare and Medicare-eligible retirees, Ford each year contributes \$1,800 per retiree, plus an additional \$1,800 for a retiree's spouse, to an HRA. In the case of pre-Medicare-

See **RETIREE** page 6

LOTS OF HEAT. A LITTLE WATER.

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**WAUSAU PROPERTY AT WORK.** A building material supply customer of ours recently moved into a larger building. Despite the extra space, it still had inventory stacked nearly to the ceiling. This presented a bit of a problem for the existing sprinkler system, which was not designed for high-pile storage. The system didn't have the necessary water and pressure to combat the type of intense fires that could result from the primarily wood materials. Our loss prevention experts estimated the entire \$4 million inventory could be lost in a fire. Working together, we found a solution



that appealed to both the company and its landlord. The existing system was replaced with one designed for high-pile storage and the building was outfitted with new heaters to prevent the pipes from freezing. In addition to protecting its inventory, the company saved almost \$30,000 a year in premiums. It's all part of Wausau TotalValue<sup>SM</sup> and our commitment to lowering our customers' total cost of risk. A commitment backed by the financial strength of the Liberty Mutual Group. To learn **PRICE ≠ COST.** more, visit [wausau.com](http://wausau.com) or contact your Wausau representative.

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## Losses: Virginia tornadoes cap active start for 2008

CONTINUED FROM PAGE 4

Emergency Management reported within hours of the twisters' appearance that 145 homes in the southeastern Virginia city were "deemed uninhabitable" as a result of the tornadoes. The state reported no tornado-related fatalities.

As of late last week, the department estimated that the tornadoes caused more than \$32 million in damage, although it did not detail whether the damage was insured. Suffolk sustained nearly \$28.6 million of that damage, all but \$250,000 of which was to private rather than public proper-

ty. The department also estimated that the area around a mall in Colonial Heights, Va., sustained about \$2 million in damage.

Virginia Gov. Tim Kaine declared a state of emergency statewide after the twisters, but did not request that the affected areas be declared federal disaster areas.

PCS has assigned a catastrophe number to the damage caused by the series of tornadoes—meaning that insured property damage is expected to reach at least \$25 million—but does not expect to issue a preliminary estimate of insured damage until this week at the earliest.

## Siemens: Claim could turn D&O market

CONTINUED FROM PAGE 3

million loss would have a substantial negative impact on the ultimate German D&O market loss ratio."

"This assumption is further strengthened by the fact that the German D&O market has already been hit by some major losses, leading me to believe that German D&O insurers still carry fairly thin reserves for this class of business. Let's also not overlook some of the German D&O claims still in the pipeline, some of them directly related to the U.S. subprime crisis," Mr. van Loon said.

He noted, however, that D&O capacity currently available largely exceeds €250 million and the Siemens case outcome is far from certain. "Those two factors will cer-

tainly moderate any short-term upward rate movement as market prices tend to be set by the most optimistic trading agents," he said.

A number of sources speaking anonymously cautioned that it is pointless to speculate about the amount that insurers would end up paying under the Siemens D&O policy.

Insurers may have to cover legal defense costs incurred by managers accused of corruption and fraud. But if it is found they acted deliberately, the insurers are not required to cover the liability damages, experts say.

One broker source insisted, however, that insurers have made a healthy profit from the D&O market during recent years and so a loss of several hundred million could be

absorbed by the German market, regardless of some high-profile cases.

At the end of 2006, eight insurers settled a D&O claim with German car maker Daimler A.G. for €168 million (\$263 million), and Deutsche Lufthansa A.G. has a purported €250 million claim that remains outstanding with its insurers.

Rates generally are affected when a series of policies are tapped for coverage and insurers start losing money, the source said.

Financial institution insurers, for instance, currently are raising rates because they face nearly 60 securities class actions related to U.S. subprime claims. But on the nonfinancial side, rates continue to decline, the broker said.

## Retiree: Health care options expand with HSAs and HRAs

CONTINUED FROM PAGE 4

eligible retirees, Ford continues to provide retiree health care plans, though its contribution is capped at what it paid in 2006 with future increases born by retirees.

Fidelity's HRA is designed differently. Under the program set up last year, Fidelity provides employees with a \$3,000 annual credit in an HRA. Employees can draw from the account after turning 55 to pay for retiree health care expenses on a tax-free basis. Employees vest in the credits after 10 years of service.

Fidelity began to consider such a program based on employee surveys

that found an overwhelming majority of employees said they didn't know how they would pay for retiree health care expenses.

HSAs also can be retiree health care funding vehicles. To the extent that employees haven't used accumulated contributions and investment earnings to pay for health care expenses while working, those funds will be available to pay retiree health care expenses on a tax-free basis.

HSAs "can be useful tools" for retiree savings, Mr. Kimler said.

Still, some employees probably won't conserve HSA assets to have funds available when they retire. Some may believe they don't have to

save up for retiree health care expenses.

"Some people think Medicare covers everything. They don't budget for health care," said Beth Bierbower, vp-innovation at Louisville, Ky.-based Humana Inc., who also spoke at the session.

At the same time, rapidly growing HSAs have been under congressional scrutiny.

Tax legislation passed last month by the House of Representatives requiring the substantiation of distributions from HSAs would increase paperwork and costs for enrollees and give them fewer choices in which to open and maintain their

accounts, experts say.

Under the legislation, banks would have to report unsubstantiated distributions on tax forms, making HSA enrollees automatically subject to income taxes and, in certain cases, penalties.

To meet these requirements, HSA enrollees would have to fill out claims forms and provide receipts in many cases. Currently, HSA enrollees can take distributions with no questions asked as to their purpose.

Handling that paperwork "will impose a much higher cost structure" for banks, Mr. Kimler said.

Those higher costs will lead some smaller banks to exit the market and reduce competition for enrollees' accounts, Ms. Bierbower.

"We think that competition is healthy," she said.

Both Ms. Bierbower and Mr. Kimler questioned the need for the substantiation requirement. Individuals now must report HSA distributions on an IRS tax form. As with other

information reported on tax reforms, individuals who misstate the use of HSA distributions face penalties if their tax returns were audited and the IRS caught those misstatements, Ms. Bierbower said.

On the plus side, the White House has warned that President Bush would veto an HSA substantiation requirement, reducing the chances that the proposal will become law, at least in the near-term.

Amid that legislative development, HSAs continue to grow. A survey released last week by America's Health Insurance Plans said enrollment in high-deductible health insurance plans linked to HSAs leaped 35% last year to 6.1 million (see story, page 1).

Additionally, an earlier survey by Mercer L.L.C. found that 9% of employers with at least 500 employees offered HSAs in 2007, up from 6% in 2006, while the 6% of employers offered an HRA program both years.

## BI promotes staff

**NEW YORK**—*Business Insurance* has promoted two members of its promotion and circulation departments.

Michael Ambrosio has been named promotion director, and Craig Bowman has been named assistant circulation manager.

Mr. Ambrosio joined the magazine in 2002 as promotion manager. Based in New York, he is responsible for developing marketing and promotional programs.

Before joining *BI*, he was promotion manager at software and Web site services company DMIND Corp. in New York. Prior to that, he was associate creative services manager at the Ad Age Group, a division of Crain Communications Inc., which publishes *Business Insurance*.

Mr. Ambrosio has a bachelor of science degree in advertising copy-

writing from Boston University. He can be reached at 212-210-0780 and [mambrosio@businessinsurance.com](mailto:mambrosio@businessinsurance.com).

Mr. Bowman joined Crain in 2001 as a circulation coordinator and is based in Detroit. As assistant circulation manager, he supports and develops circulation initiatives and strategies for *Business Insurance*. He helped launch *Business Insurance Europe* in 2006 and *Business Insurance's* digital edition in 2007. He also has supported circulation for several other *BI* sister publications.

Prior to Crain, he was a media planner for advertising agencies W.B. Doner & Co. and GlobalHue.

He has a bachelor of science degree in advertising from Western Michigan University. Mr. Bowman can be reached at 313-446-0471 and [cbowman@crain.com](mailto:cbowman@crain.com).



Mr. Ambrosio



Mr. Bowman

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# Business Insurance OPINIONS

## RIMS plays key role in professional growth

A THEME AT last week's RIMS 2008 Annual Conference & Exhibition was "Change the Way You Talk About Risk."

That's a fitting theme, and a great deal of discussion did go on inside the San Diego Convention Center and out. From keynote speeches to the more than 100 educational sessions, attendees heard a panoply of perspectives about how to manage risk and the role that risk managers should play in their organizations.

One of the big announcements was the Risk & Insurance Management Society Inc.'s creation of a professional development tool. The tool offers a matrix of skills and characteristics for risk practitioners ranging in experience from entry-level to strategic. RIMS' goal is to help its members advance professionally and attain strategic status, and the tool is the third of a series of initiatives that aim to enhance quality in the industry and in managing risk.

Such a tool obviously is an important road map for the risk management profession, but we're a little surprised that it wasn't developed sooner.

RIMS is the pre-eminent organization for professional risk managers. The society's annual conference is built on a vast number of educational sessions, and RIMS offers a variety of workshops as well as the RIMS Fellow designation. A tool to help risk managers assess their skills is a natural.

Talking about risk is a crucial first step in managing it. We think that the future of risk management depends on continual conversations about risks—both positive and negative—with an ever-wider group of people who have a stake in every risk outcome.

*Talking about risk is a crucial first step in managing it.*

## Genetic bias legislation could help employers

BEING FOREWARNED can mean being forearmed.

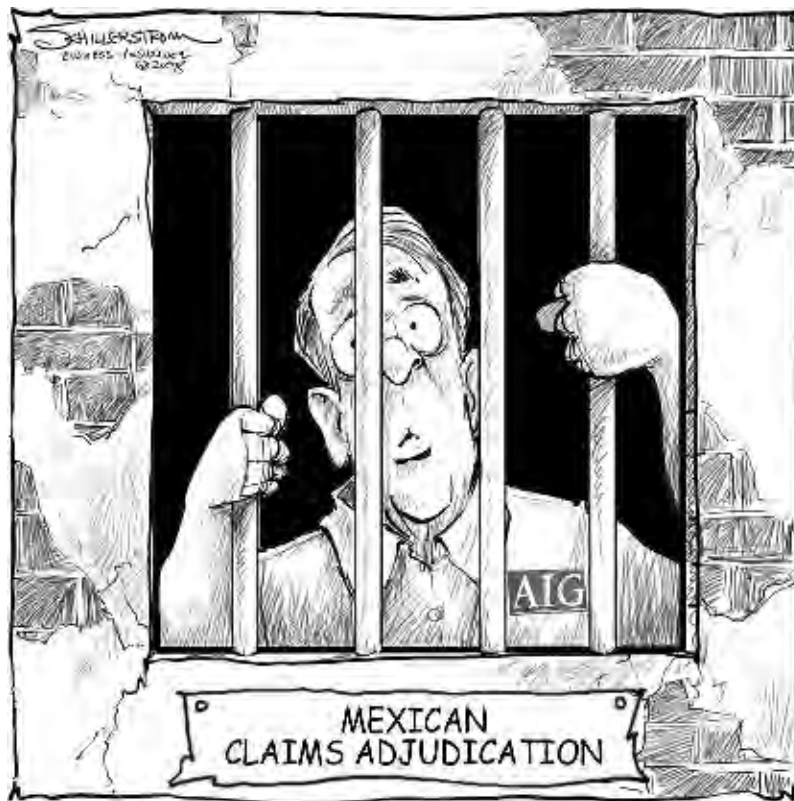
That's the way we believe employers should approach the Genetic Information Nondiscrimination Act. Doing so could spare them a lot of headaches along the way.

As we report on page 1, the act bans the use of genetic information in determining health care coverage or employment. One cannot argue against such a ban—why should people face discrimination on the basis of something over which they have no control? Fortunately, there's little if any evidence that employers are using genetic information to make employment decisions.

GINA aims to keep things that way by specifically banning the collection and use of genetic information in making employment decisions. The act tells employers what they cannot do, and they would do well to heed that even though current employment practices could bring into question whether such a law is needed today.

There may not be such a question tomorrow. After all, genetic information, which wasn't much of an issue even three years ago, has become more and more accessible. The opportunities for such information's use—and abuse—have grown with its accessibility.

Enactment of the nondiscrimination act proves that protecting genetic information from misuse is becoming a greater issue with each genetic breakthrough. For the majority of employers, disclosure of genetic information is a non-issue. Taking the requirements of GINA into account when crafting corporate policy could help mean that even an accidental disclosure should remain a legal non-issue for them as well.



## BI beats list

In an effort to ensure continuing timely coverage of risk management, insurance and benefit-related news, Business Insurance has formalized a list of its reporters' assigned beats. This list is not intended to be exclusive but rather to represent core subject areas of importance to BI readers. BI welcomes ideas and tips from readers on these and other areas. Following is a list of the beats and the principal reporters for each:

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Sally Roberts.

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Joanne Wojcik.

### Benefits—retirement savings/pensions:

Jerry Geisel.

### Canada—risk management and benefits:

Gloria Gonzalez.

### Commercial auto:

Jeff Casale

### Employment practices:

Judy Greenwald.

### Environmental risk management:

Sally Roberts.

### Federal regulation/legislation—benefits:

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### Federal regulation/

### legislation—risk management:

Mark A. Hofmann.

### Health care industry operations:

Gloria Gonzalez.

### Industry Focus:

Rodd Zolkos, Meg Fletcher.

### Insurance coverage litigation:

Douglas McLeod.

### Insurance fraud:

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### Latin American markets:

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### Marine:

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### Property/casualty industry operations:

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### Professional liability:

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### Property loss control/cat risks:

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### Regulation of insurance:

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### Tort reform:

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### Work/life benefits and EAPs:

Sally Roberts.

### Workers compensation:

Roberto Cenicerros.

## Online Poll at [www.businessinsurance.com](http://www.businessinsurance.com)

Should risk retention groups be allowed to cover property risks??



**NEXT WEEK'S POLL:** Is federal legislation banning employment discrimination on the basis of genetic information necessary?

BI Online Poll tool sponsored by Wausau Insurance Cos.

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MICHAEL MARCOTTE

## Risk managers urged to advance prospects

*Professional growth key for career development*

By **SALLY ROBERTS**

**SAN DIEGO**—Risk management is growing in importance not only in corporate America but also globally, and risk managers must be prepared to broaden their skills as their roles expand, said Janice Ochenkowski, president of the Risk & Insurance Management Society Inc.

Addressing the general session that opened the 2008 RIMS conference in San Diego, Ms. Ochenkowski challenged risk managers to prepare themselves for the increasingly important role that risk management is playing at numerous organizations.

"I can tell you that the old cliché that 'luck is preparation meeting opportunity' really rings true," Ms. Ochenkowski said. "During this conference and the year ahead, RIMS will provide you with the tools for preparation. Opportunity? You have to look for that one yourself," she told a crowded room of risk management professionals.

Ms. Ochenkowski, who also is a managing director at Jones Lang

LaSalle Inc. in Chicago, said that one of the most important lessons she's learned is that risk managers need to align themselves with and really understand the business of their business. "I need to understand real estate and financial services," she said. "Sure, I have to understand the basics of insurance and risk management, but I can rely on my broker and underwriting experts for the details. My company should see me as one of them, not as an in-house insurance person," she said.

Ms. Ochenkowski said that "none of this works in a vacuum" and encouraged risk managers to work within the framework of their own organizational structure.

"If you contribute and communicate it internally and externally, your value to your organization will be noted and you will be an important part of your organization's team," she said.

Toward that end, RIMS unveiled its new Professional Growth Model guide last week at the conference (see story, page 12).



PHOTO COURTESY OF RIMS

**When it comes to opportunity, "You have to look for that one yourself," said RIMS President Janice Ochenkowski. The organization aims to help risk managers prepare to play a bigger role in meeting evolving business needs.**

Last year, she charged the RIMS Quality Advisory Council to identify characteristics of a quality risk manager, the necessary skills for job performance and the resources needed for evolving stages of a risk management career.

What came back "far exceeded" her expectations, she said. "We all have the basic ability. Now RIMS is providing us with a guide for improving ourselves," she said.

See **PREPARATION** next page

RIMS 2008

# SPOTLIGHT

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# Preparation: Career advancement urged

CONTINUED FROM PREVIOUS PAGE

Also during the session, Mary Roth, RIMS executive director, gave some insights into other recent developments at the society as well as initiatives on the horizon.

Ms. Roth noted, for example, that RIMS late last year "made a milestone commitment" to the enrichment of risk management education and development for the future of the risk management industry with a \$300,000 contribution to the Spencer Educational Foundation and a \$30,000 pledge to the William H. McGannon Foundation in Canada. Both foundations strive

to develop risk management education and provide scholarships to students.

Additionally, RIMS will launch a new Web site in a few weeks, Ms. Roth said. In addition to reorganizing content and improving "the user friendliness" of the site, RIMS also will be adding "fun new" online socializing options for risk managers.

RIMS also will be hosting its first-ever virtual conference and exposition in November, in which participants can attend sessions, walk through an exhibition hall and attend networking events all online, Ms. Roth said.



PHOTO COURTESY OF RIMS  
**Executive Director Mary Roth said RIMS' revamped Web site will be more user-friendly.**

# RIMS prepares to launch professional growth tool

By JOANNE WOJCIK

**SAN DIEGO**—Although it remains a work in progress, the Risk Management Professional Growth Model unveiled at this year's Risk & Insurance Management Society Inc. conference will become a valuable resource to help risk managers develop their careers, said RIMS President Janice Ochenkowski.

The model, which was developed by the New York-based society's Quality Advisory Council as part of

RIMS' three-year quality improvement process, was distributed last week in the form of a brochure. However, in a few weeks, the tool will become available as an electronic document on the RIMS Web site, [www.rims.org](http://www.rims.org), which is being redesigned, Ms. Ochenkowski said.

Eventually, the online version will become more interactive, allowing risk managers to test and increase their knowledge by clicking on key words and phrases in the online document that will be linked to other Web sites with additional resources and information, she said.

"RIMS will use its skills and its resources to continue to develop opportunities for our members that are based on this," she said. "So if our members tell us they need help...we'll be able to create an opportunity or point them to one."

In particular, members of RIMS' various committees will be tapped to share their expertise to develop and populate the various links, Ms. Ochenkowski said. In addition, "we're putting together a program for chapters to teach them how to use it" in tasks such as writing job descriptions or developing career plans, she explained.

The model is not intended to be static, but rather an evolving tool that risk managers can use throughout their careers as they progress from entry level to chief risk officer, Ms. Ochenkowski said.

The Risk Management Professional Growth Model is designed to be flexible, yet "identify the skills and the techniques and the characteristics and the qualities" that all risk managers—regardless of the type of risk management they practice or their level—need to succeed, Ms. Ochenkowski said.

### Expertise levels

Specific accomplishments and areas of knowledge are divided by tabs into four levels of expertise: entry risk practitioner, intermediate risk practitioner, senior risk practitioner and executive risk practitioner. The model is further broken down into four other categories: abilities and knowledge, skills and attributes, tools, and distinguishing features.

For example, according to the model, an entry-level risk practitioner should have basic negotiation skills and presentation skills and be computer-proficient. This beginning risk manager should also be a team player who is logical, curious and a quick learner.

At the other end of the spectrum, an executive risk practitioner should have sharpened those skills and have the additional attributes of being decisive, a strategic thinker, and be willing and able to serve as a mentor to others.

Although risk managers have different roles in each organization, "the keys to success are the same," Ms. Ochenkowski said.

"We think at the end of the day this will help our members be better risk managers, and that's what we're trying to do," she said.

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# RIMS leaders focus on transparent relationships, legislation

*Supplemental fees paid to some brokers remain an ongoing issue*

By JOANNE WOJCIK

**SAN DIEGO**—Although insurers and brokers have been working to improve the quality of the services they provide, they still have “a long way to go” before the risk management community is satisfied with their progress, said Janice Ochenkowski, president of the Risk & Insurance Management Society Inc.

In the meantime, a key priority

for RIMS is helping its members develop the skills that are necessary to improve the transaction process, because “there are three parties” to all deals—the broker, the insurer and the risk manager, Ms. Ochenkowski said.

Now is the time to improve the skills of the risk manager, she said. To that end, the society last week unveiled its Risk Management Professional Growth Model (see story, page 12).

“The industry seems to be moving toward transparency. They are establishing criteria and discussing with clients what information should be given,” Ms. Ochenkowski said. However, “I don’t think all of the brokers have gotten there yet. Various brokers are at various points along the continuum.”

In particular, “there are still some issues on supplemental fees,” which are the commissions some insurers have begun paying instead of contingent commissions.

“But I think the door has been opened so those discussions can occur, and risk managers should feel empowered to have them,” Ms. Ochenkowski said during a press conference with RIMS leadership last week.

“RIMS’ position on transparency

has always been the client should know what the client wants to know and needs to know,” Ms. Ochenkowski said. “We believe our members are fully capable of deciding what their organization needs, and they need to press their vendors and their suppliers to get that. The strength of RIMS is to support the validity of their requests.”

In the legislative arena, RIMS is continuing to lobby in Washington for legislation to further facilitate the insurance buying process, said Terry Fleming, a member of RIMS’ board who oversees the society’s legislative committee. For example, RIMS is continuing to support an optional federal charter, because it will foster competition among insurers and make the insurance placement process easier, Mr. Fleming said.

“We see it as a marketing tool and a competition opportunity,” he said. “There is not one insurance regulator with the ability or the authority to manage international insurance placements. We look at this as efficiency of operations for members with multistate and foreign operations.”

RIMS also will continue to work with the Government Accountability Office to ensure the availability



MICHAEL MARCOTTE

**RIMS leaders, from left, President Janice Ochenkowski, board member Terry Fleming and Executive Director Mary Roth discussed issues that are facing today’s risk managers.**

of terrorism coverage, Mr. Fleming said. The society conducted a survey that found that more than 10% of its deputy members are still finding it difficult to obtain coverage for terrorism risks, Mr. Fleming said. “We will reiterate that to the GAO.”

RIMS also will work to ensure that any surplus lines reform bill that passes Congress includes a definition of “qualified risk manager” that enables all of the society’s members to take advantage of the reforms, he said.

The organization has not taken a position on a federal natural catastrophe pool proposal, because the commercial insurance market was not as affected by events such as Hurricane Katrina as was the personal lines market, Mr. Fleming said.

However, RIMS would support changing the underwriting of certain catastrophic risks, such as coastal windstorm, so that pricing is spread across the country, Mr. Fleming said.

**WATCH: MARY ROTH**  
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PHOTO COURTESY OF RIMS  
**Diane Wolfson, left, director of risk and insurance at CAE Inc., received the Harry and Dorothy Goodell Award from Janice Ochenkowski, president of the Risk & Insurance Management Society Inc.**

# Diane Wolfson receives RIMS' Goodell award

*Others honored for contributions to profession*

By **JOANNE WOJCIK**

**SAN DIEGO**—Some of the best and brightest members of the risk management community received recognition during awards ceremonies at the Risk & Insurance Management Society Inc.'s 2008 annual conference.

"It's the personal commitment that they've made that makes the society a valuable resource for all of

our members," RIMS President Janice Ochenkowski said during a luncheon ceremony.

Diane Wolfson, director of risk and insurance CAE Inc., a Montreal-based manufacturer of civil flight simulators, received the Harry & Dorothy Goodell Award, RIMS' highest honor, in recognition of her dedication to advancing the risk

See **AWARDS** page 18



MICHAEL MARCOTTE

**Lauralee Martin, chief financial officer and chief operating officer of Jones Lang LaSalle Inc., said upper management rely on risk managers' expertise.**

## Risk managers need to attain higher profile at companies

By **SALLY ROBERTS**

**SAN DIEGO**—Risk managers deserve a seat in the C-suite, according to one executive.

Chief executives today are deeply concerned about determining the next unexpected risk that could damage their company, and "that is why I believe risk management needs to have a much more prominent and dominant role in the C-suite," said Lauralee Martin, chief financial officer and chief operating officer of Jones Lang LaSalle Inc. in Chicago.

The recent subprime mortgage crisis that has led to the current credit crunch was essentially an exercise in risk transfer that failed, Ms. Martin said. "At the heart and soul of it, basic risk management was forgotten" when it came to credit risk.

"If business is about pursuing opportunity...I would say that risk management is about the survival of the business and that opportunity," she said during Tuesday's risk leadership keynote luncheon at the Risk & Insurance Management Society Inc. annual conference.

As another example, she cited a recent Ernst & Young survey of analysts on the 10 biggest risks facing global business.

Regulatory compliance ranked No. 1, while climate change risks came in at No. 9. In the real estate industry, she said while regulatory compliance was viewed as "critical" in terms of its impact, climate change was seen as only having a "medium" impact.

But the key question, she said, is when will those risks intersect? "That is why your knowledge needs to help your C-suite" because risk managers can see those connections while upper management does not, she said.

"You get up every day and think about risk," she said, challenging risk managers to communicate their knowledge and advice to senior executives. "If you step up...the future of business is very bright."



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MICHAEL MARCOTTE

RIMS leaders congratulate some of those honored at this year's award ceremony in San Diego last week.

## Awards: Others honored for contributions

CONTINUED FROM PAGE 16

management profession during her more than 30-year career.

Named in honor of RIMS' first president, Harry Goodell, the award pays tribute to an individual who has furthered the goals of the organization and the risk management discipline through outstanding service and achievement.

A RIMS member since 1983, Ms. Wolfson was on the executive council that launched the associate membership category and is a founding member of the William H. McGannon Foundation for Advanced Risk Management, which

was launched by the RIMS Canada Council to provide research grants, academic awards and scholarships to working risk managers seeking to further their education.

Ms. Wolfson graciously accepted her award, addressing the audience alternately in English and in French. "I am absolutely thrilled to receive this award from my peers," she said.

"When I heard that I was to receive this award, I was stunned," Ms. Wolfson said. "My first thought was that it seems funny to receive an award for doing something that you really love doing, and that brings you tremendous personal

satisfaction."

The society recognized other outstanding risk management professionals.

Charles Magazine, risk manager for the city of Boynton Beach, Fla., and president and external affairs chairman of the RIMS Palm Beach Chapter, received the Richard W. Bland Memorial Award, which the Kansas City Chapter established in 1974 to recognize outstanding performance by a deputy member of RIMS who has affected the risk management industry in the areas of legislation or regulation.

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PHOTO COURTESY OF RIMS

RIMS President Janice Ochenkowski presents the Ron Judd "Heart of RIMS" Award to Margaret Accordino, director of risk management at National Financial Partners Corp.

Margaret Accordino, director of risk management at National Financial Partners Corp. and vp and director of RIMS' New York Chapter, received the Ron Judd "Heart of RIMS" Award for outstanding performance in furthering risk management at the chapter level. The honor is named for Mr. Judd, who served 22 years as RIMS' executive director.

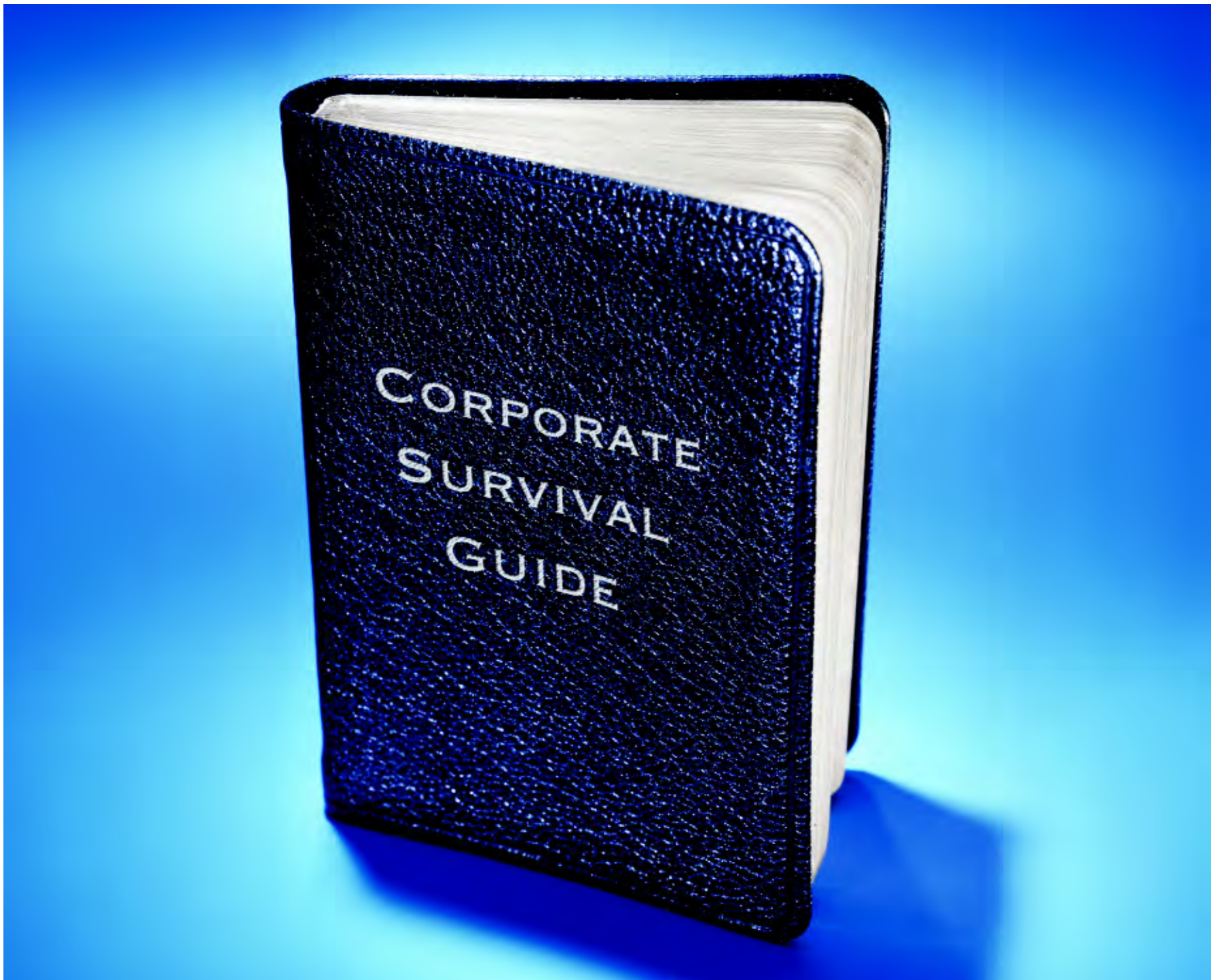
This year's Cristy Award, which recognizes the individual who earned the highest score on the three required examinations to earn the associate in risk management designation, went to Debra Hinton, assistant director of risk management at the University of Virginia in Charlottesville.

RIMS also acknowledged the outstanding work of several chapters during the awards ceremonies. For a complete list of RIMS chapter award winners, visit [www.rims.org](http://www.rims.org).



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Debra Hinton, assistant director of risk management at the University of Virginia, received the Cristy Award.



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# Spencer raises funds to educate risk managers

## Foundation names first development director

By SALLY ROBERTS

**SAN DIEGO**—The Spencer Educational Foundation Inc. said last week that it will award approximately \$266,000 in scholarships to 36 undergraduate, graduate and doctoral students studying risk management and insurance in 2008.

That amount is well below the record-setting 57 scholarships worth about \$400,000 that Spencer awarded last year, Donna L. Galer, chairwoman of Spencer's board of directors, noted at a press confer-

ence at the Risk & Insurance Management Society Inc.'s annual conference in San Diego.

The drop in scholarships, Ms. Galer said, is not an indication of fewer contributions being made to the foundation but rather reflects budgeting issues. "My first goal is to be fiscally responsible," Ms. Galer said. "I did not want to budget for things we couldn't afford."

She noted that Spencer didn't know at the time that it set its 2008 budget that it would receive the number and amount of contribu-

tions that it has this year. She also noted that some of the pledged money is to be spread over multiple years.

For example, Spencer in January received the largest single contribution in the foundation's 29-year history when Factory Mutual Insurance Co.—which does business as FM Global—pledged \$525,000 to the foundation. "It was a wonderful, huge surprise," Ms. Galer said.

She noted that some of the money is earmarked to fund grant requests for creating course curricula at universities around the world, to ensure the development of risk managers who understand the val-

ue of engineering in loss prevention, which is a new focus for Spencer.

The remaining funds will go toward annual FM Global scholarship awards for students pursuing a degree in risk management.

Earlier this month, RIMS' Atlanta chapter pledged \$100,000 for a scholarship honoring the founder of the University of Georgia risk management program, Edgar J. Leverett.

And at the press conference, Ms. Galer announced that Spencer had received a \$100,000 donation from Zurich Financial Services Group and a \$30,000 commitment from Transatlantic Reinsurance Co., a first-time Spencer donor.

"When we do our budget in the fall for '09, I'm sure the budget will be much richer for the education committee," she said.

In addition to increasing the budget, Ms. Galer said she hopes the foundation will consider raising the amount of money in the scholarships as well. Spencer now awards scholarships in the amounts of \$5,000, \$7,500 and \$10,000.

Also in an effort to increase its fundraising activities, Spencer has named P. Richard Hackenburg, a former Spencer chair and retired risk manager of FOJP Service Corp. in New York, to the new position of development director.

Spencer also held various sporting events on April 27, although Ms. Galer said that she had not yet received a figure for the total sum of money raised by the events.

About 150 athletes attending the conference took to the links, courts and ice to compete and raise money for Spencer.



MICHAEL MARCOTTE

Participation in the RIMS golf tournament was slightly lower this year, due mainly to competing activities.

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MICHAEL MARCOTTE

The Spencer tennis tournament was held for the fourteenth year.

As usual, golf was the main attraction for RIMS athletes, raising \$55,000 which included an extra contribution from tournament sponsor Arthur J. Gallagher & Co.

Ms. Galer noted, though, that the drop in the golf tournament's participation is due to new competing activities—namely the Community Service Day.

She said she has asked the Spencer board to come up with ideas to try to "reinvigorate" those fundraising events.

About 13 tennis players competed in the 14th annual Spencer/Logic Associates Inc. tennis tournament, which was held at the San Diego Marriott Hotel & Marina.

For the first time since the 2005 RIMS conference in Philadelphia, 20 skaters took to the ice for the Napco L.L.C. Spencer Cup Hockey Tournament. Team USA beat Team Canada by a score of 7-2.

The event was held at the San Diego Ice Arena.

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## SESSION COVERAGE: RIMS 2008

## E-discovery compliance starts with records management plan

*Sloppy documentation retention practices can hurt a company's case*

By **ROBERTO CENICEROS**

**SAN DIEGO**—Companies should implement an “e-discovery” record management plan as courts have penalized companies for failing to produce electronic records during discovery in litigation, experts say.

In addition, courts have been more sympathetic to plaintiffs by handing them multimillion-dollar punitive damage awards when defendants failed to properly preserve and produce electronic records sought through discovery, speakers told attendees at last week's 2008 Risk & Insurance Management Society Inc. conference in San Diego.

E-discovery refers to a plaintiff's request for data stored in an electronic format, such as electronic calendars, voicemails and e-mails, with the intent of using it as evidence in a case, said Michael H. Lubben, group director for risk management at Ryder System Inc. in Miami.

Intentional misconduct in withholding electronic documents is not required for a judge to sanction defendants, said David R. Cohen, a partner at Kirkpatrick & Lockhart Preston Gates Ellis L.L.P. in Pittsburgh. Sloppy document retention practices or computer settings that automatically delete e-mails are enough to hurt a company's case or

draw sanctions, he said.

“Being caught by surprise by the auto-delete function is not an acceptable response, especially when there is a litigation hold” requiring defendants to preserve documents, said Debra A. Samuel, manager of insurance and risk management at Alcoa Inc. in Pittsburgh. “As we all know, most of our computers have that automatic function.”

Potential defendants must preserve records before a lawsuit is filed against them. They must do so as soon as they receive a claim that they suspect might result in litigation and e-discovery, Mr. Lubben said.

Courts have allowed plaintiffs to tell juries when evidence requested through discovery is lost by the defendants. Courts also have allowed jurors to assume the lost evidence would have supported the plaintiff's claim, Mr. Cohen said.

A loss of records also can make jurors and judges suspicious, which can lead them to conclude the defendants intentionally destroyed the information.

Common cases, such as discrimination claims, have mushroomed to tens of millions of dollars in punitive damages because defendants failed to produce electronic records sought by plaintiffs, said

Mr. Cohen, who cited the 2004 New York federal jury decision in *Laura Zubulake vs. UBS Warburg L.L.C.*

In that case, the fired employee alleged sex discrimination and retaliation and was awarded \$29.2 million. UBS and Ms. Zubulake settled the case in October 2005, according to UBS' annual report.

In order to protect a company, key employees and the firm's information technology department should be notified immediately to retain documents when it is suspected that a lawsuit may arise, the speakers said.

“Time is of the essence,” Mr. Cohen said.

Companies should have a “well-planned, thought-out” readiness policy for retaining records and reacting appropriately when the situation arises, Mr. Lubben said.

The plan should designate a competent person within the company who will be responsible for collecting documents.

“You also need to make sure that you are very careful and you document all the steps taken to preserve and collect potentially relevant documents,” Mr. Lubben said. “You can have a great witness, but if you can't document how you found the relevant documents, you won't go very far.”



During e-discovery, failing to produce electronic records, such as e-mail or voicemail, can be damaging to defendants.

Mr. Cohen recommends creating an e-discovery response team that has planned for litigation before it happens. Such a team should consist of personnel from the legal department, IT, risk management, outside counsel and consultants.

They can create a hold form beforehand that would be available for immediate distribution to necessary employees when litigation occurs. Software also is available to help track legal hold orders, Mr. Cohen said.

Retaining documents as a regular practice, however, can also be problematic, especially if they are retained for too long. Likewise, computer backup tapes can be held

for too long. Each company should determine how long to keep electronic records, the speakers said. Problems arise not only because of the data they contain but also because of the time and expense required to search through them for the information that plaintiffs seek through discovery.

Under the Federal Rules of Civil Procedure that were amended in late 2006 concerning electronic discovery, “the burden is on the responding party to show that the information is not reasonably accessible because of undue burden or cost,” the rules state. “Even if that showing is made, the court may nonetheless order discovery.”

## Wildfires put disaster recovery plans to the test

By **KRISTIN GUNDERSON HUNT**

**SAN DIEGO**—Good disaster response plans helped two California companies mitigate their losses last year when wildfires devastated parts of California.

In October 2007, the San Diego area sustained around \$1.1 billion in insured losses from seven deadly wildfires. During the fires, which burned into early November, more than 500,000 people were displaced by mandatory and voluntary evacuations.

During a Hot Topic session last week at the Risk & Insurance Management Society Inc. conference in San Diego, panelists from two California companies noted that their disaster plans proved effective during the sweeping wildfires last year, helping them to avoid significant loss and to assist the community's recovery.

Lyn Hall, senior manager of environmental health and safety for San Diego-based telecommunications giant Qualcomm Inc., said important components of her company's fire response included establishing an emergency operations center, employee communications plans and shutting off outside air intakes so air quality wasn't compromised when employees returned to work.

In addition, the plan called for technicians to change continually the air filters and clogged heating ventilation and air conditioning units.

Additionally, the company posted information about fire support-related issues online for employees. Ms. Hall said adequate planning aided the company in getting its employees back into the office within days.

An automated alert system was an important part of Qualcomm's disaster plan, as it also was for MiraCosta Community College District in Oceanside, panelists said. The systems notified employees—and, in the district's case, students—of operational changes and other updates.

In both cases, the contact information for individuals, such as home phone and cell phone numbers and e-mail addresses, were downloaded into automated systems that alerted registered users about evacuations, work cancellations and other changes. Such systems help reduce the confusion that often accompanies a crisis, the panelists said.

For MiraCosta and Qualcomm, business continuity planning also allowed them to help the community at large. MiraCosta served as a shelter and a Red Cross evacuation



During the deadly wildfires that devastated the San Diego area in October 2007, corporate disaster plans were crucial in helping firms avoid major losses.

center, providing 200 evacuees with food and shelter for five days, said Joseph Mazza, director of risk management.

Qualcomm, meanwhile, provided equipment and technical support to the local community's information phone line, which was overwhelmed with calls from citizens. It also provided insurance assistance, temporary housing, and counseling and support services to affected employees.

Ms. Hall noted that evaluating the response plan after a disaster is

crucial. Qualcomm is currently tweaking some of its plans, specifically employee communications, to further improve operations in a crisis. They also will identify employees in advance that will be counted on during an emergency, designate two evacuation areas on campus for pets and people stocked with cots and food, and develop a better process to track and communicate with international travelers.

With experts predicting another active wildfire season, Mr. Mazza said, “Preparation is key.”

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## SESSION COVERAGE: RIMS 2008

# Communication is key to effective loss control program

*Safety philosophy should be promoted companywide*

By COLLEEN MCCARTHY

**SAN DIEGO**—Communicating the importance of safety in the workplace is a critical component of any loss control strategy, risk managers say.

While loss control strategies can reduce the frequency and severity of a company's loss, the ultimate goal of any safety program is to ensure a safe work environment for employees, risk managers say.

"If you're not a safe place to work, you're not a great place to work," said Dan Kugler, assistant treasurer, risk management at Snap-on Inc., describing the Kenosha, Wis.-based tool manufacturer's safety philosophy.

"Every organization needs to have a safety philosophy and it needs to start at the top," Mr. Kugler said last week in San Diego at the Risk & Insurance Management Society Inc.'s annual meeting.

In 2005, Snap-on introduced a safety program that led to a decrease in workers compensation claims, which fell from 365 in 2005 to 170 in 2007.

**'We brand our safety program so that our team members know that this is the type of safety culture we want to have.'**

David Rydeen,  
Papa John's International Inc.

Snap-on's success has been due in part to the program's "top-down, bottom-up" approach in which every employee is held accountable for safety. The company has intensified its safety training, holds regular safety meetings, evaluates "lessons learned" from every incident and implemented a "charge-back" system to hold its units financially responsible for incurred losses, he said.

### Repeat frequently

Once companies develop a safety philosophy, it must be highly visible and repeated frequently to employees to be effective. Employers can do this in a variety of ways, such as posting the message around the office, beginning every meeting by talking about a safety issue or adding a safety tagline to the end of all e-mail correspondences, panelists said.

"The key to communication is frequency," said David Rydeen, national director, safety and security for Louisville, Ky.-based Papa John's International Inc.

For example, every time an

employee leaves to make a delivery, Papa John's management reminds them to "buckle up, drive safe," said Mr. Rydeen, who made driver safety a major focus of Papa John's loss control program after identifying car accidents as the top issue. "It just reinforces the message at a very critical time," he said.

Branding the company's safety message similar to the way it markets its products is another way to effectively communicate a program, he said. The advertising slogan for

Papa John's is "better ingredients, better pizza." Mr. Rydeen, who oversees 2,400 stores nationwide, applies a similar slogan to its safety program: "better ways to manage risk."

"We brand our safety program so that our team members know that this is the type of safety culture we want to have," Mr. Rydeen said. "It's a simple way to integrate our safety message into what we're trying to accomplish in the marketplace."

A safety program's success often begins with the recruiting process. For Papa John's, this means hiring only individuals who have a clean driving record, he said.

Furthermore, human resource departments should clearly disclose a company's safety mission during the interview process, panelists said.

"If you stress your success rate for getting injured employees back to work, you are probably going to deter a potential abuser," said

Catherine Bennett, vp of Hylant Group in Nashville, Tenn., and former risk manager for a large hotel and hospitality organization.

Another strategy is to recognize and reward employees for their safety performance by offering gift cards, monthly awards and cash.

"Anything that celebrates successful safety practices and recognizes the individuals' efforts is going to go a long way to keeping employees on board with the program," Ms. Bennett said.

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For more information, visit [www.aigpassport.com](http://www.aigpassport.com).

### Lockton teams with Kiln to offer data protection

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major data breaches. The product will reimburse a company for reputational harm suffered as a result of negative publicity associated with a security breach. The policy covers companies against the loss of net income, the difference between anticipated income and actual income that follows a breach, and additional related expenditures incurred during the defined period of indemnity.

The second element, Outsource Protector, covers direct losses a company may experience resulting from a disruption to an offshore agreement or outsourcing operation, including call centers, financial processing centers and information technology functions.

For more information, contact Emily Freeman, executive director of Lockton's technology and media team in London, at 44-207-933-2224 or [emily.freeman@uk.lockton.com](mailto:emily.freeman@uk.lockton.com).

### Liberty Mutual unit introduces 'green' cover

**BOSTON**—Liberty Mutual Property, a unit of Boston-based Liberty Mutual Group Inc., has introduced Green Select commercial property insurance that is designed to protect companies against losses related to their environmentally certified buildings.

The property policy endorsement

provides insurance for building recommissioning and recertification fees, vegetative roofing systems, debris recycling and the use of green-certified products in the event of a covered loss to a building with the Leadership in Energy Environmental Design or Green Globe certifications.

Green Select also covers costs to recertify a building one level higher than its previous certification in the LEED or Green Globe certification programs.

Additionally, the endorsement can provide extra money necessary to upgrade certain aspects of a property so it meets environmentally friendly standards.

Liberty Mutual Property offers clients access to LEED-certified engineering and provides coverage for: mandatory fees for temporary heating/cooling systems used during reconstruction; lost business income from alternative energy production; extra expenditures necessary to expedite reopening a business; service interruption of phone, electricity, gas and water; and foundations and underground property up to 1,000 feet from a covered location.

For more information, contact Ann Butterworth, director, underwriting, property at [Ann.Butterworth@libertymutual.com](mailto:Ann.Butterworth@libertymutual.com) or e-mail [property\\_info@libertymutual.com](mailto:property_info@libertymutual.com).

### Foundation One launches dependent health plan

**FRISCO, Texas**—Foundation One Insurance Services Ltd. will begin offering a group health insurance plan for employees' dependents.

The program targets employers that have low participation by dependents in their comprehensive group health care plans and wish to offer a separate limited benefit health program to employees' dependents.

The policy is being underwritten by Oklahoma City-based American Fidelity Assurance Co. and features a flexible three-tiered plan that provides health benefits such as office visits, wellness plans, prescription drugs, surgeries and anesthesia for dependents at various rates. The plans are payroll-deducted and all employees 18 or older are eligible to enroll their dependents.

For more information, contact Keith Appleton, managing director of Foundation One, at 214-619-1139 or visit [www.found1ins.com](http://www.found1ins.com).

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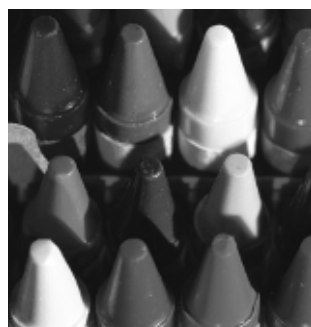
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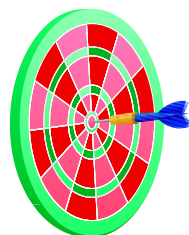
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# International NEWS



BP P.L.C.'s Forties Pipeline system in Grangemouth, Scotland. A strike over pensions benefits shutdown the pipeline and a nearby refinery last month.

## Oil refinery shutdown won't hit energy market

Most business interruption losses uninsured

By MICHAEL BRADFORD

**GRANGEMOUTH, Scotland**—A dispute over pensions that shut down a refinery and pipeline that carries a major portion of the United Kingdom's oil has cost dependent companies significant business interruption losses that largely appear to be uninsured.

The Grangemouth, Scotland, refinery owned by Lyndhurst, England-based Ineos Oxide Ltd. and the Forties Pipeline System operated by BP P.L.C.'s Kinnel facility are being restarted after a two-day strike last week by Ineos workers. The workforce went on strike to protest over Ineos' plans to change the company pension plan. The facilities were closed the day before the April 27 labor action began and are not expected to be fully operational until later this month.

The Grangemouth refinery, which BP sold to Ineos three years ago, supplied electricity and steam utilities to the BP facility. When the strike stopped operations at Ineos, BP no longer had power for its operations and also was forced to close.

Losses during the shutdown cost the companies as much as £50 million (\$99.3 million) per day, according to an estimate by Oil & Gas U.K., a London-based energy company. And sources say insurance will not cover the losses.

BP does not purchase insurance for business interruption losses, a spokesman for the London-based oil giant confirmed. BP has long self-insured all its exposures, except those for which coverage is mandated by law and for joint ventures.

The pipeline carries around 700,000 barrels of oil per day and about 50,000 barrels of propane, butane and other gases, the

spokesman said. BP's share is around 12% of that volume, with the remainder owned by oil field operators that use the pipeline, he said.

Assuming current oil prices, BP's share of lost production equaled around \$9.6 million per day. An Ineos spokesman could not say how much the refinery lost during the shutdown, but sources agree that any amount is likely to be uninsured.

"Business interruption cover that we would give, would be triggered by physical loss or damage," which is not the case with the strike closure, said Dominick Hoare, group energy underwriter at Munich Reinsurance Co.'s Lloyd's of London Syndicate 457, which is managed by Watkins Syndicate.

"There has to be physical damage, so a strike happening on its own would not trigger coverage," said Len Messenger, exploration and production underwriting manager at Zurich Global Energy, a London-based unit of Zurich Financial Services Group. "Furthermore, it was a known event," he added, which meant the policyholder had time to prepare for the consequences.

There is a chance, however, that at least some of the 70 offshore operators using the pipeline have coverage in place that will respond to losses stemming from the strike, sources said, because some insurers will write third-party coverage that provides such protection.

The Forties pipeline is a vast distribution network and disturbances to the system can be far-reaching, experts say.

"If you think about the offshore

See PIPELINE page 27

## Europe examines insurer pacts

Commission seeks evidence on benefits of competition law exemption

By SARAH VEYSEY

**BRUSSELS, Belgium**—The European Commission has set a tight deadline for insurers and buyers to give tangible evidence to support the continued exemption of insurance industry practices from certain E.U. competition laws.

Competition Commissioner Neelie Kroes set a July 17 deadline for responses to the commission's consultation document on the Insurance Block Exemption Regulation and said she needed to be convinced of reasons not to abolish the exemption for good when it expires.

The exemption allows European insurers to come to agreements on joint calculations, tables and studies; standard policy conditions and models on profits; common coverage of certain types of risks, such as pools; security devices; and safety equipment.

The exemption is due to expire in 2010 and the commission needs to hear persuasive arguments if it is to be renewed, experts say.

"We need to investigate how the insurance block exemption is working in practice and whether there are sufficient grounds to renew it," Ms. Kroes said in a statement.

"Sector-specific competition regulations are exceptional legal instruments. If there are to be special rules for a particular sector, I need to be convinced that they are justified in



EUROPA

Competition Commissioner Neelie Kroes wants E.U. insurers to justify an exemption from competition law.

terms of bringing real benefits to competition and to consumers," she said.

"This is a crucial opportunity for the insurance industry to make its views known. Failure to convince the European Commission looks highly likely to lead to the withdrawal of the insurance block exemption, which is generally regarded by the insurance industry as a valuable tool," said London-based law firm CMS Cameron McKenna L.L.P. in a statement.

During the commission's consultation on competition in the business insurance sector last year, the BER was not found to be anti-competitive, and both insurance groups

and risk manager representatives called for its extension.

But the commission appears to remain unconvinced by the arguments for its retention, said Yves Botteman, a member of the E.U. competition group and senior associate at the Brussels, Belgium office of law firm Steptoe & Johnson L.L.P.

The insurance industry will have to give sound, economic arguments to make the case for the retention of some, or all, of the exemption, he said.

The commission needs "more compelling data and objective reasons to keep" the BER, he said.

While the insurance industry—and buyers—have argued that the BER enables smaller companies to enter the market more easily than they otherwise would, those arguments now need to be justified and backed up by statistical evidence, said Mr. Botteman.

The removal of the block exemption would not mean that insurers could no longer cooperate on certain things but its absence would mean a lack of certainty. This is because each insurer would have to assess the justification for its practices, probably with outside legal counsel, Mr. Botteman said.

That could increase uncertainty for insurers and their customers, and may result in higher costs, said the lawyer.

See COMPETITION next page

## U.K. prepares for E.U. pollution law

Risk managers urged to review cover as liability exposures grow

By STUART COLLINS

**LONDON**—Risk managers should consider the United Kingdom's proposed super environmental damage program—now slated for a December implementation—when renewing property and liability coverage, experts say.

The proposed implementation of the E.U. Environmental Liability Directive (2004/35/EC) in England and Wales will significantly increase legal requirements on how companies respond to incidents that involve, or pose the threat of, environmental damage. The legislation will also increase the cost of clean-up of environmental damage in the United Kingdom, experts say.

Providers of public liability and property insurance in the United Kingdom are looking at the coverage they offer with a view to exclusions or the clarification of existing wordings and the development of new insurance products.

"At renewals this year, risk managers should be asking their brokers, 'what is my property and general liability cover for environmental damage?'" said Ann Barrett, U.K. environmental practice leader and vp at London-based Marsh Ltd.

The directive establishes pan-

European liability rules for the prevention and remediation of environmental damage to biodiversity, water and land.

At the end of February, the Department of Environment, Food and Rural Affairs published draft rules and guidance on the transposition of the environmental liability directive into U.K. law.

Rather than just tinker with existing environmental laws as expected, the latest consultation from DEFRA proposes a completely new super liability regime, said Aidan Thomson, head of the environmental group at London-based law firm Barlow Lyde & Gilbert L.L.P.

All existing environmental rules will remain, but the new environmental damage rules will be of primary concern, he said.

DEFRA's proposal extends the scope of the rules to cover species and habitats in protected areas in the United Kingdom. It also proposes a legal duty that a regulator must investigate reports of environmental damage by interested parties such as environmental groups.

And in spite of DEFRA's commitment to a "light touch" implementation, the introduction of concepts such as complementary and compensatory remediation is unavoidable

able under the terms of the directive, Mr. Thomson said.

The directive would increase liabilities for U.K. companies, experts say. "The (directive) will lead to greater environmental liability than I thought it would, before I read" DEFRA's draft rules and guidance, Mr. Thomson said.

"This is the biggest change in environmental legislation that U.K. companies will have seen, even bigger than the Contaminated Land Regime," said Simon White, U.K. branch manager for environmental business at XL Capital Ltd. in London.

Under the directive, operators will have to take preventative steps if they identify an imminent threat of environmental damage, and report the incident to relevant authorities.

The regulator can enforce clean-up and recover any costs it has incurred from the operator. Failure to comply can result in a criminal prosecution against the company and its directors.

"The new regime will increase liabilities, and corporations do not fully understand the extent of exposures going forward," said Marsh's

See POLLUTION next page

## Commentary

# 'Tis the season of runs, hits, errors & omissions

It's spring again, the season of hope and renewal, when Chicago Cubs fans dream of October baseball, movie executives envision huge grosses for the next John Travolta film and property underwriters imagine a year with no Atlantic hurricanes whatsoever.

OK, maybe we're getting carried away. But it's spring.

So here are a few more hopes, possibly not all vain, for a year just entering its prime.

Sticking with baseball, I hope risk managers convince their companies of the extreme peril of buying naming rights to a stadium. The practice seems to carry a curse. You really don't need to look any further than the former Enron Field in Houston; that should be enough to scare anyone. But there's also the stadium where the San Francisco Giants play: It was PacBell Park until the phone company was acquired by SBC Communications and it became SBC Park; then SBC merged with AT&T Corp., and now it's AT&T Park. Likewise Chase Field, the Arizona Diamondbacks' stadium, which was Bank One Ballpark until Bank One was swallowed by JPMorgan Chase.

The granddaddy of corporate sponsors has been the Wm. Wrigley Jr. Co., which has lent its name to the Cubs' park for 94 years. But Wrigley is now being bought out by candymaker Mars Inc., with help from Warren Buffett. Does that mean they'll change

the name of the stadium to Mars Field? If so, will they be sued for trademark infringement by the City of Rome? More importantly, would a name change do anything for the Cubs?

All of this seems to suggest that if your company buys naming rights, it will either collapse in an accounting scandal or be taken over by another company. Don't do it.

Note to team owners: I know you want the revenue, but as a public service, instead of selling naming rights, what about just giving your stadium a descriptive name, like Ozymandias Park?

Spring, of course, is the best time of year in the garden, where your thoughts tend inevitably toward the house, your mortgage, mortgages in general, subprime loans and the global credit crisis.

Foreclosures are skyrocketing, banks have already taken billions in write-downs, Bear Stearns is history and such varied investors and Mr. Buffett and George Soros predict that it's all far from over. (Citigroup, incidentally, which has written off more than \$30 billion in bad loans, bought the naming rights to the New York Mets' new ballpark, to be called Citi Field assuming that its spon-



**DOUGLAS McLEOD**

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sor survives until Opening Day next year. But enough about that.)

The crisis has rippled outward in a slowing economy, with impacts ranging from massive layoffs to severe pressure on municipal budgets. For property/casualty insurers, one result will be a \$3 billion to \$4 billion spike in directors and officers liability and errors and omissions claims, Fitch Ratings estimates.

It may not be all bad, though. Most P/C insurers—with a few

**It's possible this isn't the Second Great Depression. Keep your fingers crossed.**

exceptions, like American International Group and XL Capital—have relatively little exposure to risky derivatives and mortgage-related securities. Unlike the banks, they invested conservatively, and the damage they face from the credit crunch may stem from liability claims rather than asset devaluation.

The stock market has also bounced back in recent days as investors see signs that the economy may start to recover in the second half of the year. Some analysts even suggest that investors have gone too far in pushing down the value of mortgage-backed securities.

It's possible, then, that this is not the Second Great Depression, and we can stop calculating how many of our worldly possessions will fit in the back of a Ford F-150 pickup.

Keep your fingers crossed.

Meanwhile, about those movie executives: I wouldn't bet big on the next Travolta picture ("Battlefield Earth II"?), but I'd give pretty good odds to the next summer blockbuster in which New York City is destroyed by aliens/Godzilla/really bad weather. Compared with the credit crunch, that's a walk in the park on a spring day.

## Competition: Block exemption questioned

CONTINUED FROM PREVIOUS PAGE

The Brussels-based Comité Européen des Assurances, which represents insurers in Europe, said it would respond to the European Commission's call.

"Were the BER to be abolished, some insurers might abandon positive business cooperation, for fear that it is afterwards challenged by the competition authorities," it said.

The International Underwriting Assn., which represents London-market insurers, said it would respond fully to the consultation.

"There is a need for the block exemption, which is well-used in

the London market. The IUA believes that it is not anti-competitive and in fact has quite the opposite effect, helping new entrants to more easily enter the market and enhance competition," a spokesman said.

Several associations representing insurance buyers in Europe—including Brussels-based Federation of European Risk Management Assns.—indicated that they will respond to the commission's consultation before the deadline.

John Hurrell, chief executive of the London-based Assn. of Insurance and Risk Managers, said that the U.K. representative body would respond, both on its own

behalf and as part of FERMA's response.

The German insurance buyers' association, Deutscher Versicherungs-Schutzverband e.V., also confirmed that it was keeping watch on the block exemption issue.

German insurers have a long tradition of cooperation with policy conditions and technical specifications, said Günter Schlicht, chief executive of the Bonn, Germany-based association. "And, of course, the clients are affected by the results of such cooperation.

"We will thoroughly study the commission document and give our final answer thereafter," he said.

## Pollution: U.K. readies 'super' cleanup

CONTINUED FROM PREVIOUS PAGE

Ms. Barrett. "And the quantification of liability is untested and unknown, and may not be covered under public liability policies."

The liabilities will be greater and so will the cost of dealing with environmental damage, experts say.

"The new reporting requirements will raise the incidence (of environmental damage) and the concept of complementary and compensatory remediation is likely to increase the cost of environmental damage," said Wayne Harrington, London-based environmental risk manager for the United Kingdom and Ireland at Hamilton, Bermuda-based ACE Ltd.

The cost of responding to an incident will be significantly higher under the proposed environmental liability rules, said XL's Mr. White. "We have already seen an increase in notifications of pollution incidents to authorities and insurers in

countries where the environmental liability directive has already been implemented. There has been a significant increase in claims notifications."

With increased exposures, Marsh's Ms. Barrett said clients will be looking at different ways to finance these exposures, and insurance will be one such option. "There should be increased demand for cover, and environmental insurance is reasonably cheap at the moment," she said.

A few London-market insurers, including ACE and XL, provide broad environmental liability coverage based on the E.U. environmental liability directive. Their policies cover all the important aspects of environmental damage—including complementary and compensatory remediation and statutory cleanup costs—outlined in DEFRA's draft rules, they say.

But U.K. general or public liability insurance provides only limited

coverage for environmental damage, and does not cover many aspects of the environmental liability directive, experts say.

"Public liability cover provides for third-party, sudden and accidental pollution (damage) only, and therefore claims arising from gradual pollution would not be covered, nor would any onsite cleanup from either sudden and accidental or gradual pollution," said Fiona Gray, London-based divisional director for environmental business at Willis Mergers and Acquisitions Practice, a unit of London-based Willis Group Holdings Ltd.

Discussion on the draft rules for "Consultation on the Draft Regulations and Guidance Implementing Directive 2004/35 on Environmental Liability With Regard to the Prevention and Remedying of Environmental Damage" closes on May 27.

Copies of the documentation can be found online at [www.defra.gov.uk](http://www.defra.gov.uk).

## Hostile: Pervasive explicit language faulted

CONTINUED FROM PAGE 3

was also similar," according to the opinion.

"Therefore, even if such language was used indiscriminately in the office such that men and women were equally exposed...the language had a discriminatory effect on Reeves because of its degrading nature," the court ruled.

Reacting to the ruling, Paul M. Secunda, an assistant law professor at the University of Mississippi Law School in University, said, "Female employees should not have to tolerate what might be acceptable to male employees."

"I think the court got it right" when it said that even though both sexes were exposed equally, the environment is "more likely to be considered hostile by one sex than another," Mr. Secunda said.

Jonathan T. Hyman, an employer attorney with Kohnman Jackson & Krantz P.L.L. in Cleveland, said the ruling makes sense. The court said "the conduct was so severe and so pervasive" it would affect women

more than men, "and even though it wasn't necessarily directed at the one woman working in the department, the harassment was based on her sex," he said.

"What probably bothered the

**'A hostile work environment can be found even when comments aren't directed at the plaintiffs in particular.'**

Todd S. Aidman, Ford & Harrison L.L.P.

court" was, despite Ms. Reeves' complaints, C.H. Robinson either took no remedial measures or they were "flat out insufficient," such as the radio being returned to the offending channel, Mr. Hyman said.

Attorneys said the opinion could be influential.

Todd S. Aidman, an attorney with Ford & Harrison L.L.P. in Tampa,

Fla., said the decision cites other appeals courts that have issued similar opinions. What "other circuits might take from this is a hostile work environment can be found even when comments aren't directed at the plaintiffs in particular," he said.

"I think what employers can probably take away from this is they need to monitor the conduct in the workplace," Mr. Aidman said. "If they see a poster or if they hear employees frequently making off-color jokes, there could be somebody sitting there and brooding over what's going on."

"I've long believed, and instructed clients, that generally, sexually charged environments, whether directed at a particular employee or not, can lead to trouble for an employer," said Richard D. Tuschman, a defense attorney with Epstein Becker & Green P.C. in Miami. "That's what we have here."

*Ingrid Reeves vs. C.H. Robinson Worldwide Inc., 11th U.S. Circuit Court of Appeals, No. 06-00358-CV-2-IPJ, April 28, 2008.*

## Ruling: Port Authority liable

CONTINUED FROM PAGE 3

plex's underground lot in February 1993 and detonated it, blowing a crater six stories deep and devastating an area the size of half a football field, the appeals panel noted.

After years of pretrial delays, a jury concluded that the Port Authority is 68% liable for damages from the bombing and the attackers are 32% liable.

In its appeal, the agency did not argue that the attack was unforeseeable, a contention that the court noted would be futile given evidence that Port Authority staff and security consultants had warned of the risk of a car bombing as early as 1984. Instead, the agency argued that the likelihood of an attack was not proven and that the agency was under no obligation to take recommended security precautions.

The appellate panel rejected those arguments. While no such attack had occurred previously at the WTC, "the relevant requirement in premises liability actions is ultimately notice, not history," the court found. In this case, "the trial record overwhelmingly permitted, indeed practically cried out for, the inference that defendant landlord had ample notice that a car bombing...could very well occur if obvious, specifically identified vulnerabilities were not addressed."

The Port Authority, however, rejected security recommendations that included closing public parking areas, citing the loss of parking revenues, even though trial evidence suggested that the cost would have been inconsequential, the panel wrote.

The appeals court also affirmed the jury's apportionment of a larger share of liability to the Port Authority than to the terrorists, and rejected the agency's argument that it should be absolved of joint and several liability.

Among other things, the court noted that the terrorists exploited the "enormous opportunity" the Port Authority had given them.

"It is...not simply the magnitude of the negligence evidenced at the trial of this matter that justifies the jury's verdict...but the clear connection shown between that negligence and the intentional wrongdoing," the panel wrote. "The intentional wrong was not simply concurrent with the negligence, but to an unseemly degree flowed from the negligence and was determined by it, down to the details of its commission."

*Linda P. Nash vs. The Port Authority of New York and New Jersey; New York State Supreme Court Appellate Division, First Judicial Department; N.Y. Slip Opinion 03991; April 29, 2008.*

## Coverage: City breached policy provisions

CONTINUED FROM PAGE 4

it had conditionally agreed to a two-tier settlement that called for a \$75 million consent judgment against the city, capping the city's actual liability at \$25 million and assigning its insurance rights to the plaintiffs.

Transportation objected to the proposal, but Jacksonville signed off on it nevertheless.

In September 2007, a federal judge in Jacksonville granted a summary judgment absolving Transportation of liability for the settlement, and the 11th Circuit panel agreed.

Transportation fulfilled its legal duty to defend the city and, by accepting defense coverage, the city ceded control of the defense to the

insurer, the appeals panel ruled.

By taking control of settlement talks and excluding Transportation, Jacksonville breached the cooperation clause in its policies, the court found. That clause barred the city from "voluntarily" making any payments or assuming any obligations in the case.

The panel rejected Jacksonville's contention that the insurer's reservation of rights amounted to a refusal to defend, allowing the city to control the defense and settle without Transportation's consent.

The court also rejected the city's argument that Transportation exhibited bad faith in refusing to approve a settlement and thus should be held liable regardless of the city's failure to

cooperate. The city cannot maintain a bad faith claim without first establishing coverage under the policy, and the lower court correctly found that there is no coverage, the panel ruled.

The insurer exercised due diligence and good faith in the case, while "the city's dishonesty rendered Transportation's attempts to secure its cooperation futile," the court concluded.

Lawyers for the city could not be reached for comment on the ruling.

*Continental Casualty Co., Transportation Insurance Co. vs. City of Jacksonville et al.; 11th U.S. Circuit Court of Appeals; No. 07-14772, April 22, 2008.*

## Pipeline: Interruption losses uninsured

CONTINUED FROM PAGE 25

fields as a spider's web, what you have is a series of connected platforms that bring oil and gas ashore" through the pipeline, said Paul Clarke, London-based oil and petrochemical segment practice leader for Zurich Risk Engineering, a unit of Zurich Financial Services Group. The product is handled onshore by BP's Kinnel operation

and then refined at the Ineos plant or sold.

Mr. Hoare said underwriters are wary of the Forties pipeline and the potential for production losses if it is closed. "This pipeline has always been considered a real bottleneck by our market," he said. "It has always been thought that if it goes down, it will be a major business interruption loss."

The risk of problems occurring

during the shutdown and startup of the refinery and pipeline are higher than during normal operations, Mr. Clarke said. "Pipelines are designed to keep running; they are not desired to stop," he said.

The shutdown was phased in to make system problems less likely, Mr. Clarke noted, and the operations are being carefully brought back online. "You do not have a switch to just start everything up."

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# Mandates: Extend dependent coverage

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wealth Fund, those between the ages of 19 and 29 represent one of the largest and fastest-growing segments of the U.S. population without health insurance. In 2005, they accounted for 30% of the nonelderly uninsured even though they made up just 17% of the under-65 population, according to the study.

States regard these laws as a convenient way to address this issue without incurring any expense to themselves, say observers.

More legislation can be expected, said J.D. Piro, an attorney with Hewitt Associates Inc. in Norwalk, Conn.

"It's a fairly easy fix—there's no money required from the state and you can pass it on to the employers—so I wouldn't be surprised to see more of this," he said.

Joanne Husted, Washington-based senior health compliance specialist-national compliance practice with the Segal Co., said, "A few of the laws say employers don't have to pay for it, but most of them don't even address that issue."

## Impact on employers

On their face, these laws are not significantly costly to employers. Companies often pass on any additional premiums that result from complying with these laws to employees, say observers. Furthermore, young adults are a particularly healthy segment of the population and are less likely than other

demographic groups to generate claims.

At the same time, such laws do increase the number of those covered, which will lead to at least some additional claims and ultimately some increased costs for employers.

Presumably, "it will cost more, but we haven't seen how that's broken out, at least in any kind of a direct way with respect to the expansion coverage," said Jay M. Kirschbaum, St. Louis-based national practice leader, legal and research group, for Willis North America Inc.

Depending on the experience, extending coverage for a longer period to employees' older dependent children could lead to higher premiums, said Carol Tavella, senior manager with SMART Business Advisory & Consulting L.L.C. in Devon, Pa.

Even though this is not the most expensive group to insure, "it really takes only one really expensive" claim to seriously raise premiums, especially at small firms, said James Gelfand, senior manager-health policy at the U.S. Chamber of Commerce in Washington.

"It certainly widens or opens the door to risk," said Randall Abbott, a senior consultant with Watson Wyatt Worldwide in Wellesley Hills, Mass. Some young people engage in "risky behaviors that can generate substantial health claims, so from that point of view I'm more concerned from a broader risk perspective than I am from an immediate cost basis," said Mr.

Abbott.

Bill Lindsay, president of the Lockton Benefits Group in Denver, said the laws also "create adverse selection, in that the state law appeals to those who have health conditions and can't obtain coverage on their own."

A bigger concern for employers, though, is the additional administration under such laws, observers say.

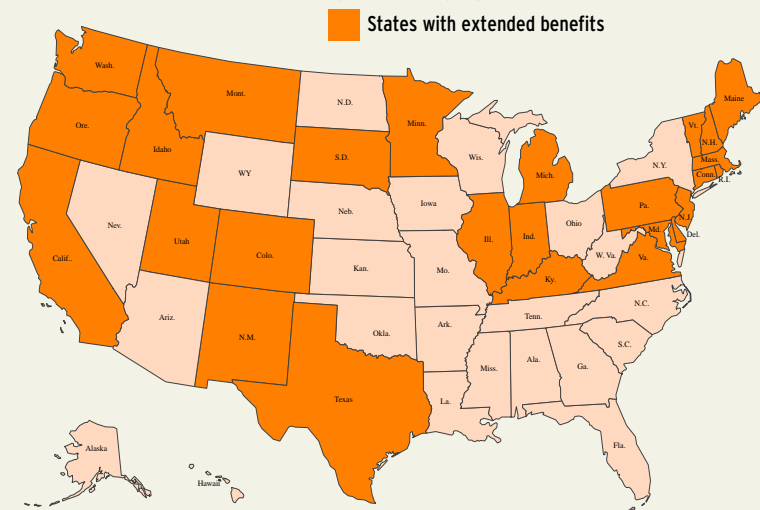
Rich Stover, a principal with Buck Consultants L.L.C. in Secaucus, N.J., said, "just the basic tracking of all these laws and keeping up-to-date on what the requirements are is very, very difficult."

At Golden, Colo.-based Coors Brewing Co., it took some effort to ensure employees were notified of the provisions of Colorado's law, which took effect in 2006, said a spokeswoman. She said the number of those affected by the law, which the company is not tracking, has been low. The Colorado law allows employees' dependent adult children to keep coverage until age 25, even if they are not enrolled in an educational institution, as long as they are unmarried and are financially dependent or live with a parent.

Fritz Hewelt, Minneapolis-based vp and regional practice leader of Aon Consulting's benefit plan compliance review services practice, said, "it's just the administrative and communication and documentation and enrollment issues that follow any time you have different

## DEPENDENT BENEFITS EXTENDED

Over two dozen states have extended dependent benefits for older children



Source: National Conference of State Legislatures and reports

plan designs."

Buck's Mr. Stover said in one case he encountered last year, an employee alerted his employer that Delaware had enacted such a law, when the firm's insurer had been unaware of it.

Some clients in New Jersey, whose law took effect in 2006, have also either dropped insured health maintenance organizations from their programs, or self-funded the plans if they are large enough, to avoid the state mandates, rather than "trying to deal with the administrative complexity," said Mr. Stover.

In addition, because of the definition of a dependent under federal law, there may be a disparity between who is considered a depen-

dent under federal law and under state law. This means that if there is any employer contribution, employers must track the value of the coverage as "imputed" taxable income for the employee.

The tax treatment in cases where the child is not considered a dependent under federal law is "another administrative burden for the employer," because that can change from year to year, said Wendy Bunnell, an attorney with Hallelund Lewis Nilan & Johnson P.A. in Minneapolis.

"In my mind, the thing we get the most questions on is relative to the tax treatment and the problems that that causes for many multistate insureds," said Mr. Hewelt.

# Enrollment: Strong growth for HSA-linked high-deductible health plans

CONTINUED FROM PAGE 1

Washington.

Enrollment increases have been at such a high level that the plans no longer are niche products but are now a part of the mainstream health care benefit plan market, said Jeff Munn, a principal and consultant in the Falls Church, Va., office of Hewitt Associates Inc.

HSAs, authorized under a 2003 federal law that added a prescription drug benefit to the Medicare program, first became available on Jan. 1, 2004, and enrollment has been surging ever since. For example, earlier AHIP surveys reported HSA enrollment at 1 million in March 2005, 3.2 million as of Jan. 1, 2006, and 4.5 million as of Jan. 1, 2007.

AHIP said it believes its annual census covers virtually all people enrolled in health insurance plans linked to HSAs.

A key reason for the big enrollment increase is that premiums for high-deductible health insurance plans linked to HSAs are much lower than more traditional health insurance plans, where member cost-sharing is much less.

For example, as of Jan. 1, the average annual premium for family coverage provided through the best-selling HSA-linked HDHP in the large group market was \$8,241, according to the AHIP survey. That compares with an average premium of \$12,106 for employer-sponsored family cov-

erage last year, according to a Kaiser Family Foundation survey.

Benefit experts say enrollment growth is coming from two sources: employers that are offering HSA-linked plans for the first time and in existing plans where positive employee experience is leading other employees to sign up.

"The early enrollees are kind of like poster children. They talk to other employees. That is becoming a powerful influence," said Jay Garriss, national director-HSA client relationship management at Affiliated Computer Services Inc. in Raleigh, N.C.

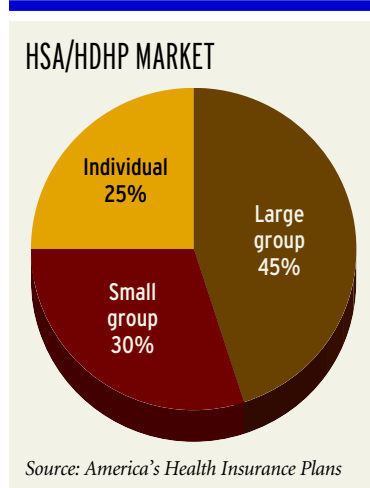
Additionally, the one factor that turned many employees away from HSAs—the exposure to high health care costs through the linked high-deductible health insurance plan—has become much less of a negative as employee cost-sharing in more traditional health plans has climbed.

"The high deductible is not so high anymore," Mr. Garriss said.

Under law, the HDHP linked to an HSA must have a deductible no lower than \$1,100 for individual coverage and \$2,200 for family coverage.

Another big appeal of HSA-based plans is tax breaks that are not available for other plan designs. Employee contributions to HSAs are made on a pretax basis, can be indefinitely rolled over, earn tax-free interest and are distributed on a tax-free basis to pay for covered health care expenses.

By contrast, while employee con-



Source: America's Health Insurance Plans

tributions, for example, to flexible spending accounts also are pretax and distributions are tax-free, account balances are forfeited either at the end of the year, or if an employer adopts a so-called grace period FSA, unused account balances can be used to pay claims incurred during the first two-and-a-half months of the following plan year.

Still, it will be some time before HDHPs linked to HSAs become the dominant health care plan design. Many employees, Hewitt Associates' Mr. Munn notes, remain reluctant to accept the trade-off inherent with the plans: a lower premium but exposure to claims costs that may not be predictable.

Employees reason that they would "rather have predictability than a

lower premium and the potential for a major out of pocket expense," Mr. Munn said.

And the one action that employers could take that would supercharge growth of the plans is a step few are willing to take: making the plans the only plan design they offer.

"Employers are sensitive to the need to offer choice," said Brad Kimler, an executive vp with Fidelity Investments in Boston.

Future growth also could be affected by how much support the arrangements receive from federal lawmakers. Until recently, lawmakers have increased the appeal of the arrangements through various legislative initiatives.

For example, legislation passed in 2006 effectively allows employees to make significantly higher contributions to HSAs than they could have under prior law. The legislation also allows employees to make the maximum contribution allowed under law, regardless of when during the year they became eligible to contribute to an HSA. Previously, HSA contributions had to be prorated to reflect when an employee became eligible for coverage.

Lately, though, the political climate has become chillier. Last month, the House of Representatives passed a tax bill with a provision that would require banks in which enrollees have established HSAs to substantiate that HSA distributions

were for health care expenses.

That would result in employees having to save and file receipts along with claims forms, substantially increasing administrative overhead and forcing banks to increase charges and perhaps resulting in some pulling out from the HSA market, experts have said.

If the political climate continues to deteriorate, that could hurt future growth. "How much the market continues to grow will depend at least in part on the prevailing political climate," Mr. Munn said.

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# News In Brief

CONTINUED FROM PAGE 1

an employee benefit plan administration firm, for \$900 million in cash. ING executives say the acquisition of QuincyCitiStreet, which is jointly owned by Citigroup Inc. and State Street Corp., will enable ING to expand significantly its presence in the U.S. defined contribution plan administrative and recordkeeping market.

## New Jersey enacts paid family leave

New Jersey Gov. Jon Corzine has

signed legislation that will entitle employees in the state to take up to six weeks of paid leave a year after the birth or adoption of a child or to take care of a seriously ill relative. Under the law, which takes effect next year, parents can take paid leave any time during the first year after a child's birth or adoption. While on leave, employees will receive payments from a state fund to replace two-thirds of their salary, up to a maximum of \$524 a week. The benefit will be fully funded through employee payroll deductions.

## Cholnoky named Gen Re president

I. John Cholnoky has been promoted to president of General Reinsurance Corp. and manager of Gen Re's global direct property and casualty operations. Franklin Montross IV, who had been Gen Re's president since

2001, was promoted to replace Joseph Brandon, chairman and chief executive officer of Gen Re, after Mr. Brandon resigned earlier this month. Mr. Cholnoky previously served as manager of Gen Re's global property facultative business.

## MGA to write offshore energy

Managing general agency Anemos Insurance Management Ltd. was launched Friday to underwrite offshore energy business on behalf of Bermuda's Ironshore Insurance Ltd. Hamilton, Bermuda-based Anemos was set up by industry veterans John Jenks and Elspeth Brewin—who will serve as chief executive officer and chief operating officer, respectively—with the backing of the Thomas Miller Group. The chief underwriting officer for the MGA is Allen Steiger, who previously was responsible for the underwriting and management of the

energy and property portfolios of XL Insurance Ltd. Anemos will write a small book of offshore energy business this year, with focus on providing capacity in the Gulf of Mexico.

## Noted

Nevada Insurance Commissioner **Alice A. Molasky-Arman** will retire in September. In her 13 years as Nevada's top insurance regulator, Ms. Molasky-Arman was involved in many key issues. In 2005 she backed legislation that slashed the annual fee out-of-state risk retention groups paid to operate in Nevada by about 90%. Legislation signed into law last week by Maryland Gov. Martin O'Malley will bar insurers from issuing **medical stop-loss policies** in the state with a specific attachment point of less than \$10,000 or an aggregate attachment point of less than 115% of expected claims.

# Genetics: House approves bill banning discrimination

CONTINUED FROM PAGE 1

ing," said Kathryn Wilber, senior counsel-health policy for the American Benefits Council in Washington. "As employers, especially our membership, we think it's important to have protections in place, but we don't think there was a problem with actual discrimination."

"It really is a pre-emptive thing for employers. I don't really think it's going to have a significant impact on employers," said Larry Lorber, a partner at Proskauer Rose L.L.P. in Washington. "First, I'm not aware of many, if any, employers who actually do genetic testing as such. Secondly, there are genetic nondiscrimination laws in about 34 states. To my knowledge there is no litigation involved in any of those states, and that includes states such as California and New York, where people are not shy about suing. As a general proposition, I don't think the act will have a significant impact today on employers."

"What they're doing is applying the common employment litigation model, punitive damages included, to the use of genetic information when there's no evidence that any employer is using it now. So you're really looking at a another potential cause of litigation, which I don't think will be successful," Mr. Lorber said.

One of the bill's chief proponents disagreed that genetic information-based job discrimination doesn't occur, although Sharon Terry, presi-

dent of the Washington-based Coalition for Genetic Fairness, said she thought employer concerns were "overstated."

"We haven't seen any lawsuits anywhere," said Ms. Terry. "We get calls regularly here from people who have been discriminated against. I think, in fact, it is going to be affecting actual occurrences of discrimination. When it was race and gender,

**'Congress is doing the right thing even though it's taken us 10 years to get there.'**

Sheryl Willert, Williams Kastner & Gibbs P.L.L.C.

there were enough people...to find each other and have the support of each other to come out." But victims of genetic discrimination, which she said has generally come in the form of firing, have not come forward.

"I think it is addressing a problem," Ms. Terry said.

"I don't really know that it's going to have a very significant impact," said Sheryl Willert, managing director of Williams Kastner & Gibbs P.L.L.C. in Seattle and a former president of the Defense Research Institute. "If you really stop and look at the state-by-state issue, there are

well over 30, maybe even 40, states that have some kind of protection against genetic discrimination already. You've got to say: 'OK. What is going to change with the adoption of this legislation?'"

She said GINA would create a "uniform set of guidelines" and "force the issue in respect to those states" that have not adopted genetic information nondiscrimination codes.

Ms. Willert said GINA would mesh with the Americans with Disabilities Act. "The ADA prohibits discrimination on the basis of some form of disability. It does not address discrimination on the basis of an unknown disability. This legislation would say we're going to fill in the gap that exists because of the ADA's failure to address the unknown," she said.

"Congress is doing the right thing even though it's taken us 10 years to get there to assure that people are not discriminated against on the basis of factors over which they have no control," Ms. Willert said.

GINA will not pre-empt all state laws, though, she said. "To the extent that any state laws provide greater protection, then the state law will prevail. It's going to be a floor rather than ceiling."

That lack of pre-emption is one reason the U.S. Chamber of Commerce continued to oppose GINA, said Mike Eastman, the Washington-based employer group's executive director-labor policy. "We still oppose it. First of all, excessive dam-

ages—we don't believe it should have punitive and compensatory damages," he said. "Second, it does not pre-empt inconsistent state laws. No. 3, the bill's provisions on information collection has no exception for human resources practices consistent with business necessity."

"The bill has been improved at every stage of the legislative process," Mr. Eastman said. "We wish there were a few more stages left."

Looking ahead, Mr. Lorber—who had testified on behalf of the Chamber of Commerce against an earlier version of the bill—said employers need to be aware of the potential impact of the growth of genetic testing and information.

"When the act was first introduced and when I testified on it in 2005, there really wasn't a long history of genetic testing, so for most employers, they had no idea what this was all about, quite frankly," said Mr. Lorber.

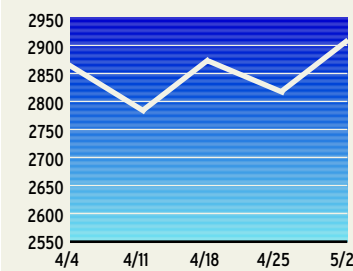
An area of enhanced knowledge that should be of particular importance to employers involves the possible impact of workplace environments on genetic conditions, he said. "As I understand it, there are genetic indicators of susceptibility to things like cancer or diabetes. What you're finding is that as the knowledge of genetics grows, so the impact of workplace conditions on genetic conditions might grow. There might be environmental impacts, workplace impacts that we don't know about today."

## Stock Index

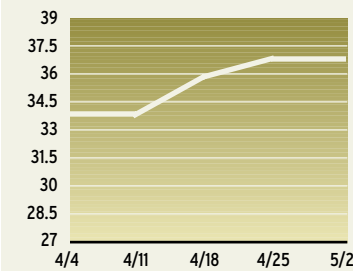
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Up-to-the-minute data for all 82 companies that comprise the BI Stock Index can be found at [www.IndustryFocus.com](http://www.IndustryFocus.com).

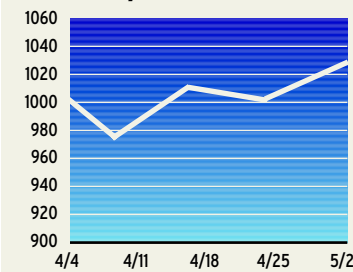
### BI STOCK INDEX



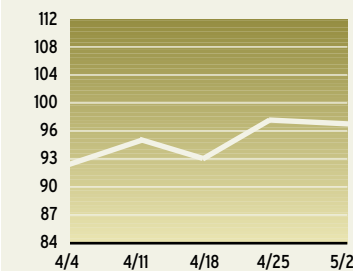
### BI BROKERS INDEX



### BI INSURER/REINSURERS INDEX



### BI MANAGED CARE ORGANIZATIONS INDEX



Percentage change of BI Stock Index vs. key indicators

Indicator	Value	Change
BI STOCK INDEX	2901.07	▲ 2.67%
DOW JONES	13058.20	▲ 1.29%
S&P 500	1413.90	▲ 1.15%

### LARGEST GAINS

Ambac Financial Group	39.38%
XL Capital Ltd.	17.04%
MBIA Inc.	16.06%
Gainsco Inc.	8.85%
Lincoln National Corp.	7.73%

### LARGEST LOSSES

Meadowbrook Insurance	-10.80%
Baldwin & Lyons Inc.	-9.11%
NYMAGIC Inc.	-7.57%
Tower Group Inc.	-7.46%
Fairfax Financial Holdings	-6.90%

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



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REUTERS  
Liberty Mutual says it has no plans to change the name of Safeco Field.

## Ballpark's name safe for now

The Seattle Mariners won't be playing baseball at Liberty Mutual Field anytime soon.

Despite the Boston-based insurer's purchase of Safeco Corp. on April 23 for \$6.2 billion, Liberty Mutual said it has no interest in renaming the ballpark in the foreseeable future.

The two parties have agreed to keep the Safeco name on Safeco Field following the close of the transaction, a spokesman for Liberty Mutual said last week. The transaction is expected to be complete by the end of the third quarter.

Safeco Field became the home of the Mariners in 1999. Seattle-based Safeco signed a 20-year, \$40 million deal for the naming rights.

Liberty Mutual's decision not to change the name of the stadium may come as a breath of fresh air in the era of the corporate name game. In the past, when a corporate sponsor was acquired by another company or went bust, the stadium assumed the new owner's name. For example, the Arizona Diamondbacks' Bank One Ballpark became Chase Field and the Houston Astros' Enron Field became Minute Maid Park.

# Business Insurance END PAGE



## Hungry for info?

Which has more calories: McDonald's Big Mac or Burger King's Whopper?

Residents dining in certain New York restaurants soon will have such information at their fingertips thanks to a new health code provision that the city has put into effect. Restaurants with at least 15 establishments nationwide must post caloric information on menus and menu boards in the same font and format used to display the name or price of the menu item.

New York is hoping that if patrons see how many calories they are about to eat, they will make healthier food choices and reduce obesity.

The regulation, the city says, could prevent at least 150,000 New Yorkers from becoming obese and prevent at least 30,000 residents from developing diabetes and other health concerns over the next five years.

In a lawsuit against the city, however, the New York State Restaurant Assn. said the anti-obesity provision violated the First Amendment and was pre-empted by the federal Nutrition Labeling and Education Act, which gives restaurants discretion in

whether or how to present nutritional information.

A lower court judge ruled in favor of the city. According to various reports, the restaurant association asked the appeals court to delay the rule from taking effect until its appeal

was heard. That request was denied last week. The appeals court, however, reportedly left room to rule against the city by seeking the Food and Drug Admin-

istration's opinion on whether FDA rules let cities dictate what restaurants must tell customers.

New York can issue violations starting today but it will wait until July 18 to impose fines, which reportedly range from \$200 to \$2,000.

A spokesman for the restaurant association was not available for comment.

In terms of which burger has more calories, the 770 calorie Whopper exceeds the Big Mac's 540 calories. A healthier choice for Burger King patrons is the BK veggie burger with cheese, which contains 470 calories. For McDonald's patrons, the McChicken sandwich has 360.



LANDOV

Contributors: Jeff Casale, Sally Roberts

## Crawford hopes to build on its presence at RIMS '08

While some exhibitors at last week's Risk & Insurance Management Society Inc. conference in San Diego might have felt as if they lived in their exhibit booth, one family actually may end up doing that.



MICHAEL MARCOTTE

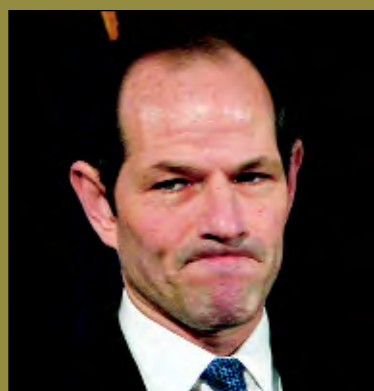
Atlanta-based Crawford & Co. announced at RIMS that it donated a large portion of its Crawford/Broadspire booth to the San Diego Habitat for Humanity.

Included in the donation was all the plywood and structural wall frames used in the exhibit, which can be re-used in the construction of a home or in the local Habitat stores, Crawford said.

The donation was a collaboration between Crawford and its third-party exhibit provider Access TCA.

A spokeswoman for Crawford said the company would like to make its donation an annual event.

"We were very pleased to have the opportunity to donate to Habitat and hope to continue the trend, but it will depend on our booths' building components, the local exhibition company as well as the local chapter of Habitat," she said.



A book and film will detail the rise and fall of former New York Gov. Eliot Spitzer.

LANDOV

## Author to tell tale of two Spitzers

The juicy bits—for better or worse—of Eliot Spitzer's rise and fall will be revealed in both book and film form.

The story of the former New York governor, who cracked down on Wall Street fraud and misconduct within the commercial insurance industry and was later found to have a penchant for high-priced prostitutes, will be co-authored by Peter Elkind.

In addition, filmmaker Alex Gibney, who is working on a documentary on Mr. Spitzer, is reportedly collaborating with Mr. Elkind.

A release date has yet to be determined for either the book or the film. The book will be published by Penguin Group (USA).


As New York's attorney general, Mr. Spitzer unleashed a series of investigations into insurance industry practices, changing, among other things, the way brokers and insurers do business. In March, Mr. Spitzer resigned as New York's governor over his alleged connection to a prostitution ring.

Mr. Elkind is a senior writer with Fortune magazine and wrote a cover story about Mr.

Spitzer in 2004.

"We know Peter to be a spectacular investigative reporter," Adrian Zackheim, president and publisher of Portfolio, Penguin's business imprint, told the Associated Press. "This is not a quickie book. He's going to do what he does best: Come back with a very, very satisfying, in-depth and complicated story."

Mr. Zackheim said that he does not expect Mr. Spitzer to cooperate with the project but added that "it's not inconceivable."



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