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Business Insurance

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AIG UNDER PRESSURE

Reserve boost raises concerns

But AIG's restated results allay some fears

By JUDY GREENWALD

NEW YORK—American International Group Inc.'s filing of its long-delayed 10-K with the Securities and Exchange Commission last week settled some questions about the insurer's finances but raised many others.

In particular, the revelation that the company's restated fourth-quarter 2004 results will reflect an \$850 million asbestos and environmental reserve increase surprised analysts.

And they are braced for more reserve charges arising from the company's plans to commission a comprehensive independent actuarial review of

its principal property/casualty insurance operations' loss reserves. The review is expected to be completed before AIG reports its full year 2005 results.

"I was expecting that (the 10-K) would bring some closure to the cloud of uncertainty hanging over AIG," said independent Cincinnati-based insurance analyst John L. Ward. Instead, "It really opened up another round of uncertainty" that will not be resolved until the end of 2005, he said.

"I think that in general, we were looking for

See AIG / page 30

Redoing the math

AIG recalculates its profits for the past five years

Year	Change in profits
2000	-\$1.32 billion
2001	-\$1.27 billion
2002	+\$347 million
2003	-\$1.19 billion
2004	-\$498 million

Total -\$3.92 billion

Source: AIG reports

Late News

Sinnott to return to MMC as vice chair

John T. Sinnott is returning to Marsh & McLennan Cos. Inc. as vice chairman. Mr. Sinnott, who worked at MMC brokerage unit Marsh Inc. for 40 years, retired as chairman of the unit in July 2003.



Mr. Sinnott

On his retirement, he became a senior adviser to the brokerage.

S&P boosts P/C outlook to stable

Standard & Poor's Corp. has raised its outlook on the commercial property/casualty insurance industry to stable from negative. The rating agency said the move reflects insurers' pricing discipline, improved earnings and moderating rate decreases. In addition, S&P said it is "increasingly apparent" that most insurers will weather various officials' investigations into industry practices "without further material damage."

Risk managers seeing broker changes: Survey

Nearly half—46%—of the more than 50 risk managers recently surveyed by Banc of America Securities said they have seen changes to their brokerage service teams in the last six months as a result of employee defections, headcount reductions and turnover among insurance brokerages. Most of the respondents reported that service had not been affected, though. Researchers also found that 19% of respondents had increased the number of brokers they use. In addition, 13% said their insurance broker had increased or attempted to increase their commission or

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London insurers are seeking a ruling that they are not liable for more than \$2.1 billion in losses from the Sept. 11 attack on the WTC.

Port Authority seeks double WTC limits

By DOUGLAS McLEOD

NEW YORK—Only months after a jury found a handful of World Trade Center insurers liable to leaseholder Silverstein Properties Inc. for two policy limits in the WTC's destruction, a similar dispute is shaping up between insurers and the Port Authority of New York & New Jersey.

Several London insurers last week sued the Port Authority, the WTC's

owner, charging that it is now trying to collect double the \$1.5 billion limit of its own property program in the wake of the Silverstein verdicts.

While the Port Authority has already recovered \$950 million from insurers on the basis that the Sept. 11, 2001, terrorist attack was one event, it notified insurers earlier this

See WTC / page 29

'Hiring subsidies' may be terminated amid investigations

By SALLY ROBERTS

State prosecutors' investigations into broker compensation practices, which have curtailed the use of contingent commissions, may end another form of undisclosed compensation from insurers: hiring subsidies.

For years, insurers have offered their most productive agencies and brokerages a variety of programs or agreements to help finance everything from acquisitions to office expansions to marketing efforts to producers' salaries.

While these agreements, both formal and informal, have been portrayed as a way for insurers to support and reward productive brokerages, some attorneys general say the agreements offer incentives for brokerages to improperly steer business to the insurers providing the hiring subsidies without disclosing the subsidies to clients.

As a result, many of these subsidies have been put on hold and, like contingent commissions, their future looks bleak, observers say.

Hiring subsidies first came to light in connection with the ongoing industry investigations in March when New York Attorney General Eliot Spitzer alleged in his complaint against Aon Corp. that the Chicago-based brokerage entered into "producer funding agreements" with select insurers. Under these agreements, the insurers directly funded the hiring and salaries of Aon personal lines brokers and the arrangements were not disclosed to clients, according to the complaint.

In 1999, 2000 and 2001, for example, Chubb Corp. paid 50% of the salary and benefits for certain Aon personal lines brokers to sell Chubb products, Mr. Spitzer's com-

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SPOTLIGHT

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Public Entity Risk Pools PAGE 11

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CMS offers guidance on Medicare drug notification

Federal agency tells employers how to comply with aspects of Medicare Part D. Page 4

HealthSouth, D&O insurer tangle over coverage

The company and an excess D&O liability insurer are at odds on coverage. Page 4

RAA's Marsha A. Cohen named Woman of the Year

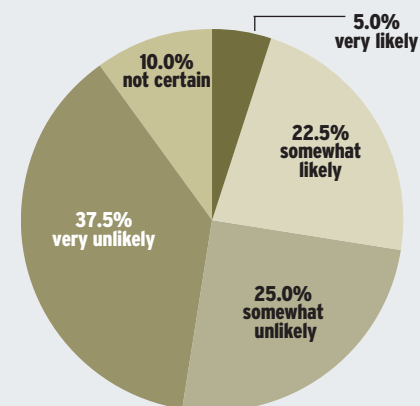
The APIW honors Marsha A. Cohen for her role as a mentor to women. Page 4

U.K. smoker liability ruling favors tobacco companies

In a landmark ruling, a Scottish court rules against a cancer victim's widow. Page 25

Online poll - [5/30 - 6/3]

How likely do you think it is that both houses of Congress will approve legislation curbing frivolous lawsuits this year?



Participate in BI's online polls at www.businessinsurance.com.

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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

Business Insurance (ISSN 0007-6864) Vol. 39, No. 23, is published weekly by Crain Communications Inc., 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to Business Insurance Circulation Department, 1155 Gratiot Ave. Detroit, Mich. 48207-2912. \$5 a copy and \$97 a year in the U.S. \$130 in Canada and Mexico (includes GST). All other countries, \$230 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 40012850, GST No. 136760444, Canadian return address: 4960-2 Walker Road, Windsor, ON N9A6J3. Printed in U.S.A. Copyright © 2005 by Crain Communications Inc.

Regulatory reform bill expected despite commissioners' concerns

By MEG FLETCHER

WASHINGTON—Insurance industry observers are wondering how quickly action will follow words, now that an intensive, two-month review of a federal regulatory modernization proposal is scheduled to end this week.

Some industry representatives are optimistic that the draft State Modernization and Regulatory Transparency Act will be introduced in bill form soon by its drafters, Rep. Michael Oxley, R-Ohio, chairman of the House Financial Services Committee; and Rep. Richard Baker, R-La., who chairs the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises.

Others, though, say more deliberations are needed, given the scope of the effort, which is

the most comprehensive proposal to modernize insurance regulation in 60 years (*BI*, Aug. 30, 2004). Major changes outlined in the 300-plus page draft include pre-empting state rating laws for commercial and personal lines coverages and creating a seven-member federal body that would seek to resolve conflicts among state laws but that would have little or no authority.

While industry representatives generally are enthusiastic about the SMART proposal, regulators are not, and the National Assn. of Insurance Commissioners has made its concerns clear to the SMART drafters (see box).

Since the review process began in early April, congressional staffers and interested parties have adhered to a "very aggressive"

See SMART / page 28

Is SMART so smart?

The National Assn. of Insurance Commissioners' key objections include that the proposal would:

- "Substantially and negatively impact" state regulatory authority by creating federal standards that would pre-empt state laws that do not conform to them.
- Remove state regulators' ability to protect consumers by supervising rates.
- Create regulatory "confusion" by establishing a federal entity that would seek to resolve conflicts among state laws.
- Impose unreasonable implementation time limits.

Garamendi calls for 18% reduction in workers comp rates

By ROBERTO CENICEROS

SAN FRANCISCO—California Insurance Commissioner John Garamendi last week complained that workers compensation insurers have been slow to pass on reform-related savings and called for them to reduce pure premium rates by 18% for July renewals.

The Sacramento-based California Chamber of Commerce hailed the call for a rate decrease as a sign that the system overhaul Gov. Arnold Schwarzenegger signed into law in 2004 is working. The chamber also said it expects further decreases with the continuing implementation of reform regulations.

Insurers, meanwhile, appeared to be sticking closer to a recommendation made in May by California's Workers' Compensation Insurance Rating Bureau. The bureau recommended that insurers reduce pure premium rates by 13.8% for policies incepting or renewing July 1.

California's State Compensation Insurance Fund announced last week that it will cut rates 14% for policies with an effective date of July 1 or later. It made its announcement on the same day that Commissioner Garamendi recommended the 18% cut.

California's insurance commissioner cannot order insurers to adjust their rates; he can merely recommend such an adjustment. Pure premiums cover only loss expenses; they do not include costs for items such as commissions or other expenses.

SCIF's rate reduction includes a midterm 3.8% rate decrease on the unexpired portions of all policies with a January through June 2005 inception, the San Francisco insurer said. SCIF has reduced rates a cumulative 26% since December 2003.

On Tuesday, Woodland Hills, Calif.-based Zenith National Insurance Corp. said that its workers comp specialty unit, Zenith Insurance Co., filed rates with the California Department of Insurance representing an average 12% reduction compared to rates in effect since Jan. 1.

Both insurers attributed rate declines to reforms California has adopted over the past two years.

"Without the enactment of workers compensation reform in 2003 and 2004, our average California workers compensation rates would be about 44% higher today," Zenith Chairman and President Stanley R. Zax said in a statement.

But several recently implemented reform measures will take time to work their way through the system, Mr. Zax pointed out.



Mr. Garamendi

Asbestos trust fund draws insurer fire

Senate bill would not shut the door on tort claims, insurers say

By MARK A. HOFMANN

WASHINGTON—More than a week after a key Senate committee approved a bill that would create a \$140 billion trust fund to replace the current litigation-based system for compensating victims of asbestos-related disease, insurer and business interests are still parsing the fine print of the measure, which spans more than 300 pages.

In general, though, insurers don't like what they see.

They continue to regard the national no-fault trust fund, as currently envisioned under the Fairness in Asbestos Injury Resolution Act, as unworkable and unfair. In fact, some reject the idea of a trust fund entirely, insurance industry representatives note.

The trust fund is the heart of the FAIR Act, which won the approval of the Senate Judiciary Committee on a 13-to-five vote on May 26. Defendant companies in asbestos liability cases would be responsible for paying \$90 million of the trust fund's \$140 billion total. Their insurers would pay an additional \$46.025 billion, and the remainder would come from existing asbestos bankruptcy trust funds.

Claimants would receive payments according to the seriousness of their illnesses, with those suffering from mesothelioma—the most serious and deadly asbestos-related cancer—being eligible for the maximum award of \$1.1 million. If the fund were to run out of money before it paid all claims, the remaining claims would revert to the tort system. Pending asbestos injury

suits that had reached the evidentiary stage by the time the act became law would also remain in the tort system.

Insurers find that provision particularly bothersome.

"Where we're still exposed to the tort system is a violation of the concept of the trust fund, that it would pre-empt all asbestos liability and become the sole remedy," said Leigh Ann Pusey, senior vp-government affairs for the American Insurance Assn. in Washington. Ms. Pusey noted that the bill has "a couple of categories of pending cases" that insurers are concerned could become major problems in the tort system.

"For example, if a case is at trial where the evidence has been presented, that case has now been carved out" and permitted to remain in the tort system rather than be removed to the trust fund, she said. As a result, there could be "a race to the courthouse," as plaintiffs decide to take their chances on winning a larger award than might be available from the fund, she predicted.

"It leaves us exposed in the tort system; you still have some claims in the tort system," said Marliss Browder, director-federal affairs in the Washington office of the Indianapolis-based National Assn. of Mutual Insurance Cos. In addition, noted Ms. Browder, insurers would have to cover a significant portion of the fund's start-up costs. "Insurers will be responsible for a little over \$20 billion in the first five years," she said.

That's particularly critical given that the fund could sunset at any time if it were to run out of money, said Julie Gackenbach, assistant vp-federal affairs in the Washington office of the Des Plaines, Ill.-based Property Casualty Insurers Assn. of

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See ASBESTOS / page 28

HealthSouth, excess D&O insurer trade lawsuits

By DOUGLAS McLEOD

BIRMINGHAM, Ala.—HealthSouth Corp. and one of its excess directors and officers liability insurers are suing each other in the latest twist in the troubled company's long-running D&O litigation.

Houston Casualty Co., which wrote a \$10 million excess layer of HealthSouth's D&O program from 2002 to 2003, asked a federal court in Birmingham last week for a ruling that several policy endorsements bar coverage of HealthSouth claims.

The action followed a Health-

South complaint seeking a declaratory judgment that Houston Casualty is liable for defense and indemnity costs under the policy.

The twin volleys are the latest in a legal war between HealthSouth and more than a dozen D&O insurers that began in 2003, soon after the multibillion-dollar accounting fraud at the Birmingham-based health care services company became public. Eleven former HealthSouth officers, including several former chief financial officers, have pleaded guilty to criminal charges stemming from the fraud. Richard M. Scrushy, the company's former

Insurer vs. insured

Houston Casualty Co. says policy endorsements bar coverage of HealthSouth's D&O claims.

HealthSouth Corp. says Houston Casualty knew that HealthSouth's financial statements might contain misleading information when it wrote the policy.

chief executive officer, was awaiting a jury's verdict last week following a four-month trial on multiple conspiracy and fraud charges.

The D&O litigation has involved two separate "stacks" of primary and excess insurers. One, led by Chubb Corp.'s Federal Insurance Co., pro-

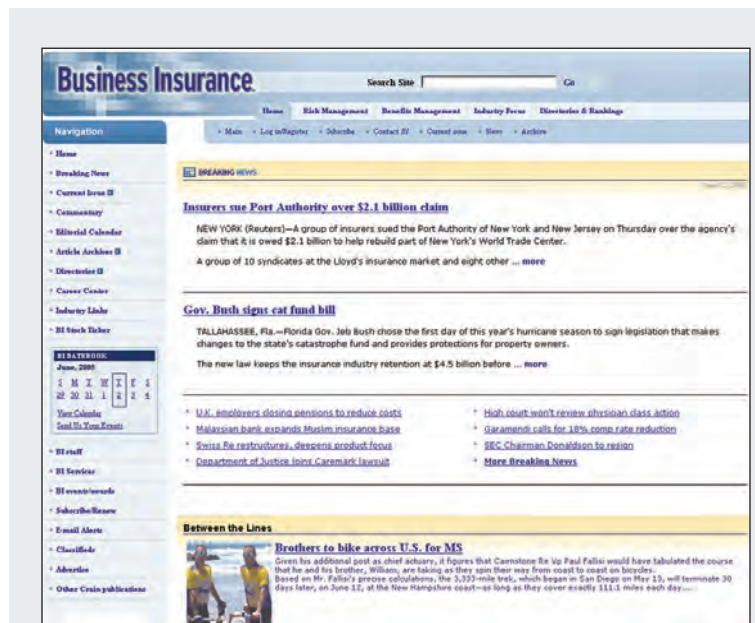
vided limits of \$150 million for the September 1998-1999 policy year and \$200 million for 2001-2002; the other, led by Royal Indemnity Co., provided coverage for the 2002-2003 policy year. The HealthSouth case largely involves claims-made policies in force in 1998, 2002 and 2003,

court records show.

Federal and state courts in Birmingham last year rejected efforts by insurers in the Chubb attempt to rescind policies based on alleged misrepresentations by HealthSouth in its coverage applications. Under Alabama law, the program's severability clause bars insurers from rescinding coverage of any individual who did not personally make a misrepresentation knowing the information was false, the courts ruled.

Motions on the effect of severability language on several Royal

See HEALTHSOUTH / page 28



BI enhances Web site

Business Insurance has redesigned its Web site, www.businessinsurance.com, to better display the depth and breadth of news and information on the site, and to offer new features and tools to help readers stay informed.

"These enhancements will give our readers the extra edge needed to stay on top of breaking news and the latest trends in the insurance industry," said Paul D. Winston, editorial director for *Business Insurance*. "The new look and expanded features will make the site more user-friendly and provide important resources."

In addition to breaking news, the site offers a comprehensive online archive from the weekly newsmagazine, as well as a searchable database of *BI* directories of industry vendors.

Site enhancements include:

- Updated design and graphics.
- Deeper news resources, with breaking news from *Business Insurance* and Reuters Ltd. throughout the day.
- Multiple new e-mail products, including custom news

alerts that enable readers to select news on companies and topics that matter most.

- Expanded highlights from each new issue of the weekly newsmagazine displayed online.
- Enhanced cross-references of related articles, so readers can pursue additional information on stories of interest.
- A new career center for listing and seeking industry jobs, powered by CareerBuilder.com.
- Information tools specifically for risk managers and benefit managers.
- Ranking data of all the *Business Insurance* vendor directories published online.

Business Insurance will continue to enhance its Web site to add additional features and capabilities. New products to be added soon include online seminars and a new discussion forum.

Subscribers to *Business Insurance* who register online can access all of these and other features. Nonsubscribers can read breaking news, as well as sign up for free e-mail news alerts.

Errors and omissions

Due to incorrect information supplied to *Business Insurance*, a story and chart on risk manager compensation in the May 30 issue contained inaccurate information. The correct salary and year-over-year changes are: claims manager, up 11.0% to \$79,500; insurance management professional, flat at \$91,300; enterprisewide risk management professional, up 1.3% to \$165,000.

Guidance eases compliance with Medicare notification rule

By JERRY GEISEL

WASHINGTON—Federal guidance released last week will make it easier for employers to comply with a requirement that they notify Medicare-eligible employees and retirees about how their group prescription drug coverage stacks up to the Medicare prescription drug benefit that begins next year.

Under the requirement, by Nov. 15, every employer will have to provide each participant in its health care plan who is eligible for Medicare—chiefly those age 65 and older—with a notice that tells that individual whether the prescription drug benefits it provides is at least equal to the drug benefits that are

available under Medicare Part D.

Many erroneously believe the notice requirement applies only to those employers offering retiree health care plans or seeking federal subsidies to offset some of the cost of retaining prescription drug benefit plans for retirees when the Medicare program is expanded next year to include a limited prescription drug benefit.

All Medicare-eligible employees and dependents, though, must receive the notice on whether the employer coverage is equal to Part D and thus is "creditable" coverage. If the employer coverage is creditable, individuals can delay enrolling in Part D from the time they first become eligible without incurring

late-enrollment penalties.

Until now, employers were in the dark on how they were to prove—without running expensive actuarial tests—whether the prescription drug coverage they provide to those eligible for Medicare would be considered creditable coverage. Such tests, though, are required for employers trying to qualify for the federal prescription drug coverage claims cost subsidy.

Guidance issued late last week by the U.S. Centers for Medicare and Medicaid Services, though, provides an easy way for employers to prove whether the coverage they provide would be considered cred-

See DRUG BENEFITS / page 24

Marsha Cohen named APIW Women of the Year

By GLORIA GONZALEZ

NEW YORK—Early in her career, Marsha A. Cohen was interviewing for a position with an insurance company, when the president of the company asked who her father was.

He was curious to know whether Ms. Cohen was one of the many people in the industry whose fathers preceded them as insurance professionals. He did not ask her about her mother, though, and that troubled Ms. Cohen. As a direct result of that experience, Ms. Cohen, who is now senior vp, state relations, and director of education for the Reinsurance Assn. of America, has worked to change the position of women in insurance industry by supporting their advancement. "That was a very important moment for me," she said.

The industry has changed. Female insurance professionals say this is due to the efforts of people such as Ms. Cohen, who has devoted

herself to mentoring young women and helping them advance their careers.

It is for this reason, among many others, that the Assn. of Professional Insurance Women Inc. is honoring Ms. Cohen as its 2005 Woman of the Year.

Ms. Cohen's insurance career began in 1975 when she accepted a position as temporary receptionist at First State Insurance Co. in Boston while working her way through graduate school. Impressed by her work ethic and eagerness, the growing company offered her an entry-level position as a claims assistant in its excess and surplus lines division. After two years, she transferred to New England Reinsurance Co. to become a treaty analyst. She left NERCO in 1979 to join Royal Re American Holdings Inc./American Royal Reinsurance Co. in New York, where she estab-



Marsha A. Cohen

Position: Senior vp, state relations, and director of education, Reinsurance Association of America

Education: American Institute for Chartered Property Casualty Underwriters, Associate in Reinsurance (1996).

Continuing Professional Development Designation (1987).

Chartered Property Casualty Underwriter Professional Designation (1984).

Boston University, M.A., Urban Affairs and Public Health (1976).

State University of New York at Albany, B.A., History (1974).

Entered industry: 1975

See COHEN / page 28

URAC program's goal is to make CDHC information accessible

By GLORIA GONZALEZ

WASHINGTON—Health care accreditation organization URAC has developed a program designed to analyze the quality of support tools and information related to consumer-driven health plans.

The goal of the new Consumer Education and Support Accreditation program is to ensure that consumers can readily access information for health care decision-making. The URAC CES standards focus on administrative transactions, decision-support tools and access to educational support for CDHP members.

The accreditation will enable consumers, employers and benefit consultants to easily identify health care organizations that can provide the support needed for health care decision making, according to URAC.

With consumer-driven health

plans, "consumers must be supported to become better purchasers of care and to fully participate in the management of their health and their health care dollar. Through URAC CES Accreditation, we create a sustainable quality improvement model for (consumer-driven care) as it evolves and matures," Charles W. Stellar, chair of URAC's board of directors, said in a statement.

The program was created to address criticism regarding the inability of CDHP members to access the tools and information necessary to make health care decisions, the organization said.

The program will assess consumer access to tools that incorporate quality and cost information; availability of health assessment tools such as health risk appraisals as well as prevention and wellness information; availability of information in different languages and

formats; and accommodation of individuals with cognitive or physical impairments.

The URAC CES standards also require compliance with the URAC Core Organizational Quality Standards, which address key functions such as organizational structure, staff qualifications, training and management, oversight of delegated activities, regulatory compliance, quality management and consumer protection.

The new accreditation is also applicable to traditional health plans and specialty health care organizations that are becoming more consumer focused in their health maintenance organization, preferred provider organization and other programs, such as case management and disease management, according to URAC.

More information is available at www.urac.org.



PAUL WINSTON

Editorial Director

On risk, opportunity and responsibility

Paul Winston is on vacation. This commentary from the BI archives originally appeared in May 2003.

It's that time of year when colleges and universities across the country hold their commencement ceremonies, award diplomas and wish their new graduates well as they leave academia and enter the real world.

At all of these ceremonies, various speakers will offer graduates a last bit of advice—on top of years of study—to prepare them for new careers and succeeding on their own.

Of course, if the students are anything like I was, few will be paying attention. Instead, they will be sweltering in their caps and gowns, distracted by their own thoughts, such as: I wonder if anyone will trip on stage?

Similarly, professors will be nodding off, thinking about a few summer months of freedom or reading the magazines they have hidden in their own robes.

Despite the fact that at this auspicious occasion, so few are really paying attention, people still relish the chance to speak to graduates, hoping to impart wisdom, suggest noble courses to travel or receive an honorary degree. I am no different. Here is the advice I would give, on the chance some would take heed:

Graduates, as you go forth, out from under the protection of parents or the insulation of college life, you soon will discover that life is not risk free. As a consequence of your actions and choices, sometimes losses will occur, accidents will happen, mistakes will be made and you might get hurt. Other times, the risks you take will pay off; you will prevail and get ahead.

But just as you claim credit for risks that bring rewards, also accept that you may be to blame when things go wrong. As a new member of adult society, you should know that in exchange for the freedoms you are granted you must take responsibility for your actions.

If you should make a mistake, harming yourself or others in the process, don't evade that responsibility by seeking to lay the blame elsewhere. That only compounds the harm that was done. Hopefully, such mistakes will not bring lasting consequences, but even if they do,

you cannot be made whole by taking from others.

You have grown up in a society that has become far too accepting of pointing the finger of blame everywhere except at one's self. Our society turns to the courts for relief for any and every imagined wrong, when in most cases the person bringing a complaint made a bad choice, was negligent or simply goofed.

Worse, too many turn to the courts not only to be made whole, but also to turn adversity into profit. Those gains, though, come at others' expense.

Unfortunately, we are too polite to tell accident victims that it was their fault and they are owed nothing, even when it is obvious. Some lawyers are all too willing to validate these selfish claims for a fee, and judges and juries follow legal procedure without questioning it.

The cost of this miscarriage of justice is enormous and not only inflates the cost of goods and services you consume, but also limits the willingness of many in society to take risks. People and institutions live in fear of being sued and curb the actions they take and the choices they make. As a consequence, potential rewards and gains are denied.

Graduates, have the courage to accept that nobody else might be to blame when you:

- Have a car accident while driving.
- Fall ill and a doctor or hospital is unable to cure you or end your pain.
- Lose value in an investment.
- Have an accident after drinking alcohol.
- Spill hot coffee on yourself.
- Have a child who is cut from a sports team.
- Fear you might develop a disease.
- Are not promoted or hired.
- Exercise unhealthy food choices that make you unwell.
- Didn't notice safety warnings before an accident occurred.
- Unsuccessfully copy a stunt you saw on TV.
- Get visited by a natural disaster.

Graduates, don't be afraid to take risks, or you will miss many opportunities. But know that if you suffer a loss, taking someone to court will not convert your actions into a gain without exacting a heavy price on society.

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

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Editorial

News highlights duty owed by insurers...

NOW THAT the other shoe has dropped on American International Group Inc., insurance buyers and investors can breathe a sigh of relief.

New York Attorney General Eliot Spitzer and Superintendent of Insurance Howard Mills' recent civil suit charging AIG with fraud has turned up no further surprises, and neither has AIG's finally released 10-K report. With criminal charges still possible for AIG's former Chairman and CEO Maurice R. Greenberg and CFO Howard Smith, but apparently not for AIG itself, the insurance giant has dodged what most likely would have been a fatal bullet.

The litany of alleged fraudulent activity and absurd lengths AIG's former top executives went to to mask underwriting losses and evade guaranty fund assessments, as detailed in the Spitzer suit, shows a mystifying desperation. As Mr. Spitzer himself noted in a statement announcing the charges, AIG didn't have to cheat. It was a profitable, otherwise well-run company before and during the time he alleged it committed the fraud.

So why do it? Why cut deals with closely affiliated offshore entities to hide losses and

mislead regulators, even as corporate legal counsel advised against it? Reminiscent of Greek tragedy, the "fatal flaws" of the protagonists boil down to pride and greed. Mr. Spitzer charged that AIG executives sought to avoid embarrassment and to keep earnings growth—and thus the share price—up.

After restating its financial results, including a substantial charge for asbestos liabilities—which Mr. Greenberg a few years ago publicly downplayed—next on AIG's agenda is an independent actuarial review of reserves.

We hope that the worst is behind AIG and that its numbers from here on out can be trusted. The lesson for all companies facing investigations over their business practices and accounting is to be forthright in disclosing all material facts. AIG, to its credit, took pains to publicly disclose findings of wrongdoing. Moreover, the company took prompt, bold action against employees who were involved in it.

Insurers and brokers have a moral duty to play by the rules and be honest with their clients and shareholders, which some at AIG sadly forgot. "Good faith" is a fundamental principle in insurance. Insurance buyers deserve no less.

...as well as by brokers

INSURANCE BUYERS also deserve to be serviced by brokers that are unencumbered by potentially compromising financial ties with insurers.

In the same way that contingent commissions have been jettisoned, at least by the major brokers, so-called "hiring subsidies" that are paid by insurers to brokers should be thrown overboard too.

The deals between brokers and insurers are structured in several different ways, but the usual outcome is that an insurer effectively pays the salary of a broker or agent to either provide rewards for top producers or to cover the costs of training new employees.

Previously, advocates for the programs have admitted that the arrangements do contain an "I'll scratch your back, if you scratch mine" element, but, they argue, the deals do not necessarily lead to producers placing business with certain insurers simply because the insurer is paying the brokers and agents

compensation over and above their traditional commissions.

Like contingent commissions, hiring subsidies were no secret, and most people involved with the insurance industry, buyers included, regarded them as accepted practice.

The arrangements reflect economic reality and the parties involved still have their clients' best interests at heart and should not be accused of underhanded business practices, the proponents have argued.

That may or may not be the case, but the potential—and seemingly obvious—conflicts of interest that arise out of the arrangements cannot be allowed to continue in the current environment.

Public prosecutors highlighted the hiring subsidy issue in their settlements with Aon Corp. and Arthur J. Gallagher & Co. Other brokers and their insurance markets also should drop the practice before they are forced to do so.

Schillerstrom



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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Asian markets: Michael Bradford.

Aviation/space risks: Sarah Veysey, Barbara Cockburn.

Benefits—health care and ancillary benefits: Joanne Wojcik.

Benefits—retirement savings/pensions: Jerry Geisel.

Canada—risk management and benefits: Gloria Gonzalez.

Captives/alternative risk transfer: Michael Bradford.

Claims management: Meg Fletcher.

E.U. regulatory/legislative: Sarah Veysey.

Employment practices: Judy Greenwald.

Environmental risk management: Sally Roberts.

European benefits management: Sarah Veysey, Barbara Cockburn.

European industry: Sarah Veysey, Barbara Cockburn.

European public entity risks: Carolyn Aldred.

European reinsurance: Sarah Veysey.

European risk management: Sarah Veysey.

Federal regulation/legislation—benefits: Jerry Geisel.

Federal regulation/legislation—risk management: Mark A. Hofmann.

Health care industry operations: Gloria Gonzalez.

Inland marine/transportation: Michael Bradford.

Industry Focus: Rodd Zolkos, Rupal Parekh.

Insurance coverage litigation: Douglas McLeod.

Insurance fraud: Douglas McLeod.

Latin American markets: Roberto Cenicerros.

Marine risks: Sarah Veysey, Barbara Cockburn.

Property/casualty industry operations: Judy Greenwald.

Professional liability: Dave Lenckus.

Property loss control/cat risks: Mark A. Hofmann.

Regulation of insurance: Meg Fletcher.

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ADVERTISING: Boston: 617-292-4856; Chicago: 312-649-5276; Irvine CA: 949-255-5355; New York: 212-210-0133

SUBSCRIPTIONS: Detroit: 888-446-1422

Business Insurance is published by Crain Communications Inc.

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Published weekly at 360 N. Michigan Ave., Chicago, Ill. 60601-3806, Fax: 312-280-3174, biweb@crain.com. Offices: 711 Third Ave., New York, N.Y. 10017-5806, Fax: 212-210-0704; 71121 Minkler St., Abita Springs, La. 70420; Fax: 985-871-4006; Suite 814, National Press Building, Washington, D.C. 20045-1801, Fax: 202-638-3155; 6500 Wilshire Blvd., Suite 2300, Los Angeles, Calif. 90048-4947, Fax: 323-655-8157; 967 Bermuda Court, Sunnyvale, Calif. 94086-6750, Fax: 408-774-1155; 34 Southwark Bridge Road, London SE1 9EU, Fax: +44-(0)20-7457-1440; 8157 N. Torrey Place, Tucson, Ariz. 85743, Fax: 520-579-3476; 1746 Cole Blvd., Suite 150, Golden, Colo. 80401, Fax: 303-733-9941; 12524 Acuff Ct., Olathe, Kan. 66062, Fax: 312-280-3174. 77 Franklin St., Suite 809, Boston, Mass. 02110-1510; Fax: 212-210-0704. 4 Executive Circle, Suite 185, Irvine, Calif. 92614-6791. \$5 a copy and \$97 a year in the U.S., \$130 in Canada and Mexico (includes GST). All other countries, \$230 a year (includes expedited air delivery). Kevin Scott, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, *Business Insurance*, 711 Third Avenue, New York, N.Y. 10017-5806. Microfilm copies available: University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48103. Microfiche copies: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For reprints or reprint permission: Karen Brown Tucker, *Business Insurance*, 360 N. Michigan Ave., Chicago, Ill. 60601-3806, 312-649-5319, Fax: 312-280-3174.



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Spotlight

Government Risk Management

Captive reinsurer offers pools stop-loss cover / 15

L.A. school district's wrap-up program cuts costs / 20

In hot pursuit of better risk management



Police departments seek to chase down best practices

By GLORIA GONZALEZ

High-speed car chases involving police officers and fleeing suspects often make for fascinating television, but they can be a real headache for the organizations that insure law enforcement agencies.

While the number of claims related to "hot pursuits" is smaller than those for other types of law enforcement risks, they have the greatest potential for large claims, ensuring that they are constantly on the radar of risk managers and insurers of law enforcement departments.

"I think it's viewed as what I would characterize as a very significant risk for anyone writing law enforcement insurance or reinsurance," said Robert Jones, vp and public entity division manager for Stamford, Conn.-based Genesis Underwriting Management Co.

The number of claims involving high-speed pursuits has declined in recent years as risk management initiatives and new technologies have helped get a handle on the situations that often led to chases. "Car chases, in spite of what we see

on television, are relatively infrequent," said Greg Langan, risk control director, public entity and scholastic division of Itasca, Ill.-based Arthur J. Gallagher & Co.

Law enforcement departments and their insurers have spent a significant amount of time and energy training officers to make good judgments on engaging in high-speed chases. The key factors an officer must consider when deciding to engage in a high-speed pursuit include the nature of the crime, the speed of the suspect, the road conditions and the presence of pedestrians or other traffic.

The Livonia, Mich.-based Michigan Municipal Risk Management Authority created a training video, titled "Police Pursuit: The Other Deadly Force," to instruct its members on the best practices related to chases, including having a supervisor in charge who is willing to call off the pursuit if it becomes too dangerous.

In response to the danger to innocent civilians and the liability

See **HOT PURSUITS** / next page

Public entities search below the news radar

By DAVE LENCKUS

Top executives at several government insurance pools are looking at the world and risks around them a little differently these days.

Inspired by a presentation held during a two-and-a-half-day conference last summer, the executives are now engaging in "environmental scanning": analyzing news stories and speeches more extensively for future issues and trends that could have implications for their pools.

The goal—as envisioned by executives with the pools' association group, a pair of futurists and a management consultant—is to help shift more of the pool executives' focus

from logistical planning, or how things are done, to strategic risk planning, or what those actions mean for an organization's future.

"Strategic planning is one of those skills we can all use some continuing education on in the course of our careers," said David Mair, area vp-public and nonprofit division at Arthur J. Gallagher & Co. of Itasca, Ill. Mr. Mair and representatives of Washington-based Leading Futurists L.L.C. demonstrated how environmental scanning could aid in strategic risk planning during a conference conducted last summer by the Prague, Okla.-based Assn. of Governmental Risk Pools.

Pool members already are begin-

Reading beyond the headlines

The top 10 trends identified by the Assn. of Governmental Risk Pools through environmental scanning:

1. Pricing pressure for coverage from the commercial market
2. An aging pool leadership giving way to a new generation
3. The targeting of pool members by retail brokerages and commercial insurers
4. An aging population
5. A reduction in government resources
6. The anticipation of higher attachment points for health insurance stop-loss coverage
7. The need for more technological capabilities
8. Rising workers compensation and medical costs
9. The inability to find insurers and reinsurers to work with
10. The erosion of public entity immunity

ning to use environmental scanning in their future planning. For example, more extensive analyses of health care trends and the aging population are playing into some organizations' strategic plans.

The pools typically cover property, general liability, automobile and workers compensation risks and, sometimes, public officials errors and omissions and police professional liability risks.

The concept of environmental scanning has been around for several years, but the notion of using it as an aid in strategic planning is relatively recent, according to Jennifer

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RANKING: Public Entity Risk Pools RANKED BY MEMBER CONTRIBUTIONS / 14

Hot pursuits: Policies discourage unnecessary high-speed chases

Continued from previous page

risks involved, law enforcement departments have developed strict policies as to when their officers are allowed to participate in high-speed chases.

"Having policies and procedures as to when to involve in a pursuit is critical, but they're not easy policies to write because no two pursuit scenarios are necessarily the same," acknowledged Josette Kiel, vp, underwriting, public sector services for St. Paul, Minn.-based The St. Paul Travelers Cos. Inc.

Many departments, including the Los Angeles County Sheriff's Department, forbid officers from en-

gaging in a hot pursuit if the individual is fleeing to avoid a traffic violation, unless that person is a threat to others. "If someone has an expired registration, what do we gain by chasing them and putting a whole lot of people in danger?" asked Lt. Shaun Mathers, head of the department's civil litigation unit.

The department's policies specify that officers may engage in high-speed chases only in certain situations, such as if the suspect has committed a violent crime or is known to have a weapon, Lt. Mathers explained.

"In serious violations, we are al-

lowed to pursue," he said. "Overall, we recognize you have to balance what you gain when you pursue and capture them with what you risk. It's a fairly high bar for us."

In 2004, L.A. County Sheriff's officers were involved in 234 hot pursuits, 63 of which resulted in an injury to the officer, the suspect or a third party. None of the pursuits last year resulted in death, Lt. Mathers said.

No-chase policies

Some law enforcement agencies have gone even further, instituting a no-chase policy, noted Harold

Pumford, chief executive officer of the Assn. of Governmental Risk Pools based in Prague, Okla.

Often a municipal pool's liability experience will dictate a change in policy regarding high-speed pursuits. The Nevada Public Agency Insurance Pool, which covers about 20 law enforcement departments, revised its pursuit procedures to specify when its covered officers could cross state lines following a multistate chase that resulted in the death of an innocent civilian and serious injuries to four others.

"We try, by policy, to discourage unnecessary pursuits," said Wayne Carlson, executive director of the

Carson City, Nev.-based organization.

Several organizations have adopted the use of new technologies to help reduce the number of high-speed chases. For example, devices that emit electromagnetic pulses that can stop vehicles now allow law enforcement officers to apprehend suspects without chasing after them, explained Jerry Elicks, president of Uniondale, N.Y.-based Wright Risk Management, the management company for the New York Municipal Insurance Reciprocal.

In addition, many law enforcement departments use a tire deflation tool called a "spike strip" to end high-speed pursuits, although a lawsuit in Florida is currently challenging the safety of such equipment. L.A. County Sheriff's officers occasionally use these tools, but they can be ineffective if the suspect flees in a direction other than the one predicted by the sheriffs, Mr. Mathers said. In most situations, a helicopter pursuit is a more effective method of tracking and capturing a suspect, he noted.

The Nevada pool is also purchasing training equipment for police officers that simulates conditions such as driving at extremely high speeds or in adverse weather, Mr. Carlson said.

Although much attention is paid to hot pursuits, several risk managers and insurers point out that a bigger concern to them is the number of auto accidents in which police cars are involved that are unrelated to high-speed chases.

Ty Gagne, risk management services manager for the New Hampshire Public Risk Management Exchange in Concord, N.H., said his organization has seen a greater frequency of claims resulting from driving in response to emergencies than from driving in pursuit of suspects. To combat this problem, several departments have adopted speed caps that specify the number of miles per hour over the speed limit an officer may go when responding to an emergency call, he said. "The ultimate goal is to arrive safely and in a timely fashion," Mr. Gagne said. "Traveling 30 miles over the speed limit doesn't necessarily mean you're going to achieve those two objectives."

Dennis Molenaar, national director, risk control, public sector services for The St. Paul Travelers, pointed out that police officers are involved in more auto accidents in nonemergency situations than are civilians because they are "the original distracted driver," noting that a key part of officers' job is to closely observe their surroundings while cruising in their patrol areas. They also spend far more time driving than civilian drivers do, he explained.

In addition, many accidents involving law enforcement officers occur when the vehicles are parked while the officers are writing citations for traffic violations or assisting persons in need, Mr. Langan said.

Hot pursuits, though, remain a key focus of risk management ef-

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DISCOVER RE

Excessive force, false arrest also areas of potential liability

While "hot pursuits" by law enforcement officials receive a lot of attention, risk managers and insurers say that claims related to allegations of the excessive use of force and false arrests are far more common.

For example, the loss information for Itasca, Ill.-based Arthur J. Gallagher & Co.'s public entity unit shows about that one-third of the allegations of wrongdoing are claims of false arrest, while one-fourth are allegations of excessive use of force and civil rights violations, said Greg Langan, risk control director of the company's public entity and scholastic division.

Wayne Carlson, executive director, Nevada Public Agency Insurance Pool in Carlson City, Nevada, said most of the claims he encounters relate to wrongful arrest or excessive use of force. "Any sort of arrest situation can become a potential civil rights claim, and that's where most of the liabilities and the costs would arise," he said. "They're a substantial concern, because they're very expensive cases to defend even if you win."

The Los Angeles Sheriff's Department pays about \$6 million per year in indemnity costs for all claims, said Lt. Shaun Mathers, head of the department's civil litigation unit. Claims for excessive use of force, though, are "really where the bulk of our serious liability comes from," Lt. Mathers said.

In order to combat these claims, law enforcement departments have adopted specific policies on the appropriate levels of force to use in key situations. The Michigan Municipal Risk Management Authority created a model policy stating that officers should attempt to gain control of situations through verbal directives or commands whenever possible. If these are ineffective or not feasible, though, the policy states that the officer may escalate to control methods that involve the use of force.

"It is the policy of this department to employ only the amount of force that is reasonable and nec-

essary to overcome the resistance offered, effect a lawful arrest and/or accomplish the lawful performance of duty while protecting the public," the policy states.

One area of potential liability that risk managers are watching carefully is the use of stun guns, which are controversial because of their alleged links to fatalities. Stun

gun use "is on the radar screen, because there are some risk management concerns around the use of that tool and where it falls on the force continuum," said Ty Gagne, risk management services manager for the New Hampshire Public Risk Management Exchange in Concord, N.H. "I don't think there's 100% confidence with it, and it's

something we continue to discuss here," he said.

Under the policy of the Livonia, Mich.-based MMRMA, officers are authorized to use stun guns to stop potentially dangerous and unlawful behavior, to protect another person or the officer from injury or death and to protect subjects from injuring themselves.

The organization has found stun guns to be highly effective in reducing both the number of police officer injuries and instances of the use of fatal force, said Charles Schwab, director of risk management. "I think they save far more deaths in police work than they're going to cause," he said.

—By Gloria Gonzalez

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Continued from previous page

ports because the size of the settlements and the damage awards for those injured during these pursuits is often substantial. For example, four different agencies in Nevada and Arizona shared in the \$5.5 million in damages paid to the injured parties in the case in which the pursuit crossed state lines, Mr. Carlson noted.

California law protects the L.A. County Sheriff's Department from legal liability for accidents occurring during hot pursuits, provided the chase is conducted according to departmental policy, the officers are properly trained and they use their lights and sirens to alert citizens to the danger, Mr. Mathers said. The department usually deals with only about one claim per year related to high-speed pursuits and is successful in having the claims dismissed, he said. "If you have those policies in place, you're immune from the lawsuit," he said.



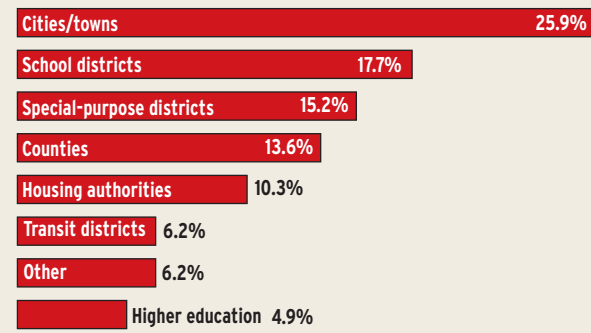
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BI RANKING

Who's in the pool

Types of members in public entity risk pools



Source: BI survey

Largest management companies

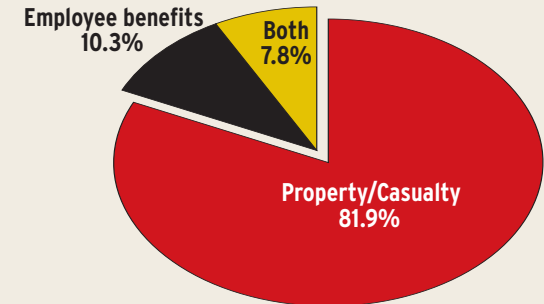
Ranked by number of pools managed

Rank	Management company	Pools managed
1	Public Entity Risk Management Administration Inc.	19
2	Bickmore Risk Services	12
3	Cashan & Co. ¹	6
4	Keenan & Associates	6
5	RiskCap	3

¹ Cashan & Co. is a division of Arthur J. Gallagher & Co.

Source: BI survey

Types of pools



Source: BI survey

Largest public entity risk pools

Ranked by member contributions in 2004

Rank	Pool name/Address	Phone/Fax/Web site	Sponsoring organization	2004 member contributions	2004 members	Member type	Risks covered	Principal officer
1	Local Government Center (LGC) HealthTrust 25 Triangle Park Drive, P.O. Box 617 Concord, N.H. 03302-0617	603-224-7447 Fax: 603-224-5406 www.healthtrustonline.org	New Hampshire Local Government Center	\$300,000,000	317	Cities/towns/townships, counties, housing authorities, school districts, special districts, transit districts	Employee benefits	John B. Andrews, executive director/fund administrator
2	California State Assn. of Counties Excess Insurance Authority (CSAC EIA) 3017 Gold Canal Drive, Suite 300 Rancho Cordova, Calif. 95670	916-631-7363 Fax: 916-631-7112 www.csac-eia.org	California State Assn. of Counties, California Public Entity Insurance Authority	\$247,401,804	184	Cities/towns/townships, counties, housing authorities, school districts, special districts, transit districts	Auto physical damage, auto/equipment liability, bonds, employee benefits, employment practices liability, general liability, property, public officials D&O and E&O liability, workers compensation	Michael Fleming, CEO
3	Protected Insurance Program for Schools P.O. Box 4328 Torrance, Calif. 90510	310-212-0363 Fax: 310-212-0300 www.pipsjpa.org	None	\$177,461,038	384	Higher education, school districts	Workers compensation	Doug Ross, Joint Powers Authority manager
4	Texas Municipal League Intergovernmental Risk Pool P.O. Box 149194 Austin, Texas 78714-9194	512-491-2300 Fax: 512-491-2311 www.tmlirp.org	The Texas Municipal League	\$115,701,139	2,526	Cities/towns/townships, housing authorities, special districts, transit districts	Auto physical damage, auto/equipment liability, bonds, criminal defense expense reimbursement, employment practices liability, general liability, property, workers compensation	R. Marvin Townsend, executive director
5	Texas Assn. of School Boards Risk Management Fund P.O. Box 400 Austin, Texas 78767	512-467-3510 Fax: 512-467-3619 www.tasb.org/risk	None	\$108,100,000	1,139	Higher education, school districts, special districts	Auto physical damage, auto/equipment liability, bonds, employee benefits, employment practices liability, general liability, property, public officials D&O and E&O liability, unemployment compensation, workers compensation	Dubravka Romano, associate executive director-risk management services
6	Schools Excess Liability Fund (SELF) 1531 I St. Sacramento, Calif. 95814	916-321-5300 Fax: 916-321-5311 www.selfjpa.org	None	\$74,589,000	1,195	Higher education, school districts	Auto/equipment liability, employment practices liability, general liability, public officials D&O and E&O liability, workers compensation	Tom Osborne, CEO
7	Texas Assn. of Counties Health & Employee Benefits Pool P.O. Box 2131 Austin, Texas 78701	512-478-8753 Fax: 512-478-1426 www.county.org	Texas Assn. of Counties	\$69,815,000	161	Counties, special districts	Employee benefits	Jim Jean, director-program administration
8	Connecticut Interlocal Risk Management Agency 900 Chapel St., Ninth Floor New Haven, Conn. 06510-2807	203-498-3000 Fax: 203-773-6971 www.ccm-ct.org/insurance	Connecticut Conference of Municipalities	\$62,994,829	364	Cities/towns/townships, housing authorities, school districts, special districts, transit districts, local public agencies	Auto physical damage, auto/equipment liability, bonds, employment practices liability, general liability, medical accident coverage, property, public officials D&O and E&O liability, workers compensation	Bruce A. Wollschlager, executive vp/COO
9	Michigan Assn. of School Boards (MASB) Schools Employers Trust 415 W. Kalamazoo St. Lansing, Mich. 48933	800-292-5421 Fax: 517-482-4181 www.setseg.org	Michigan Assn. of School Boards (MASB)	\$58,491,541	46	School districts	Employee benefits	Lou Guizzetti, executive director
10	BETA Healthcare Group 1443 Danville Blvd. Alamo, Calif. 94507	925-838-6070 Fax: 925-838-6088 www.betahg.com	None	\$58,000,000	85	Counties, special districts, nonprofits, 501(c)(3) health care facilities	Auto physical damage, auto/equipment liability, employment practices liability, general liability, medical accident coverage, public officials D&O and E&O liability	Thomas J. Wander, CEO

NOTE: Only individual pools are ranked
Source: BI survey

Visit www.BusinessInsurance.com for more information and access to the full searchable Directory of Public Entity Risk Pools.

Pools tap captive for health care stop-loss coverage

By MICHAEL BRADFORD

A group of municipal insurance pools is getting some health care cost relief from its captive reinsurer.

Government Entities Mutual will begin offering health care stop-loss insurance this summer to its 16 member pools through a purchasing arrangement operated by Towers Perrin Reinsurance. The Towers-Perrin Stop-Loss Purchasing Coalition, already in place for other types of organizations, was customized to allow municipalities retaining health care risks to access stop-loss coverage available outside of the traditional market.

GEM considered offering the coverage itself, but that idea was rejected after a survey of GEM member pools showed that, while such a move may have been feasible, "we didn't get enough people to say they wanted to participate," explained John Salisbury, president and chief executive officer of Washington-domiciled GEM. Therefore, the purchasing coalition proved a better alternative, he said.

"The conclusion of that survey was that there certainly was a big-enough market," said Jenny Emery, senior vp at Towers Perrin Reinsurance in Simsbury, Conn. But while GEM members would have liked the insurer to have its own program, there was "no crisis" that demanded it take on that coverage, she said.

Ms. Emery explained that the purchasing coalition is a group of preselected insurers that have agreed to compete on stop-loss business sought by GEM members. Terms and conditions will be hammered out first, she said, and then the insurers will submit their quotes.

Others decline stop-loss

Three captive reinsurers serve municipal pools, and while Government Entities Mutual has taken steps to provide stop-loss coverage to its members, the other two considered, but decided against, such a move.

"We did look at excess health insurance three years ago," said Tom Southworth, Wash.-based president and CEO of Vermont-domiciled NLC Mutual Insurance Co., which is affiliated with the Washington-based National League of Cities. "But the market seemed to be providing adequate capacity" to the reinsurer's members in 27 states, he said.

County Reinsurance Ltd., a 20-member captive domiciled in Vermont, looked at providing stop-loss coverage but determined that not enough members operated self-insurance pools to make the demand for the coverage attractive, said Phil Bell, Clemmons, N.C.-based executive director of the reinsurer.

County Reinsurance, though, is considering expanding its property coverage offerings to members, Mr. Bell said.

"We offer property, but it's 100% ceded," he said. The reinsurer may be keeping a portion of that risk in the future, he said.

"We're a member-driven organization, and our members want

to do it," Mr. Bell said.

A survey of the membership's property experience indicated that the business is attractive. "It appears to be a business with a low loss ratio," he said.

GEM also is considering offering property coverage to its members, according to Betsy Kutska, chairman of GEM's board of directors

and president and CEO of the Park District Risk Management Agency in Lisle, Ill.

Under the proposal, GEM would retain "a fairly nominal layer" of around \$1 million and reinsure the remainder of the property risk, Ms. Kutska said. GEM would, though, maintain control over claims up to \$10 million, she said.

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AGRIP: Public entities search news coverage to help determine future trends

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Jarratt, a principal at Leading Futurists.

Before AGRIP arranged the program for its August 2004 Institute for Leadership & Management, the problem was not that pool executives were unaware of developments locally, nationally or around the world, according to attendees.

Most pool executives are "voracious readers," noted Lester Nixon, chief executive officer of the Utah Counties Insurance Pool in Salt Lake City, adding that he is, as well. But Mr. Nixon said he previously had not read "with scanning in mind."

Michael Rhyner, AGRIP's presi-

dent and the executive director of the Michigan Municipal Risk Management Authority in Livonia, Mich., concurred. "Before, we took it all in, but what are we doing with it?" he asked.

Means to an end

Those who engage in environmental scanning "explore" news media reports as well as presentations by public speakers more deeply than would the casual observer, explained John B. Mahaffie, another principal with Leading Futurists.

A key aid is the use of a futures wheel, a technique in which an issue

identified in a media report or speech is graphically displayed as the hub of a wheel, Mr. Mahaffie explained. The future implications of the identified issue represent the first circle around the hub.

But the process should not end there, Mr. Mahaffie said. The implications of that first set of implications should be analyzed as well, and they would be illustrated as a circle around the first circle. The analysis can be extended further, he noted.

Analyzing the implications of issues in such a way helps decision makers better understand those issues' potential impact on their orga-

nizations, Mr. Mahaffie said.

The benefit of environmental scanning for pool executives is that it helps them identify not only important issues for their organizations but also "all the pressures that influence risk in the world of government entities," Mr. Mair said.

The process is an exercise that executives should "internalize" as part of their daily routine, advised Ms. Jarratt. But she cautioned that they should bounce their observations off others who are outside their normal daily contacts—such as constituents or futurists—to help them expand their view.

The conference speakers got par-

ticipants looking at the larger consequences of issues "as soon as you get up in the morning," Mr. Rhyner said.

"We need to be conscious that we're doing it," rather than reading or listening to media and other reports without formally considering the implications, Mr. Nixon said.

The technique "forces you to say what this means and what we can do about it," said Larry Bush, executive director of the Intergovernmental Risk Management Agency in Westchester, Ill.

Identifying issues

At last year's conference, 79 attendees participated in an environmental scanning exercise, during which they identified the 41 top trends affecting government insurance pools.

Topping the list was pressure on pricing, which AGRIP CEO Harold Pumford explained referred to the rate pressure that pools feel during a softening property/casualty insurance market. Other identified top trends include an aging population, reduced government resources, the increasing need for greater technological capabilities, rising workers comp costs and the erosion of public entity immunity.

The pool executives then were encouraged to use the list and what they learned during the conference about tying environmental scanning

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David Mair

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to strategic risk planning as "a jumping-off point for their own planning," Mr. Pumford said. He noted that, on their own, pools likely would identify other top trends or prioritize them differently.

During the conference, Mr. Mair assisted the pool executives in understanding how to translate the risks they identify through environmental scans into risk-focused strategic plans.

Among Mr. Mair's suggestions are:

- Extract research when possible from blogs, publicly accessible Web pages posted as personal journals or as communication tools for businesses.

- Understand the differences between tactical planning—essentially the creation of to-do lists—and logistical and strategic planning.

"All three types of planning have to blend in order to effectively operate a risk management function," Mr. Mair said. He noted that several pool executives observed that their plans often had been logistical instead of strategic in nature.

Mr. Nixon called that a legitimate observation.

See AGRIP / next page

AGRIP: Search for trends

Continued from previous page

Pool executives say that, since the conference, they have been preparing to use what they learned as they consider modifications to their organizations' strategic risk plans.

Mr. Nixon said that the conference has helped him analyze reports on health insurance in preparation for the Utah pool's decision on whether to offer a health insurance product.

At its scheduled two-day retreat last week Mr. Nixon planned for the pool's board to spend most of its time on environmental scanning and discussing how the top 20 trends identified at the August AGRIP conference apply to the pool's strategic plan.

Coincidentally, IRMA had its first strategic planning session in several years just weeks after the AGRIP conference, and IRMA board members discussed how the top trends identified by AGRIP executives affected their pools, Mr. Bush said.

Mr. Rhyner said that he plans to introduce environmental scanning at the Michigan pool's upcoming strategic planning session in September.

Last year, the board shifted its focus to long-term goals and performance measures, he explained. Historically, it had focused on policy, governance and leadership.

Mr. Rhyner said he wants to use environmental scanning to determine whether the board is "picking up everything" that it should be in those areas. He decided to wait to introduce environmental scanning until this year, when new board members would be in place.

L.A. cuts school building costs with OCIPs

By ROBERTO CENICEROS

Los Angeles residents could have more money to spend on schools if the goal of cutting insurance costs for a massive school construction program through a wrap-up program is achieved.

Predicted insurance cost savings of up to 50% could be channeled into additional construction projects aimed at expanding the educational facilities at Los Angeles Unified School District, according to a district risk manager.

And potential contractors will benefit from the wider coverage as

it will enable more of them to bid on the projects.

LAUSD is one of several major purchasers of insurance that take advantage of the wrap-up programs or owner-controlled insurance programs, observers say.

In addition to cutting costs, OCIPs can help ensure that all participants in large projects are covered under comprehensive programs with financially sound insurers, OCIP advocates say.

But the programs are not for everyone. A significant commitment is needed to ensure OCIPs are successful and ongoing management

of the programs is vital, experts say.

The LAUSD construction program is an excellent candidate for an OCIP, said Steven La Shier, deputy risk manager in the district's Division of Risk Management & Insurance Services.

The project, which was conceived to relieve student overcrowding in Los Angeles, is slated to take seven years beginning in 2006. Over that period the district will spend \$5.35 billion on thousands of building projects, including new construction and expansion and improvements for many of its approximately 1,000 schools.

Mr. La Shier estimated that if construction contractors working on those projects were to purchase their own insurance individually, total premiums would reach nearly \$300 million. The district would then have to absorb those costs through increased contract bids.

But through an OCIP, the district stands to reduce the construction insurance costs by 25% to 50%, with 35% savings the most likely outcome, Mr. La Shier said. Those savings could pay for more new schools in a district that serves

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It's a wrap-up

Owner-controlled insurance programs can bring significant benefits to large construction projects, but they are not for everyone.

Benefits:

Lower costs. In some cases, premiums can be cut in half.

Better coverage. All participants in a project are protected by extensive policies issued by strong insurers.

More options. Small contractors who would have problems buying adequate insurance can quote on a bid.

Drawbacks:

More administration. Owners take on insurance purchasing tasks that would otherwise be handled by contractors.

More responsibility. Owners take additional responsibilities for implementing and administering safety programs.

More management. Cost savings can be significant, but only if owners actively manage their programs.

Wrap-up: School district seeks lower insurance costs with OCIP

Continued from page 19

more than 750,000 students in kindergarten through grade 12, 140,000 adult education students and 11,000 early-education children.

"If we can put that into brick and mortar, as opposed to insurance, it's better for students and taxpayers," Mr. La Shier said.

The OCIP that would cover the project will be put out to bid for brokers this summer.

OCIPs generally call for the owners of large construction projects to provide insurance coverage for the contractors and subcontractors working for them. Rather than have numerous large and small contractors and subcontractors each purchase their own insurance and then tack the expense onto their bid prices, an owner stands to reduce insurance costs by negotiating a volume purchase and overseeing safety to reduce workers compensation losses. Contractors can then deduct insurance costs from their bids.

Use of OCIPs for public infrastructure projects is on the rise, especially for airport, sewer system and transportation construction, according to Daniel Conway, president of American International Group Inc.'s construction risk group in New York.

The use of OCIPs had dipped sig-

nificantly after Sept. 11, 2001, as government agencies diverted money earmarked for public projects to anti-terrorism projects, Mr. Conway said. But, beginning in 2004 and continuing this year, infrastructure construction and OCIP use has picked up, he said.

Mr. Conway noted that public school districts nationwide have also recently been turning increasingly to OCIPs, which they had previously tended to shy away from because the financial rewards were not significant enough. Now, however, school districts are finding the arrangements favorable after hard-market conditions pushed up insurance costs for building contractors and subcontractors buying coverage on their own.

Additionally, wrap-up administration, once regarded as too burdensome, has been made easier by technological developments, Mr. Conway said.

Commercial general liability, excess liability and workers comp coverage are the most common forms of insurance provided through wrap-up arrangements, said David L. Greiner, president of C-Risk, a construction risk management consulting company in Portland, Ore.

In general, OCIP costs for workers compensation and general liability coverage constitute about 2% of total construction expenses, AIG's Mr.

Conway said. He estimated that savings average about 15% to 30%, depending on the jurisdiction, the type of construction project and the size of the project.

But Mr. La Shier said the savings could be even greater for very large wrap-up programs such as the one

"If we can put (money) into brick and mortar, as opposed to insurance, it's better for students and taxpayers."

Steven La Shier
Los Angeles Unified School District

LAUSD is about to undertake. As a former senior vp and OCIP expert for Menlo Park, Calif.-based Argonaut Insurance Co., Mr. La Shier said he saw some well-managed wrap-ups that resulted in savings exceeding 50%.

Savings, though, are not the only benefit to be derived from wrap-ups, noted Terry Doherty, a senior vp and construction unit manager for Lockton Cos. in Denver.

Among other advantages, an OCIP ensures that contractors

working on an owner's site have desirable coverage terms and limits purchased from a financially strong insurer, Mr. Doherty said. And the project owner doesn't have to worry about contractors losing their coverage arrangements midproject, he said.

Wrap-ups can eliminate coverage disputes, construction observers say.

Furthermore, Mr. Doherty said, they give public entities an image boost because they provide opportunities for small and minority-owned businesses, who might not be able to compete for contracts if they have to obtain their own insurance.

Mr. La Shier concurred, saying that one reason the LAUSD uses a wrap-up program is to attract small contractors. The district, he said, attempts to allocate 25% of all its contract work to small-business enterprises.

A small contractor who wins a \$200,000 pipe-laying contract couldn't afford the coverage necessary to walk onto an LAUSD building site, Mr. La Shier said. Nor could the contractor obtain the limits that the school district could.

Mr. La Shier was not connected with the district when it launched its first OCIP back in 1999. But he

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Wrap-up: Lower coverage costs

Continued from page 3

noted that through that ongoing program, which he now manages, the district has surpassed its goal for hiring small-business enterprises. Nearly 40% of the contractors and subcontractors on current construction projects fit the category, he said, and nearly 10,000 contractors have been enrolled in the insurance program.

Under the ongoing 1999 OCIP, TIG Insurance Co. in Irving, Texas, provides \$2 million in per-occurrence limits and \$4 million in aggregate limits for general liability coverage. TIG also provides \$100 million in excess liability coverage, Mr. La Shier said, as well as guaranteed-cost workers comp insurance. Zurich provides builders risk coverage, and American International Group Inc. provides contractors pollution liability insurance.

Coverage under the district's initial OCIP is scheduled to conclude in 2006. The upcoming wrap-up will be a complicated project and not one that inexperienced brokers will be allowed to cut their teeth on, Mr. La Shier noted. He said he expects responses from only those large brokers that are experienced with huge wrap-ups.

In all, the district will end up spending \$15 billion in bond funds for construction, including land purchases, that began in 1999 and will conclude in 2013. Along with thousands of projects to improve existing facilities, 160 new schools are to be built by 2012, 32 of them just this year alone, according to the district.

For the district's upcoming OCIP purchases, Mr. La Shier said he

wants to see quotes for liability coverage with \$50 million and \$100 million in limits.

In most OCIP cases, a single insurer provides both the workers comp and general liability policies, Mr. La Shier said. Most OCIP workers comp policies are now sold with large retentions, he said, noting that first-dollar coverage is rare.

Mr. La Shier said he expects the district to end up with a work comp deductible ranging from \$25,000 to \$250,000 per claim. "I hope it's closer to \$25,000 or \$50,000, but it's not going to be a first-dollar guaranteed product," he acknowledged.

While wrap-ups can produce significant savings, they may not be suitable for all public works projects, said Mr. Greiner of C-Risk. Additionally, they put administrative responsibilities on owners and require them to implement and monitor safety programs. Every dollar spent on claims reduces an OCIP's profitability.

Owners must also remain vigilant for costs that are not justified, such as claims submitted from contractors whose employees were injured on unrelated jobs, Mr. Greiner explained.

Savings don't automatically flow from OCIPs, especially with their loss-sensitive large-deductible arrangements, agreed Mr. La Shier. Safety and claims administration have to be well managed, he stressed.

"These are a lot of work," Mr. La Shier said of wrap-ups. "These are not free. You have to manage the process. The money is not going to earn itself."

Keep a critical eye on vendors

By Corby Peltó

Risk managers deliver a valuable service for their employers in the prevention and management of risk. But in the wake of the recent insurance industry scandals, one has to question whether they have done their part in holding brokers and insurers accountable on both an ethical and value-driven basis.



Clearly, the insurance industry and its leaders deserve a lot of credit for the many things done right over the years. Improved technology and better practices have advanced the efforts to prevent and contain losses.

Risk managers, though, like any consumers, should always maintain a critical and objective eye on their vendors.

Someone other than the government has to establish standards and inspect the industry's house on occasion. In the commercial insurance marketplace, that role should fall to members of the risk management community.

Over the years, the house that the insurance industry's elite built had great curb appeal. But anyone who peeked in the basement should have seen the blinking

lights that were indicative of some faulty wiring.

Because the shoddy wiring was so visible, government regulators eventually slapped fines upon the industry's builders and turned the industry's house upside down.

Perhaps some risk managers did not care about the blinking lights, and perhaps others simply never looked in the basement to inspect the industry's wiring. Either way, the risk management community needs to do a better job in its inspection role.

The industry's tarnished image is unfortunate and unfair to the vast majority of professionals who work in this large house. There need to be stronger measures, though, to hold leaders and organizations accountable for the repairs.

For example, if the recent scandals caused by the industry's leaders were not offensive enough, the media hype delivered by these leaders is even more appalling. With fingers raised and chests out, the industry's elite are now telling us in their speeches and print ads that they will help lead the industry back onto an ethical path.

Why should anyone be so quick to trust the offending companies again? Clearly, the recent industry scandals are indicative of the need for new leaders to step forward and guide the industry in a more effective and ethical manner.

Risk managers can assume a

stronger leadership role by focusing more attention upon their oversight of the industry's brokers and insurers.

One way that risk managers can insulate themselves from this web of industry malfeasance is to ensure that they keep an appropriate arm's distance from their vendors through objective selection and review processes.

The elite brokers and insurers that essentially developed this industry have done a wonderful job in building great people networks. Many of the brokers targeted in the government probes have played a significant role not only in helping risk managers with their day-to-day insurance decisions but have often helped many risk managers to land their jobs as well.

Although one can understand a certain level of loyalty and friendship between brokers and risk managers from past favors, risk managers should recognize that this relationship is not immune to conflicts of interest.

Risk managers would be wise to take action now to ensure that their own house is in order. Here are three simple steps that can be taken to address that need:

- **Avoid dependent or questionable relationships.** Risk managers would be wise never to confuse business relationships with personal ones. They should consider the use of consultants rather than relying solely upon the help of their brokers. This is especially important for those risk managers who lack the experience and knowledge to discern between advice that is good and advice that is self-serving.

- **Implement tough quality and ethical standards.** Prior to the recent industry scandals, how many risk managers provided their brokers or insurers with any type of formal documents relative to disclosure or other expectations? Had there been such contracts or standards in place, perhaps some of these violations never would have occurred.

- **Institute objective and critical review practices.** Risk managers would be well served if they opened the playing field up to more competition and used a more formal selection process for brokers, insurers and claims administrators. A risk manager should be able to objectively demonstrate why he or she selected a particular vendor and why that vendor is being retained each and every year.

It is high time that the risk management community more closely inspects the house that the leading brokers and insurers built. After all, those blinking lights in the basement are a sure sign that this house is in need of improvements.

Corby Peltó is president and chief executive officer of the Peltó Group Inc., a Minneapolis-based claims administration and risk management consulting firm.



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The limits for general liability and automobile liability are available up to \$1 million, and umbrella liability limits are available up to \$10 million.

For more information, visit the Web site of Bala Cynwyd, Pa.-based Philadelphia Insurance Cos. at www.phly.com.

United National enhances habitational product

BALA CYNWYD, Pa.—United National Group, a specialty property and casualty insurer, has expanded its commercial habitational program designed for large apartment buildings and condominium associations.

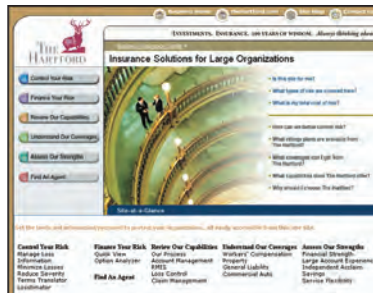
The program's coverages include property liability, general liability and equipment breakdown. It is targeted to apartment and condo associations with values over \$5 million.

The commercial habitational product is handled through Union, N.J.-based Metro Insurance Services Inc. It is available on a package and stand-alone general liability basis with property limits available up to \$25 million. The program is available in the 48 contiguous states and the District of Columbia.

For more information, contact Linda Rosenwald, executive vp-Metro Insurance Services, at lrosenwald@metroins.com.

Hartford adds Web site for large companies

HARTFORD, Conn.—The Hartford Financial Services Group Inc. has launched a Web site for risk managers at companies with workforces exceeding 500.



The site for large organizations is the third addition to the company's online center, which includes Web sites for small and midsize business. The large businesses online center was designed to help risk managers evaluate their companies' total cost of risk and provides access to information on guaranteed-cost and loss-sensitive property/casualty programs.

Some of the Web site's features in-

clude the Losstimator, which is an interactive tool allowing risk managers to calculate an accident's indirect costs; the Terms Translator, which provides legal and easy-to-understand definitions of common and uncommon insurance terms; and the Option Analyzer, a guide to the rating plans for those organizations considering balancing risk retention and risk transfer.

More information can be obtained by visiting the Hartford, Conn.-based company's large business Web site at www.lb.thehartford.com.

KPMG announces advisory service for risk managers

LONDON—KPMG L.L.P. has introduced an insurance advisory service for risk managers and corporate insurance buyers of midsize to large companies.

The new Corporate Insurance Advisory Service intends to help companies maximize the value from their insurance coverage by optimizing levels of self-insurance, reducing insurance premiums, removing unnecessary coverage and identifying cost reduction strategies. Other service offerings include providing benchmarks against market best practices.

London-based KPMG's Corporate Insurance Advisory Service is available to European corporate insurance buyers, as well as U.S. risk managers with European operations.

To obtain more information, contact Tom Richardson, principal advisor, at tom.richardson@kpmg.co.uk or visit www.kpmg.co.uk.

UNICARE offers low-cost health plans

CHICAGO—UniCare, a subsidiary of WellPoint Inc., is offering a line of lower-cost benefit plans.

The BasicChoice plans act as a supplement to existing options offered by employers to provide a more affordable alternative to employees. The program is targeted to the service industry, but it is available to all groups with 51 or more eligible employees.

Chicago-based UniCare's BasicChoice plans consist of three levels of coverage and offer commonly used health care benefits—such as coverage for doctor visits and basic assistance with hospitalization costs, access to UniCare's preferred provider organization network of physicians and health professionals and prescription drug coverage.

For more information, visit the company's Web site at www.unicare.com.

New Age Brokerage offers habitational program

MORRISTOWN, N.J.—New Age Brokerage Inc. has introduced an apartment and condominium insurance program to 10 Eastern states.

The Habitational Program was developed for owners and managers of commercial apartment buildings and condominium associa-

tions.

The program can be written on a multiperil commercial package policy including property and general liability coverages or on a stand-alone property basis. The property limits are available up to \$5 million, and the available general liability limits are \$1 million per occurrence and \$2 million aggregate.

Morristown, N.J.-based New Age's program is available in Georgia, Maryland, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia and West Virginia. Boston-based Aspen Specialty Insurance Co provides the coverage.

For more information, contact the company at 800-834-2109 or visit its Web site at www.newagebrokerage.net.

A.M. Best updates underwriting guide

OLDWICK, N.J.—A.M. Best Co. has issued the second release of its 2005 "Best's Underwriting Guide."

The latest edition features new

and revised risk classifications and intends to help risk managers and underwriters better understand industrial and commercial risk. It contains detailed risk descriptions, safety measures, relevant hazards and special exposures, as well as other information.

Some of the revised classifications include cutlery manufacturing, poultry processing, radon mitigating firms and nail salons. Other updated classifications include dry cleaning, silversmiths, fur garment manufacturing and writing instruments manufacturing.

Oldwick, N.J.-based A.M. "Best's Underwriting Guide" is available online and on CD-ROM. To obtain more information, contact the company's customer service department at 904-439-2200, ext. 5742, or visit www.ambest.com/sales/bugcdrom.

Risk management firm opens for business

WEST CHESTER, Pa.—IRISK Solutions is a new independent risk management firm targeting small to mid-

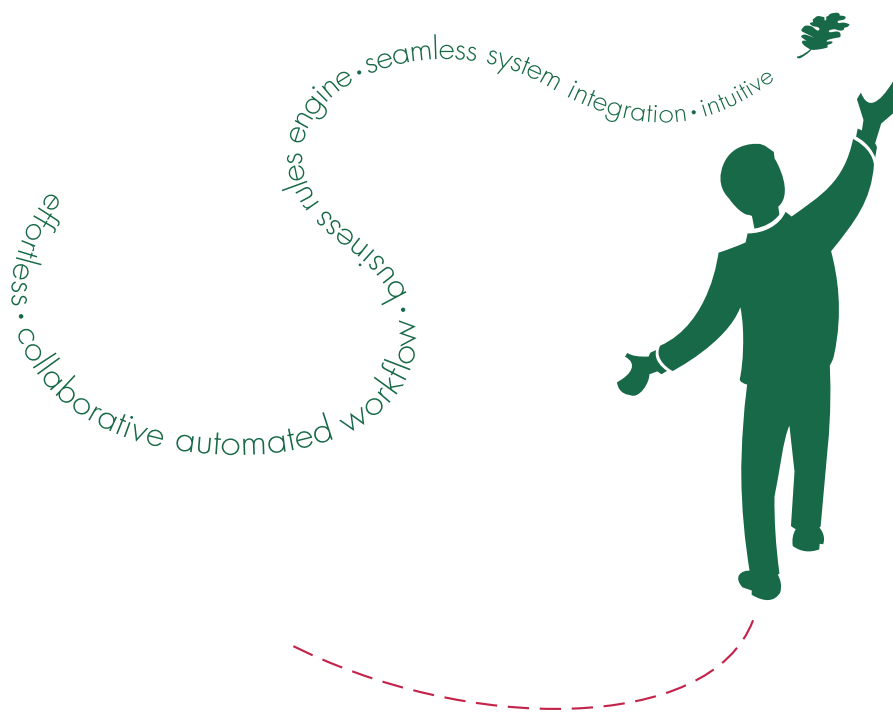
size companies that launched its services on June 1.

IRISK offers a suite of standard and custom services, including claims consulting, loss control consulting, managed care review and loss trending analysis, among others. These services are marketed to companies with annual gross premiums from \$50,000 to \$1 million. The firm's services are available to risk participants such as insurance buyers, program administrators, carriers and agents and brokers.

For more information, visit the West Chester, Pa.-based IRISK Solution's Web site at www.irisksolutions.com.

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

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COMMENTARY

Senior Editor Mark A. Hofmann

Don't trust this fund to solve the problem

It has taken the U.S. Senate Judiciary Committee several years to come up with an asbestos trust fund plan that has the support of lawmakers—but by no means all lawmakers—from both parties. There's been a lot of time and work involved.

The committee's chairman—Sen. Arlen Specter, R-Pa.—scheduled markup after markup this year, hammering out compromises over the objections of members on both his right and his left. Ultimately, after somewhere around 100 amendments were considered either individually or as part of a series of managers' packages, the committee finally approved the Fairness in Asbestos Injury Resolution Act late last month.

The 13-to-five vote passing the bill onto the full Senate was a bit deceptive; three members who voted to move the bill out of committee said they intend to vote against the bill when it reaches the Senate floor unless it undergoes substantial changes.

Ironically, getting the FAIR Act through the often-acrimonious and, even more frequently, blatantly partisan Judiciary Committee may have been the easiest part of the process. Assuming that the full Senate follows the committee's lead and passes the bill—which is by no means guaranteed—and that the House of Representatives follows suit—which is an even longer shot—the real battle may not be joined until responsibility for financing the fund is allocated.

Remember that the chief impact of the bill, if it is enacted, is to have the \$140 billion no-fault trust fund replace the current litigation-based system for compensating people with asbestos-related diseases. Trust fund proponents rightly hold that the current system simply doesn't work, that the truly ill aren't always compensated and that far too much money disappears into litigation costs.

Their last argument, in particular, is hard to defend against. Just a few weeks ago, a RAND Corp. study found that considerably fewer than 50 cents of each dollar spent in asbestos litigation actually ended up in victims' pockets. The rest went to litigation costs, of both the defense and plaintiff variety.

That's too great a share of money that should be going to sick people. On that score, there's little

disagreement among various stakeholders in the debate over asbestos liability reform.

But remember as well that somebody—or a lot of somebodies—has to pony up enough money to disburse \$140 billion over the life of the trust fund. Who pays how much and when is described only in outline form—defendant companies are collectively responsible for \$90 billion, insurers are collectively responsible for \$46.025 billion, and the rest comes from existing trust funds set up to compensate victims of asbestos-related illnesses.

Although the defendant companies may be able to get some feel for what they will pay under the FAIR Act's allocation system, the same isn't true of the insurers. Nobody knows how much each insurer will be asked to pay if and when the fund is up and running.

The murky issue of who pays how much is one of the biggest questions that the act itself doesn't answer in its 300-plus pages. And it won't be answered until after the act becomes law, if the FAIR Act does indeed become law. That's when a five-member Asbestos Insurers Commission will be appointed by the president and charged with determining allocation.

That's when the real fun will likely begin. Consider how many insurers—living or dead—were involved in writing coverage for asbestos liability from 1940 to 1986, which is the period covered by the act. No insurer wants to pick up a penny more than is absolutely required of it—that's just good business sense. No insurer wants to subsidize its competitors' poor underwriting decisions or just plain bad luck.

What happens next could make the World Trade Center coverage dispute look like a garden-variety tussle over how much hail damage a homeowners insurance policy should cover. The question of who pays what will not be answered by a stroke of a commission's pen, far from it. Absent some miracle never before witnessed in the world of insurance, the answer could be years in coming.

And that's where another irony comes into play. Given the money at stake, odds are that the question of allocation will ultimately be answered in one place, through litigation in the very courtrooms the FAIR Act was designed to avoid.

Tips and feedback from readers are welcome. Please send information to mhofmann@businessinsurance.com.

Drug benefit: Guidance includes model notices

Continued from page 4

itable, benefit experts say.

"This is the guidance that employers have been waiting for," said Michael Morfe, a vp with Aon Consulting in Somerset, N.J.

The guidance provides safe harbors under which employers' prescription drug plans automatically would be considered creditable coverage (see related story).

Most employer plans should be able to meet the safe harbor requirements, ending the need for providing additional proof—which CMS has not yet specified—that their prescription drug plans qualify as creditable coverage, said Cara Jareb,

a consultant at Watson Wyatt Worldwide in Washington.

For example, while one of the conditions of the safe harbor stipulates that employer plans pay at least 60% of prescription drug expenses, many employer plans are designed to pay anywhere from 75% to 90% of claims.

"There is a comfortable margin on that one," Aon's Mr. Morfe said.

The guidance also gives employers model notices, which they can adopt and send to Medicare-eligible beneficiaries, on whether the employer coverage is creditable. Releasing those model notices will save time and expense for employers.

"Employers are always very appreciative of having model notices, eliminating the need for them to develop their own, as well as the guess work on what must be in those notices," said Henry Saveth, an attorney with Mercer Human Resource Consulting in New York.

The CMS also has made clear that the creditable coverage notice can be distributed along with other benefit plan forms such as annual benefit plan enrollment materials, and need not be delivered separately. The notices can be delivered both through regular mail and electronically, if certain standards are met.

Safe harbor requirements issued for establishing 'creditable' status

WASHINGTON—The U.S. Centers for Medicare and Medicaid Services has issued guidance to employers on safe harbor requirements relating to Medicare Part D prescription drug coverage, which will be implemented next year.

Under the guidance, employer plans would be "creditable"—and thus enable Medicare-eligible individuals in the plans to delay enrolling in Part D from the time they first become eligible without incurring late-enrollment penalties—provided that the plans:

- Offer coverage for brand-name and generic prescriptions;
- Offer reasonable access to retail providers;
- Are designed to pay, on average, 60% of participants' prescription drug expenses.

Additionally, a plan would have to meet at least one of two other thresholds. To qualify under one test, the prescription drug benefit plan would either have to cover at least \$25,000 in claims a year or not impose an annual dollar limitation on the amount of claims it covered; alternatively, the prescription drug coverage provided would have to

have an actuarial expectation that the amount payable by the plan would be at least \$2,000 per Medicare-eligible individual in 2006.

For prescription drug benefits that are integrated with other health care benefits, such as with medical and dental care, the integrated health plan could not have an annual deductible greater than \$250, would have to have an annual maximum benefit cap of at least \$25,000 or no annual cap at all, and would have to have a lifetime combined benefit maximum of at least \$1 million.

—By Jerry Geisel



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U.K. court snuffs out smoker's claim

By SARAH VEYSEY

EDINBURGH, Scotland—The ruling in a landmark smoking case reduces the likelihood of successful negligence claims against tobacco firms in the United Kingdom, legal experts said last week.

The long-awaited judgment in the case of *Mrs. Margaret McTear vs. Imperial Tobacco Ltd.* found that Bristol, England-based Imperial Tobacco Group P.L.C. was not liable to pay damages to Ms. McTear for the lung cancer of her late husband, Alfred McTear.

The case was the first brought against a tobacco company by a smoker to reach court in the United Kingdom.

In 1999, a group action against two tobacco companies, Weybridge, England-based Gallaher Group P.L.C. and Imperial Tobacco, collapsed after the judge ruled that 36 of the 52 plaintiffs could not continue with their action because they had been diagnosed with lung cancer more than three years before

bringing the action.

Before his death in 1993 from lung cancer, Mr. McTear launched an action against Imperial Tobacco, whose John Player brand of cigarette he had smoked. Mr. McTear claimed he was unaware of the health risks associated with smoking when he took up the habit in 1964.

Health warnings about the risks of smoking did not appear on cigarette packs in the United Kingdom until the 1970s.

Mr. McTear also claimed that he had been influenced to take up smoking by advertising, which glamorized smoking, he claimed. He contended Imperial Tobacco had been negligent and breached its duty of care in not warning of the potential dangers of smoking.

After Mr. McTear's death, his wife took up the case, claiming £500,000 (\$911,450) in damages.

In the Scottish Court of Session in Edinburgh last week, judge Lord Nimmo Smith ruled that it could not be proved that it was smoking

Landmark case sets a precedent

In the case, the first against a U.K. tobacco company to reach court, the judge ruled that:

Imperial Tobacco was not liable to pay damages.

The plaintiff did not prove that the lung cancer had been caused by smoking.

Imperial Tobacco had not breached its duty of care.



Imperial Tobacco's products that resulted in Mr. McTear's fatal cancer. He also ruled that by 1964, when Mr. McTear started smoking, the general public was aware of the potential health risks from tobacco.

The judge said that Ms. McTear's case failed because she had neither proved that had her husband not smoked products manufactured by

Imperial Tobacco he would not have contracted lung cancer, nor that he had smoked cigarettes manufactured by Imperial Tobacco for so long and in such sufficient quantity that they caused or materially contributed to his cancer.

The judge added that Ms. McTear

See **SMOKING** / next page

Updates

Alexander Forbes revenues rise

South African brokerage Alexander Forbes Ltd.'s total revenues increased 4%, to 4.62 billion rand (\$743.3 million), for the year ended March 31. Alexander Forbes, based in Johannesburg, said it saw growth from its African operations and international financial services business during 2005. Profits dipped less than 1% to 438 million rand (\$70.5 million), due in part to a charge of £9.6 million (\$18.0 million) associated with a review of its international risk services business.

Advent raises funds in share offering

Lloyd's of London company Advent Capital Holdings raised £65.0 million (\$118.3 million) in a June 3 share offering on the London Stock Exchange's alternative investment market. Advent, whose managing agency manages and participates on syndicate 780 at Lloyd's, said it would use the proceeds to support its 2006 underwriting of property catastrophe reinsurance.

BPS Insure enters administration

Insurance broker BPS Insure Ltd. has been placed in administration after the Financial Services Authority identified a shortfall in the company's client account. The FSA, which took over regulation of brokers in January, discovered during a random check that BPS—which placed commercial liability, fleet auto liability and kidnap and ransom coverage, among other things—had insufficient funds in its client account. The agency banned the broker from accepting new business. Brokerage client accounts generally hold premiums, minus commissions, that are later transferred to insurers. Nottingham, England-based BPS handled £20 million (\$36.4 million) in gross written premium.

SCOR profits drop in first quarter

Paris-based reinsurer SCOR S.A. reported profits of 32.8 million euros (\$42.6 million) for the first quarter of 2005, down 27% from the year-ago. SCOR has restated its 2004 figures under International Financial Accounting Standards for comparability with its 2005 results. SCOR said the dip in profits was caused, in part, by lower foreign currency income than in the first quarter of 2004 and by losses of 20 million euros (\$26.0 million) from windstorms Erwin and Gudrun, which hit parts of Europe at the start of the year. SCOR's gross written premiums fell 14%, to 621 million euros (\$807.1 million), in the first quarter of 2005, compared with the prior-year period.

Defined benefit pension plans closing: U.K. study

By SARAH VEYSEY

LONDON—More than two-thirds of defined benefit pension plans in the United Kingdom are now closed to new entrants, according to the results of a survey conducted by the London-based Assn. of Consulting Actuaries.

The ACA surveyed 392 employers sponsoring pension plans with total assets of £131.2 billion (\$237.7 billion) covering more than 2.8 million employees.

Of those employers, 71% offer defined benefit plans, 39% offer defined contribution plans, while 14% offer hybrid plans combining elements of both.

The survey found that 58% of the defined benefit plans studied were closed to new entrants, while a further 10% were closed to new entrants and to new accruals.

The actuaries association said this shift was part of a trend of employers trying to reduce pension costs in the light of the stock market fall of 2000, among other things.

The survey showed that 49% of respondents were very concerned about the impact of legislation on benefits and funding costs, while 49% said they were quite concerned, and 2% said they were not concerned.

Almost half of respondents, 47%, said they were very concerned about the performance of investment markets, while a further 47% said they were quite concerned.

In addition, 64% of respondents said they were quite concerned, and 18% very concerned, that the increasing public profile of pensions will lead to more costly and/or complex pension-related communications. A further 18% of respondents said that this was not a concern.

The study, "U.K. Pension Trends Survey Report...2," can be viewed at www.aca.org.uk.

Excess insurers can't deny claims for late notice absent policy clause

By BARBARA COCKBURN

LONDON—Excess insurers must pay claims that penetrate their layers of coverage even if the insurers are made aware of the claims years after the primary insurers are notified, the U.K. Court of Appeal has ruled.

Under the ruling, to avoid liability for late filed claims, insurers must include policy language stating that late notification is a breach of the policy terms, legal experts say.

The court late last month ruled that Stockholm, Sweden-based excess insurer Sirius International Insurance Corp.—which provided professional indemnity insurance to a unit of Friends Provident Life & Pensions Ltd. on a claims-made basis from Feb. 1, 1993, to Jan. 31, 1994—is potentially liable for its share of a claim of £5 million (\$9.1 million), even though notice of the claim was not given to the excess-layer insurers until eight years after it was received by the primary-layer insurers.

Manchester, England-based Friends Provident had made a claim under its professional indemnity coverage in regard to claims related to the pensions misselling scandal that engulfed several life insurance companies in the United Kingdom in the 1990s.

The court held that the notice given by Friends Provident to its primary-layer insurers at Lloyd's of London in 1994 was also effective notice to its excess-layer insurers under a claims notification clause in the excess policy, even though Sirius did not actually learn of the claim until 2002.

There was a second clause in the excess policy whereby Friends Provident agreed to notify immediately the excess insurers of any claims that were likely to exceed the underlying limits of indemnity.

Sirius International, which was one of several excess insurers on the program, claimed that Friends Provident had not notified them immediately of those claims, so,

therefore, it was not liable under the policy.

The court ruled, however, that even if this second clause had been breached, Friends Provident's excess insurers could not rely on the breach to avoid liability.

The May 24 judgment referenced a previous case, *Alfred McAlpine vs. BAI*, in which the Court of Appeal ruled in 2000 that breaches of claims notification clauses, if sufficiently serious, could give insurers a defense to specific claims. However, the court said the McAlpine ruling was based on different circumstances and that the precedent did not apply to the Friends Provident case.

Primacy of contract upheld

Paul Lewis, a partner at Herbert Smith L.L.P. who acted for Friends Provident in the case, said: "The effect of the judgment in the Friends Provident case is that, unless insurers have specified that the clause governing the notification of claims in a policy is a condition precedent to liability, those insurers' remedy for breach of such a clause will only be in damages. They will not be able to avoid liability for the claim as a result of the breach."

Charles Gordon, head of the insurance and reinsurance division at the London law firm of DLA Piper, which represents insurance companies but is not involved in the case, called the ruling significant, saying that it clarified for policyholders and brokers the language used in contracts.

"It's not for the courts to imply additional terms onto contracts when the language doesn't justify it. The general implications from this case is deciding whether notifying claims for professional indemnity policies is a condition of precedent to your liability," he said.

Mr. Gordon added that the case confirms that the law is "already favorable to insurers."

Smoking: U.K. ruling makes successful lawsuits against tobacco companies unlikely

Continued from previous page
had neither proved that Mr. McTear smoked Imperial Tobacco cigarettes because Imperial Tobacco was in breach of a duty of care it owed to him nor that such a breach caused or materially contributed to Mr. McTear's lung cancer.

The solicitor representing Ms. McTear said that she would not appeal the decision.

Imperial Tobacco welcomed the judgment.

"We regret that we have had to defend ourselves against what we have always believed to be a speculative claim," the company said in a statement.

"We have never lost or settled any tobacco litigation and will continue to defend ourselves robustly against any further speculative claims," it added.

A spokesman for Imperial Tobacco said the company was involved in other smoking cases in Ireland and Germany.

In a statement, the Edinburgh, Scotland-based anti-smoking group ASH Scotland said the ruling was a "setback for those who want to see the tobacco industry held responsible for cigarette-related deaths due to the fact that they failed to warn consumers about the dangers of their products."

Legal sources say the judge's verdict would likely make it difficult for other, similar cases to succeed.

The chances of any similar actions being successful in the U.K. courts are "not good" according to Rory Cowan, assistant solicitor at the Glasgow, Scotland-based law firm of Bannatyne, Kirkwood France & Co., which specializes in media and intellectual property law.

Mr. Cowan said that while the ruling does not "close the door completely" for other actions, it will be a blow to claimants seeking to bring similar cases.

He noted that the judge ruled

that Mr. McTear, in continuing to smoke, in effect accepted the risks associated with smoking. Mr. Cowan said that the ruling could have implications not only for tobacco-related cases but also for actions against fast-food companies for the risk of consumers' obesity and ill health.

The judgment represents a comprehensive victory for Imperial Tobacco, according to Ruth Grant, a partner in the product liability practice of Lovells law firm in London.

The judgment is a comprehensive one not only in the circumstances of the claimant in question, but also on generic issues such as

causation of disease, addiction and awareness of the risks of smoking, Ms. Grant said.

She noted that the judge also ruled that if Mr. McTear had not smoked Imperial Tobacco's cigarettes, he likely would have smoked other brands. She said this meant that it could not be said that Imperial Tobacco materially contributed to Mr. McTear's cancer, even had smoking had been shown to be the cause of his disease.

Mrs. Margaret McTear vs. Imperial Tobacco Ltd. (2005) ScotCS CSH09 (31 May 2005).

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In re:
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Case No.: 02-12934 (BRL)
PLEASE TAKE NOTICE that on May 25, 2005, the Bankruptcy Court entered an order continuing the Preliminary Injunction Order (the "Order") pursuant to 11 U.S.C. § 105 and 304(b) originally entered in this case on November 7, 2002. The Order shall remain in effect pending a hearing scheduled for November 22, 2005 at 10:00 a.m. before the Honorable Burton R. Lifland, in the Alexander Hamilton Custom House, One Bowling Green, New York, New York. Any person wishing to obtain a copy of the Order should contact Theresa D'Agostino at (212) 610-6300.
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Attention: Ken Coleman • Stephen Doody

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
IN RE PETITION OF
GARETH HOWARD HUGHES AND
PAUL CLARKE, AS JOINT PROVISIONAL
LIQUIDATORS OF
OCEAN MARINE MUTUAL INSURANCE ASSOCIATION LIMITED.
CASE NO. 99-B-42545 (BRL)
NOTICE IS HEREBY GIVEN THAT ON MAY 24, 2005, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. § 304 ORIGINALLY ENTERED IN THIS CASE ON MAY 5, 1999. THE ORDER SHALL REMAIN IN EFFECT PENDING A HEARING TO CONSIDER WHETHER IT SHALL BE CONTINUED, WHICH HEARING IS SCHEDULED TO COMMENCE BEFORE THE HONORABLE BURTON R. LIFLAND, UNITED STATES BANKRUPTCY JUDGE, IN ROOM 623 OF THE ALEXANDER CUSTOM HOUSE, ONE BOWLING GREEN, NEW YORK ON NOVEMBER 9, 2005 AT 10:00 A.M., OR AS SOON THEREAFTER AS COUNSEL MAY BE HEARD (THE "RETURN DATE"). ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE BURTON R. LIFLAND AND SERVED ON COUNSEL FOR THE PETITIONERS LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE PETITIONERS.
CHADBOURNE & PARKE LLP
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and
IN THE MATTER OF THE COMPANIES ACT 1985 (ENGLAND AND WALES)
IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE
IN THE MATTER OF LION CITY RUN-OFF PRIVATE LIMITED
and
IN THE MATTER OF THE COMPANIES ACT, CHAPTER 50 OF SINGAPORE

NOTICE IS HEREBY GIVEN that by an order of the High Court of Justice of England and Wales (the "English Court") dated 9 May 2005 and an order of the High Court of the Republic of Singapore (the "Singapore Court") (each a Court and together, the Courts) dated 18 May 2005 both made in the above matter, each Court has directed a meeting ("Creditors' Meeting") of certain creditors (as defined in the scheme of arrangement referred to below) ("Scheme Creditors") of Lion City Run-Off Private Limited (formerly the Offshore Insurance Fund business of the Insurance Corporation of Singapore Limited) ("the Company") be convened for the purpose of considering and, if thought fit, approving (with or without modification) a scheme of arrangement proposed to be made between the Company and the Scheme Creditors.
AND that such Creditors' Meeting will be held at the offices of KPMG LLP UK, 1-2 Dorset Rise, London EC4Y 8EN, United Kingdom on 1 September 2005 commencing at 10.00 am British Summer Time (5.00 pm Singapore Time) at which place and time all such Scheme Creditors are requested to attend. Registration will begin at 9.30 am British Summer Time (4.30 pm Singapore Time). A telephone dial in facility to listen to (but not participate in) the Creditors' Meeting will be available at the offices of Norton Rose, 5 Shenton Way #33-08, UIC Building, Singapore 068808 on 1 September 2005 commencing at 5.00 pm Singapore Time. Registration will begin at 4.30 pm Singapore Time. Scheme Creditors may vote in person at the Creditors' Meeting or they may appoint another person, whether such person is or is not a Scheme Creditor, as their proxy to attend and vote in their place.
Completed Forms of Proxy and Voting Forms should be returned as soon as possible, and in any event, so that they are received by 5.00 pm Singapore Time (10.00 am British Summer Time) on 30 August 2005 by Omni Whittington Asia Pacific Pte. Ltd, 7 Temasek Boulevard #15-02, Suntec Tower One, Singapore 038987, marked for the attention of Andrew Campbell. Scheme Creditors may also send their forms by facsimile transmission to facsimile number +65 6434 2400 by 5.00 pm Singapore Time (10.00 am British Summer Time) on 30 August 2005 provided that they are legible. If completed Forms of Proxy and Voting Forms are not received by 5.00 pm Singapore Time (10.00 am British Summer Time) on 30 August 2005, they may be handed in at the registration desk in London prior to the commencement of the Creditors' Meeting.
Each Scheme Creditor or his proxy will be required to register his attendance at the Creditors' Meeting prior to its commencement.
By the orders, the Courts have each directed that Michael Steven Walker or failing him John Mitchell Wardrop be appointed to act as Chairman at the said Creditors' Meeting and has directed the Chairman to report the result of the Creditors' Meeting to the Courts.
A copy of the Scheme and a copy of the Explanatory Statement required to be furnished pursuant to section 426 of the Companies Act 1985 (England and Wales) and section 211 of the Companies Act, Chapter 50 of Singapore and the Form of Proxy and Voting Form for use at the Creditors' Meeting are incorporated or enclosed with the Scheme Document. Additionally, these documents are available from KPMG LLP UK at 1-2 Dorset Rise, London EC4Y 8EN, United Kingdom and from the Scheme Manager at 7 Temasek Boulevard #15-02, Suntec Tower One, Singapore 038987.
The said Scheme will be subject to the subsequent sanction of the English Court and the Singapore Court.
Dated this 3rd day of June 2005.
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Cohen: Named APIW Woman of the Year

Continued from page 4

lished and directed the governmental affairs, state licensing and compliance unit.

During her time at Royal Re/American Royal, she also joined the APIW and eventually served as president of the organization from 1988 to 1990. She was also a director of the APIW from 1986 to 1992. At an APIW meeting, she met Frank Nutter, president of the Washington-based RAA. Then, in 1991, when Mr. Nutter was overseeing a strategic reorganization of the trade association, he asked Ms. Cohen to join the organization.

Ms. Cohen currently advocates on behalf of RAA members in all 50 states, monitoring legislative and regulatory activity, preparing and providing position statements and testimony, and networking with government and industry officials.

"She's a wonderful people person and government affairs is a relationship kind of business," Mr. Nutter said. "She's a natural—someone who has an easy manner with people. Those are just terrific traits for someone who is dealing with the industry's public policy issues."

Ms. Cohen's work has garnered praise from fellow insurance professionals.

"She's very personable and she's very effective at what she does," said Lynne M. Miller, president, environmental claims consulting, for Reston, Va.-based Quanta Technical

Services L.L.C.

While it wasn't always her dream to work in the insurance industry—she pursued a master's degree in urban affairs and public health—Ms. Cohen has enjoyed her work, particularly because it has allowed her to incorporate her love of teaching into her career. She has worked as an adjunct professor in the insurance division of the City University of New York, Baruch College and an instructor for the District of Columbia chapter of the Society of Chartered Property Casualty Underwriters.

"Education, especially in our industry, is really important," Ms. Cohen said. "And that's what I would say to any young person entering the industry."

At the RAA, she has organized and taught more than 75 seminars for 3,800 state insurance regulatory staff and officials. She also founded the organization's for-profit education program with more than 1,700 industry professionals attending seminars on topics such as the basics of reinsurance and reinsurance contracts. "A good lobbyist is a good educator," Ms. Cohen said.

Ellen Thrower, a professor and the executive director of the School of Risk Management, Insurance and Actuarial Science at St. John's University's Peter J. Tobin College of Business, expressed admiration for Ms. Cohen's teaching abilities. "She's just an extremely talented professional," said Ms. Thrower, the

1993 APIW Woman of the Year. "She also is a great speaker and teacher."

Ms. Cohen said she enjoys both teaching and mentoring young women in the industry. She sees several signs of progress in terms of the advancement of women in insurance such as an increase in the number of women serving as general counsels for insurance companies. "I think there's been a lot of good, positive growth," Ms. Cohen said. "I think there still is a glass ceiling...but hopefully with time that will change."

Her admirers praise Ms. Cohen for her efforts to change the industry, noting her eagerness to mentor young women and her active participation in groups devoted to advancing the careers of women such as the APIW and the International Alliance for Women.

"She has given back, not only to the industry, but to women in the industry," said Ms. Miller, who was the 1983 Woman of the Year. Ms. Cohen was nominated by nine former honorees for this year's award, which she will receive at a ceremony June 8.

"It's harder to find the time to devote to organizations no matter how much you approve of their goals," said Laurie A. Kamaiko, president of the APIW and a partner with Edwards & Angell L.L.P. based in New York. "Marsha has always found time to do that."

SMART: Reform bill expected

Continued from page 3

schedule," said J. Stephen Zielezienski, vp and associate general counsel with the Washington-based American Insurance Assn. The intensive review sessions are scheduled to end June 7 with a discussion of the most controversial section of the SMART draft: a proposal to create competitive insurance markets through mandatory federal rate deregulation.

Overall, the committee's review has been "a very good, open, deliberative process," Mr. Zielezienski said.

"The SMART drafting process has been astonishingly open and inclusive," said Joel Wood, senior vp-government affairs with the Washington-based Council of Insurance Agents & Brokers.

Industry participants, however, have seen little redrafted language, they say. Congressional staff members have acknowledged industry representatives' request for consistent definitions and thresholds and have agreed to harmonize them, said Carl Parks, senior vp-federal government affairs in the Washington office of the Des Plaines, Ill.-based Property Casualty Insurers Assn. of America.

"I think the committee is moving rapidly toward introduction of the bill and, hopefully, committee action this summer," Mr. Wood said.

"The leaders are aiming for a markup in advance of the August recess, with the most likely timing mid- to late July," Mr. Parks said.

But some observers say more deliberations are needed.

The current SMART proposal is "a rough...concept document" that is an "incredibly ambitious undertaking," said Patricia A. Borowski, senior vp with the Alexandria, Va.-based National Assn. of Professional Insurance Agents. That association is hoping to see "a more refined exposure draft" before a bill is introduced and is waiting until that happens to take a formal position on the proposal, she said.

"Rushing this process invites making serious mistakes that would be disastrous for us all," Ms. Borowski said.

Regulators wary

State regulators, for their part, have been vocal in their concerns about the proposal.

In March, National Assn. of Insurance Commissioners President Diane Koken wrote Reps. Oxley and Baker, stating, "the SMART Act is not a concept that (the) NAIC would suggest to Congress" and criticizing various provisions that seem "impractical, unworkable or detrimental to state consumer protection efforts."

Her letter noted that the NAIC's concerns stem from provisions that mandate federal preemption of state laws and regulations, federal supervision of state regulation and complete rate deregulation of all states.

Ms. Koken, who is also Pennsylvania insurance commissioner, pledged in her letter to present the committee members with the NAIC's extensive analysis of each of 16 sections during their review of the draft.

Rep. Baker responded in a letter to Ms. Koken, stating, "I do not believe a meeting is required for me to further familiarize myself with your objections," which were contained in the NAIC's 35-page response to the SMART proposal.

"Chairmen Oxley and Baker have gone out of their way to be solicitous of the states during the drafting process, and I think the NAIC has now put at great risk their ability to influence the process," said Mr. Wood.

Ms. Koken said that NAIC members take "very seriously" their sworn duty "to uphold and enforce state consumer protection laws dealing with solvency and market conduct."

In addition, she emphasized that the NAIC leadership has met twice with Rep. Oxley and his staff and has expressed its willingness to meet with both lawmakers any time. While NAIC staff is participating in the draft review sessions, the organization itself will continue to discuss modernization issues at its quarterly meeting beginning June 10 in Boston, she said.

Asbestos: Trust fund draws fire from insurers

Continued from page 3

America. "This is a disproportionately big problem for insurers, who essentially will put up a large portion of their funding in the first five years," she said.

Changes that were made to the bill during the committee's on-again, off-again months-long markup—notably increases in the value of awards for certain illnesses—could load "additional stress to the fund and hasten its termination," Ms. Gackenbach said.

"As the bill was reported from the Judiciary Committee, it is unacceptable to PCI, and, without substantial improvement, we will continue to oppose the bill," she said.

While opposition to the trust fund in its current form is shared by all major insurer groups, there exists a division within the industry as to whether a trust similar to that envisioned by the FAIR Act could work at all.

"Within the insurance industry, there are those who want to stay at the table, constructively engaged to improve the trust fund, because they believe it is politically inevitable," said AIA's Ms. Pusey. "Others feel that the trust fund cannot be improved sufficiently and prefer to pivot now to an alternative or risk getting nothing."

Ms. Pusey added that AIA has not rejected the trust fund concept.

"NAMIC has never rejected, per se, the trust fund approach," said David Winston, senior vp-federal affairs in NAMIC's Washington office. "Some of the companies we represent and others in the industry have gone on the record and said no," Mr. Winston said, adding that "this particular trust fund, we're opposed to."

"We've said continually that we need to examine all possible approaches to resolve this problem," said PCI's Ms. Gackenbach. "As the Senate continues the process of de-

bate on this bill, we remain committed to trying to improve this legislation while at the same time examining other options and also pressing for reform at the state level."

A business representative noted that the measure in its current form probably does not represent the same bill in its final form.

"I think everyone realizes and understands that the legislation that came out of Senate Judiciary is probably going to change on its way to the floor. The real question is what it looks like when it gets to the floor. Everyone's in the mode of analyzing what came out of committee," said Matthew D. Webb, vp-legal reform policy at the U.S. Chamber Institute for Legal Reform. Mr. Webb noted, though, that his organization "is supportive of the trust fund concept."

"We're all in a review period, trying to understand what the bill did and didn't do," said AIA's Ms. Pusey.

California: Garamendi calls for lower comp rates

Continued from page 3

"We continue to see short-term favorable trends in inflation and frequency in our California workers compensation data," he said. "However, we will not know the long-term outcome of our loss costs for recent accident years with any certainty for several years. We also will not know the outcome of the new disability guidelines or medical networks for several years. We are

continuing with our prudent approach to rate changes by making adjustments to our California workers compensation rates to the extent of cost changes as the facts and data evolve."

Commissioner Garamendi said, though, that reforms and loss frequency improvements have allowed insurers to enjoy a historic reduction in claims loss ratio, with just 45 cents of every premium dol-

lar covering actual claims costs.

"Unfortunately, far too many employers have not yet enjoyed a similar reduction in the premiums they pay," the commissioner said. "Many insurers have been slow to fully implement my recommended reductions and pass on the savings as rapidly as possible. It is past time for the savings from reforms to be passed along to overburdened employers and injured workers."

HealthSouth: Coverage dispute

Continued from page 4

stack insurers are pending.

Meanwhile, HealthSouth last month filed suit against Houston Casualty, which has denied coverage under a \$10 million layer it wrote excess of Royal's \$10 million primary D&O policy.

HealthSouth argues, among other things, that it had already been hit with securities fraud class action complaints in 1998 and a second wave of shareholder suits in 2002, all before Houston Casualty issued its policy.

"It was thus a known and insurer-accepted risk that HealthSouth's financial statements...might contain, and be alleged in suits to contain, false and misleading statements," the company contends.

In a counterclaim filed last week, though, Houston Casualty argues

that Royal and the excess insurers excluded any liability for HealthSouth's claims in a series of endorsements to the primary policy. The endorsements, for example, bar coverage arising from alleged wrongful acts occurring before the policy's Sept. 1, 2002, inception date, and for claims "arising out of the facts and circumstances" outlined in litigation pending before that date, Houston Casualty notes.

Another endorsement bars coverage of any loss "directly or indirectly related to" 13 specific lawsuits filed against HealthSouth and its officials in 2002.

All of HealthSouth's claims under the 2002-2003 D&O program fall within the exclusions in the Royal policy, terms of which also govern the excess insurers, Houston Casualty contends.

Subsidies: Insurer payments to brokers targeted

Continued from page 1

plaint alleges. Chubb also played an active role in the recruitment and oversight of Aon producers, at one time being charged \$18,800 in fees by a recruiting firm to staff a personal lines position in Aon's Chicago office, the complaint says.

The producer funding agreements contained incentives for Aon producers to recommend Chubb's policies, according to Mr. Spitzer. For example, the complaint highlights a 2000 employment letter from Aon to a Chubb-funded producer in Aon's Cleveland office that said in part: "You are eligible for an annual bonus once you have reached your annual sales goal of \$300,000 in new Chubb personal lines premiums."

Aon also accepted producer funding from Fireman's Fund Insurance Co. in 1999-2001 to fund 50% of compensation for up to 15 Aon producers, the complaint says.

"These individuals held themselves out as Aon employees in every respect, without disclosing that insurers were funding their salaries as part of an Aon commitment to steer business to those insurers," the complaint says.

Aon said in a statement: "It was never Aon's policy to have insurers pay for brokers' remuneration. Aon's brokers are dedicated to serving their clients by finding them the best coverage available. These agreements were few in number, were limited to a very small Aon subsidiary and expired long ago."

Chubb and Fireman's Fund declined to comment on the producer funding agreements.

Aon agreed to pay \$190 million as restitution to policyholders and to revamp its business practices to jointly settle a series of fraud and anti-competitive practices charges with Mr. Spitzer and other state authorities (BI, March 7).

In addition to Aon, Illinois Attorney General Lisa Madigan last month said her investigation into Arthur J. Gallagher & Co. revealed that the Itasca, Ill.-based brokerage accepted "hiring subsidies" from certain insurers in return for the assurance that more business would come their way.

"We found evidence that Gallagher and the carriers reached an understanding that the subsidizing carrier would receive a 'fair share' of business from Gallagher, or a 'first right of refusal' on insurance placements," said Michael Fridkin, deputy bureau chief of the special litigation bureau in the office of the Illinois attorney general in Chicago.

American International Group Inc., for one, paid \$4.5 million in hiring subsidies to Gallagher over a two-year period, to help fund producers who sold directors and officers, errors and omissions and fiduciary liability insurance policies, according to Chaka M. Patterson, Illinois assistant attorney general and bureau chief of the special litigation bureau. He noted that the "policies were underwritten by AIG in part and, Gallagher has maintained, also by some AIG competitors."

Gallagher agreed to pay \$27 million in restitution to policyholders last month in its settlement with

Ms. Madigan and Illinois Insurance Director Michael McRaith over concerns that the brokerage steered business to insurers in return for "huge payments" that were not fully and clearly disclosed to clients (BI, May 23).

Officials from Gallagher and AIG declined to comment on the hiring subsidies.

Alternative compensation

While prosecutors condemned insurers' paying hiring subsidies to producers, some observers say the subsidies are just another form of compensation that doesn't necessarily pose a conflict of interest.

Although hiring subsidies may include an agreement whereby an insurer receives a share of business or a first right of refusal from the brokerage on certain lines of business, the marketplace ultimately controls any improper steering, said Timothy J.

**"Individuals usually
don't bite the hands
that feed them."**

**James E. Crockett
Denver Water**

Cunningham, a principal with OPTIS Partners L.L.C. in Chicago.

"Never say never. I'm not naive, but 99% of the time, the agency would instruct the producer to present the best program (to clients) and if it happened to be with the company that provided the subsidies, then so be it," he said.

"An agent is not going to go through all the work and effort without putting the best deal on the table," he said. "And the only reason they're going to do that is because they want the business."

"Clearly, when we would negotiate (with insurers), whether it be commission rates, contingent rates, there was that third bucket," said Rob Lieblein, president and managing principal with WFG Capital Advisors L.P. in Harrisburg, Pa., which provides advisory services to brokerages. Hiring subsidies or producer funding arrangements "were looked upon as other forms of the carrier helping or subsidizing a broker" that generated premium volume.

The agreements were not reached necessarily to steer business to those insurers, it was just another form of compensation, he said. "The insurer was making money, the broker was making money and you could pay it through commissions, you could pay it through contingents or you could pay it through other forms of subsidies."

But at least one risk manager says that undisclosed compensation paid by insurers to brokers is bound to lead to conflicts of interest.

"Individuals usually don't bite the hands that feed them," said James E. Crockett, manager of risk and benefits at Denver Water.

"It sounds like if you're getting paid by the insurer, you're certainly going to owe an obligation to that insurer providing you with a full or partial paycheck and you would direct business that direction. I just

don't know how you couldn't," he said.

"If it was disclosed, it wouldn't be a problem, but I don't know if that's something you would find out," Mr. Crockett said.

Disclosed or not, the practice is being shelved and may ultimately come to an end, observers say.

While brokerages may have been able to secure such arrangements in the past, "I can tell you that none of them have been able to take place in the last 12 months because of the whole issue of contingents," said Mr. Lieblein, referring to his clients. "People have recognized that even though it can be a legitimate business relationship that is above board, the apparent conflict of interest at this point has basically minimized the use of those."

"I think what we're seeing in the post-Spitzer investigation is a pull-back from all these soft-dollar arrangements, not because they are fundamentally improper, but I think they are too hard to explain," Mr. Cunningham said. "My prediction is that they will be put on the shelf until the dust settles and may be eliminated simply due to the perception that they create a conflict."

"People are looking real hard at whether or not (hiring subsidies are) a smart thing to do going forward," said Chris Burand, president of Burand & Associates L.L.C., an agency and insurer consulting firm based in Pueblo, Colo. "I think it's too early to say if they're going away, but I would be really surprised to see any companies I work with offering it. They'd find something else to do before they'd do that, I think."

WTC: Port Authority files lawsuit

Continued from page 1

year that its WTC claims "will exceed the remaining aggregate limits" of \$2.1 billion for two occurrences, according to the insurers' complaint.

The Port Authority is also trying to recoup losses on WTC buildings that were leased and separately insured by Silverstein, rather than on just the portions of the WTC complex that the Port Authority continued to control at the time of the attack, the suit says.

The buildings leased to Silverstein, including the WTC's Twin Towers, were excluded from coverage under the Port Authority's program when the lease deal closed, according to the complaint. The London insurers, which represent about a third of program's limit, seek a declaratory judgment that the leased buildings are not covered and that insurers are liable for only one occurrence.

The dispute's resemblance to Silverstein's battle with its property insurers—which stretched over two years and two separate jury trials—does not necessarily mean that the Port Authority's claims will be as difficult to resolve, lawyers say.

Barry Ostrager, a partner with Simpson, Thacher & Bartlett in New York who represents Swiss Reinsurance Co., Silverstein's lead insurer, said he would be surprised if the Port Authority pursues the case as aggressively as Silverstein did its own claims.

"One would hope that it doesn't end up being that prolonged a controversy," said Kenneth W. Erickson, a partner with Ropes & Gray in

Boston, representing the London insurers.

It remains to be seen, though, how the Port Authority will respond to the suit, and whether it will seek to bring in the insurers representing the other two-thirds of its coverage, he added.

A Port Authority spokeswoman declined to comment.

Contentious claim history

Silverstein leased the Twin Towers and two other WTC buildings in the summer of 2001, and its fight with insurers stemmed largely from the fact no final policy wording on the buildings' \$3.55 billion property program had been agreed to when the terrorists struck.

In an initial trial, a jury found that Swiss Re and several other insurers representing the bulk of Silverstein's coverage were liable for only one occurrence under the terms of a policy form created by Willis Group Holdings Ltd., Silverstein's broker. A second jury sided with Silverstein, though, finding last December that a separate group of insurers not bound on the Willis form are liable for two occurrences. The two verdicts—which are being appealed—mean that Silverstein stands to collect up to \$4.68 billion (BI, Dec. 13, 2004).

While Silverstein took over most of the WTC complex in its lease deal, the Port Authority retained interests—and insurance responsibility—for other parts of the complex, including its own leased offices,

See WTC / page 31

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AIG UNDER PRESSURE

AIG: 10-K allays some concerns while raising others

Continued from page 1

the 10-K to provide a lot of clarity," said Mark Lane, a principal and research analyst with William Blair & Co. in Chicago. "It did provide some clarity, but it also raised some questions we are not likely to get resolved for the next two to three quarters."

"Certainly, the A&E reserve addition was not something that they had even hinted at" in their previous public disclosures, said Julie Burke, managing director at Fitch Ratings in Chicago. (See related story)

Furthermore, "Typically, loss reserve studies result in an increase in reserves," said Mr. Lane. This "is likely to be a continued focus over the next couple of quarters."

The 10-K filing, which followed a series of disclosures concerning AIG's financial management, comes two months after the normal deadline for filing annual reports with the SEC.

Restatements

In its delayed filing, AIG cut its reported net income for the five years through 2004 by \$3.92 billion as a result of its restatement for the period. The reduction in profits includes a \$1.32 billion, or 11.9%, decrease in its previously reported 2004 income to \$9.73 billion. The results reflect the \$850 million reserve charge.

The New York-based insurer also reported a 2.7% reduction in its shareholder equity for year-end 2004 to \$80.61 billion.

Martin J. Sullivan, AIG president and chief executive officer, said in a statement that the 10-K filing "reflects the result of our detailed and thorough review of AIG's major business units globally."

Mr. Sullivan said, "We are embarking on a new era for AIG that will be marked by changes in the way we operate—including greater responsiveness and transparency—while preserving the core values that have enabled us to build an unequalled franchise and effective-

results.

Many of the issues raised in the lawsuit, including questions surrounding the use of off-shore entities; converting capital gains into net investment income, and underwriting losses into capital losses; and the adequacy of risk transfer are also described in the 10-K filing as factors in the restatement.

More charges to come?

Many observers expect AIG to settle the lawsuit, although criminal charges may still be filed against Mr. Greenberg and Mr. Smith. The company also faces numerous other lawsuits in both federal and state courts and ongoing investigations by regulators and government authorities, including the SEC and Justice Department.

"I think it's great they got the 10-K out, but I think we tend to get a little distracted from the fact

that the main event is with the New York AG," said J. Paul Newsome, vp and senior equity analyst with A.G. Edwards & Sons Inc. in St. Louis. "They've got to get that fixed."

Thomas A. Dubbs, a partner with Goodkind, Labaton Rudoff & Sucharow L.L.P. in New York, which represents Ohio Attorney General Jim Petro in a securities fraud lawsuit pending against AIG and others that was filed on behalf of several Ohio retirement funds, said, "The open question is how soon and how expensive complete closure will be for current management, and whether it can continue

to rely" on its auditors, PricewaterhouseCoopers L.L.P., "in the face of their failing to catch many of these now-admitted problems."

The 10-K SEC filing states that "Management has identified a number of material weaknesses in AIG's internal control over financial reporting." It further states that the restatements involved transactions that "appear to have had the purpose of achieving an accounting result that would enhance measures believed to be important to the financial community and may have involved documentation that did not accurately reflect the true nature of the arrangements."

In addition to the reduction in 2004 profits, AIG reported a \$1.27 billion decrease, or 13.6% reduction, in its 2003 net income, to \$8.01 billion; a 6.3% increase in 2002 to \$5.87 billion; a 22.2% reduction in 2001 to \$4.17 billion; and a 7.5% reduction in 2000 to \$6.14 billion.

The filing quantifies the impact of many of the issues previously reported. For instance, AIG said it restated results related to Union Excess Reinsurance Co. Ltd., a Barbados-domiciled reinsurer, because there was insufficient risk transfer, which resulted in a \$78 million decline in net income, and a \$951 hit to its shareholders' equity in 2004.

Observers note that even with the 10-K finally filed, the insurer still faces some long-term financial issues, even aside from its ongoing legal concerns. Mr. Newsome said the concern with AIG's financials is "not so much solvency, but more, what is the strength of the earnings, how quickly can they grow, and are there going to be some bumps in the road?"

S&P lowers credit, debt ratings of AIG

NEW YORK—Standard & Poor's Corp. on Friday lowered American International Group Inc.'s long-term counterparty credit and senior debt ratings to AA from AA+, but it affirmed its AA+ credit and financial strength ratings on most of AIG's insurance subsidiaries.

In a statement announcing the change, Grace Osborne, an S&P credit analyst, said: "The downgrade on the holding company reflects both the size and scope of the accounting adjustments in its recently released 10-K filing."

The ratings have been removed from CreditWatch, though their outlook remains negative, New York-based S&P said.

In March, after AIG announced its plan to restate earnings, S&P lowered the long-term counterparty credit and senior debt ratings on AIG, and the counterparty credit and financial strength ratings on most of its wholly owned subsidiaries, to AA+ from AAA (*BI*, April 4).

In addition, New York-based Moody's Investors Service lowered AIG's long-term senior debt rating, as well as the debt and insurance financial strength ratings of AIG units, including its domestic brokerage group, to Aa1 from Aaa.

Then, in May, after AIG revised its estimates of the restatements' impact, A.M. Best Co. downgraded the financial strength ratings of most AIG insurance subsidiaries to A+ from A++, Fitch Ratings cut AA+ from AAA all of AIG's AAA insurance company ratings, and Moody's lowered the insurance financial strength and debt ratings of several AIG entities.

Moody's and Fitch both confirmed their ratings last week.

—By Mark A. Hofmann

Ratios restated

AIG's financial restatements resulted in revised combined ratios

	Restated	Previous
2004	100.5%	95.0%
2003	92.5%	92.4%
2002	104.7%	106.0%
2001	103.3%	100.7%
2000	102.5%	96.7%

Source: AIG

ly meet our customers' needs. I am confident that the changes we are initiating throughout the organization will make AIG an even stronger and better company."

AIG, though, remains besieged. Last month, New York Attorney General Eliot Spitzer and New York State Insurance Superintendent Howard Mills filed suit against AIG, former Chairman and Chief Executive Officer Maurice R. Greenberg and former Chief Financial Officer Howard I. Smith, charging them with embarking on numerous questionable transactions in order to manipulate the insurer's financial

AIG increases asbestos reserves, further boost expected

By JUDY GREENWALD

NEW YORK—A major focus of American International Group Inc.'s 10-K filing with the Securities and Exchange Commission last week was the unexpected announcement that it would boost its asbestos and environmental reserves by \$850 million.

The asbestos charge "was a little bit of a surprise" because it was not within the scope of regulators' investigations of the insurer, said Jack Lake, a research analyst with Victory Capital Management Inc., a unit of KeyCorp in Cleveland.

New York-based AIG said in its 10-K that it will increase its net asbestos reserves by \$650 million and its net environmental reserves by \$200 million for fourth quarter of 2004.

The company also said it will commission a comprehensive, independent actuarial review of the loss reserves of its principal prop-

erty/casualty insurance operations, which is expected to be completed before it reports its 2005 results.

A statement issued by former AIG Chairman and Chief Executive Officer Maurice R. Greenberg in response to the 10-K filing said that the insurer's asbestos reserves were audited by AIG's auditors, PricewaterhouseCoopers L.L.P., in 2004 "and found to be adequate. We believe today's restatement does not provide sufficient basis for reversing this judgment."

John L. Ward, Cincinnati-based independent insurance analyst, said, "I was not expecting to see that type of adjustment and of that magnitude."

The A&E increase "was a development that was probably not on a lot of people's radar screens," said Julie Burke, managing director at Fitch Ratings in Chicago.

Mr. Lake noted that, in the 10-K, AIG discusses three possible scenarios to evaluate reserves and

selects the most conservative, "which equates to taking the biggest charge."

"I think management is showing that they're a little more conservative," Mr. Lake said. "I think they tried to throw as much into the last period as was reasonable" in order to put the issue behind the company.

The company said factors used to determine the size of the reserve increases were actual calendar experience, input from claims officers on latest year events, deterioration in prior-year claims experience, survival ratios, industry experience and reinsurance recoverables, with recent experience the most significant factor.

The company warns, though, that "significant uncertainty remains" as to AIG's ultimate liability for its A&E claims because of several factors, including the long latency period between asbestos exposure and disease manifestation and diverging legal interpre-

tations, among others.

Other charges possible

Observers also say the review is likely to lead to additional reserve charges. "Reserve reviews almost always result in increased reserves as opposed to any other resolution," said Mr. Ward.

He noted that because the review covers everything, not just a particular line of business, "it would be surprising to me if the review did not result in a sizable adjustment in the form of increases to reserves."

The implications of the study will depend on what it determines about the magnitude of any reserve increase and the lines affected, said Ms. Burke. She added, however, "It is very typical for the new CEO of a property/casualty operation to look at reserves."

"Sometimes it's called the new-CEO charge," she said.

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WTC: Port Authority sues for double limits

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subway stations and tunnels and a WTC building used by the U.S. government, court filings say.

Through Willis, the Port Authority renewed a \$1.5 billion program covering all of its New York-area properties as of June 1, 2001. Like Silverstein, though, the Port Authority had not agreed to final policy wording as of the Sept. 11 attack, according to insurers.

Since the attack, insurers say they have adjusted losses on a one-occurrence basis using the Port Authority's "preliminary loss assessments," and have paid \$950 million.

Position change

Earlier this year, though, in the wake of the second Silverstein verdict, the Port Authority's position on its claims changed, sparking last week's lawsuit, insurers charge.

The suit was filed in U.S. District Court in New York by Lloyd's of London underwriters and eight London market insurers representing \$527 million of the \$1.5 billion limit (see box).

According to the complaint, the Port Authority told insurers on March 17 that "because the shortfall in (Silverstein's) insurance proceeds has now become relatively certain, we believe the next stage of our adjustment process will be focused on working with you to quantify the scope of the shortfall so that it may be addressed under

A second WTC occurrence dispute

Insurers seeking a ruling that the Port Authority cannot seek a double-limit recovery on its WTC coverage are:

- Certain underwriters at Lloyd's of London
- AXA Global Risks UK Ltd.
- Copenhagen Reinsurance Co. Ltd.
- Great Lakes Reinsurance (UK) P.L.C.
- Houston Casualty Co.
- QBE International Insurance Ltd.
- Sirius International Insurance Corp.
- Wurttembergische Versicherung A.G.
- Zurich Specialties London Ltd.

our coverage."

The Port Authority went on to state that its claim, "net of the \$950 million of advances," will exceed \$2.1 billion for two occurrences, the suit says.

The insurers argue, though, that they provided no coverage for Silverstein's WTC buildings. Silverstein's deal for the property was essentially a sale—structured as a 99-year lease to provide Silverstein with tax benefits—and Silverstein explicitly assumed responsibility for insuring the buildings, insurers allege.

The manuscript form Willis used to place the Port Authority coverage also expressly excludes the Silverstein buildings, according to the

complaint. The form provides, for example, that there is no coverage of property losses for which a third party "has otherwise indemnified the insured," the suit says.

The form also excludes coverage where any third party "has in force at the time of loss, pursuant to a lease or other written agreement, valid and collectible insurance in favor of the insured," the suit notes. The Port Authority was a named insured under Silverstein's insurance program.

In addition, Willis brokers told underwriters during the renewal negotiations that Silverstein would insure its WTC properties separately and that a loss could not trigger coverage under both the Silverstein and Port Authority programs, insurers allege.

The manuscript form, meanwhile, contains an aggregating definition of occurrence that would treat the Sept. 11 attack as a single event, triggering only one policy limit, insurers contend.

If the Port Authority argues that the manuscript form does not govern its coverage, the program's terms should follow those of the Willis form, known as Wilprop, that the broker commonly used in large placements, including Silverstein's, the insurers maintain.

Federal courts have already determined that, under the Willis form's occurrence definition, the WTC's destruction by two hijacked aircraft was a single event.

Late News

Continued from page 1

fee rate in the last six months. Four percent said they expect their brokers to try to do so soon.

Revised forecast sees more storm activity

Eight hurricanes are likely to form in the Atlantic and Gulf of Mexico during the current hurricane season, according to the latest forecast by William Gray and his meteorological team at Colorado State University. That's an increase of one from the Gray team's April 1 forecast and considerably above the 1950-2000 average of 5.9 hurricanes per season. The Gray team also increased its forecast of named tropical storms to 15 from the 13 forecast in April and far above the 1950-2000 average of 9.6 named storms.

AIG delays plans for Chinese group life

American International Group Inc. will not seek to sell group life insurance in China until issues involving the actions of some of its Hong-Kong based agents are resolved. AIG said in its 10-K (see story, page 1) that it withdrew its application in March to sell the coverage after acknowledging that "certain of its Hong Kong-based agents sold life insurance to customers on the Chinese mainland in contravention of applicable regulations."

Reinsurers' ratio flat in quarter

U.S. reinsurers reported a 93.9% combined ratio for quarter ended March 31, virtually even with the 94.0% combined ratio reported by a comparable group for the first quarter of 2004, according to the Reinsurance Assn. of America. Twenty-six U.S. reinsurers surveyed by the RAA this year posted \$7.01 billion in net premiums for the quarter, a 10.3% decline from the total reported by the comparable group in 2004. Net income, meanwhile, rose 1% to \$1.44 billion.

MassMutual replaces CEO

MassMutual Financial Group last week fired Chairman and Chief Executive Officer Robert J. O'Connell and named Stuart H. Reese as president and CEO and James R. Birle as nonexecutive chairman. In a

statement, MassMutual said the board of directors gave Mr. O'Connell notice of termination "due to certain issues," subject to the rights under his employment agreement. A company spokesman would not elaborate except to say that the "issues" do not affect the company's financial strength or its operations going forward. Mr. Reese is a 12-year veteran of MassMutual, most recently serving as executive vp and chief investment officer. Mr. Birle has served on the board since 1992.

Insurers win \$12 million in drug antitrust case

Several health insurers have won a \$12 million jury verdict against Mylan Laboratories Inc. in a case over Mylan's allegedly anticompetitive practices related to the production and pricing of two antianxiety medications. The jury found that Mylan willfully violated antitrust law by using its exclusive licensing agreements on key ingredients for the drugs. A Mylan spokesman said the company considers the case to be ongoing litigation because the judge has not ruled on a Mylan motion, and it will not decide whether to appeal until that ruling is issued. Mylan paid about \$100 million in 2000 to settle similar charges by the Federal Trade Commission.

Chubb sells liability books to OneBeacon

The specialty lines unit of Chubb Corp. has sold the renewal rights to its hospital professional liability and managed care errors and omissions books of business to a OneBeacon Insurance Group subsidiary. Terms of the transaction were not disclosed, but the books of business are worth less than \$121 million total, according to a Chubb spokesman. The business represents less than 1% of Chubb's total premium volume.


Swiss Re reworks operating segments

Swiss Reinsurance Co. is restructuring its operations into three main operating divisions. Client markets—headed by Jacques Aigrain, currently deputy CEO of Swiss Re—will focus on client needs and market trends. The products division—headed by Stefan Lippe, head of the property and casualty group—will steer the reinsurer's underwriting and pricing strategy and claims management. The financial services division—led by John Fitzpatrick, head of life and health—will focus on capital and asset management, among other things, and will include a risk transformation unit that will focus on securitization.


BI Stock Index [5/30 - 6/3]

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

Percentage change of BI Stock Index vs. key indicators

BI Stock Index 
2486.42 **3.98**

Dow Jones 
10460.97 **-0.77**

S&P 500 
1196.02 **-0.23**

Largest gains

Gainsco Inc.	11.19%
Tower Group Inc.	9.12%
Vesta Insurance Co.	6.30%
Hub International	6.25%
PMA Capital Corp.	4.93%

Largest losses

SCOR	-9.13%
ING Group N.V.	-3.08%
MetLife Inc.	-2.84%
AXA-UAP Group	-2.83%
AEGON N.V.	-2.79%

Weekly change by market segment

Brokers	0.46%
Insurers/Reinsurers	0.26%
Managed Care Organizations	2.10%

Source: FinancialContent Inc. (<http://financialcontent.com>)



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New Online Poll: Regarding the civil fraud charges leveled against Maurice R. Greenberg, will the former AIG CEO: **A)** be found liable; **B)** be found not liable; **C)** settle before trial; **D)** don't know.

Items in the Late News column originally appeared in BI's Daily News feature on www.businessinsurance.com.

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