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Public employers see new accounting rules / 3

Business Insurance

www.businessinsurance.com

July 5, 2004

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\$5

Change in runoff law debated

Critics wary of Illinois legislation that would benefit Kemper plan

By MEG FLETCHER

Pending legislation in Illinois that would impact the solvent runoff of Kemper Insurance Cos. is sparking debate over whether the proposed changes would, ultimately, be more of a help or a harm to the insurers' policyholders.

Some attorneys and risk managers expressed concerns that the proposal would erode a common legal protection for policyholders, potentially leaving some with little or no recourse should Kemper enter receivership.

Illinois insurance regulators and Kemper runoff officials, however, defend the legislation as important to keeping the financially troubled insurer solvent and avoiding receivership, which they say is in the long-term best interests of all

policyholders and claimants.

A cornerstone of Kemper's runoff plan—settling the liabilities of large policyholders—is supported by a legislative proposal that would amend Illinois law and provide greater certainty that commutation agreements reached with a troubled insurer could not later be undone if the insurer becomes insolvent.

Currently, Kemper is asking its largest policyholders to participate in commutations—describing them as a “policy buyback opportunity”—in which buyers would receive immediate payment in exchange for accepting less than the insurer's reserved amounts for claims, according to John Conway, general counsel of the Long Grove, Ill.-based insurer.

Illinois insurance regulators proposed an

amendment to an insurance-related bill, S.B. 2404, that would give the state insurance director authority to approve and finalize such commutations that are made with a troubled insurer in the course of a runoff. Under current law, some preferential settlements can be undone if a company soon after becomes insolvent. The legislation, therefore, could encourage more Kemper policyholders to accept its policy buyback offers.

The amendment does not identify Kemper specifically, though regulators and company officials agree that company's situation prompted the proposed change in the law.

State insurance regulators support the legislative proposal because “we believe that the mea-

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Late News

Senate to take up class action bill Tuesday

The Senate plans to begin consideration of a class action reform bill late Tuesday. Senate

Majority Leader Bill Frist, R-Tenn., had initially intended to bring the Class Action Fairness Act, S.



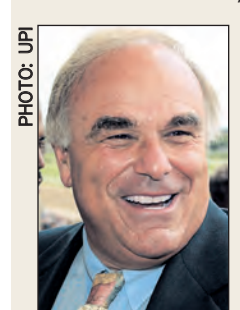
Sen. Frist

2062, to the floor June 1.

But he delayed the vote after some Democratic supporters of the bill said they would oppose it unless the Senate first completed work on an unrelated defense bill. The measure, which enjoys the support of risk managers and insurers, would allow the removal of certain class actions involving defendants and plaintiffs from different states to federal from state court, among other changes.

Pennsylvania law clarifies insolvencies

A new Pennsylvania law clarifies the relationship between large-deductible policyholders, insurers and guaranty funds in the event of an insurer's insolvency. Act 46-



Gov. Rendell

2004, signed last week by Gov. Ed Rendell, “should bring much-needed fairness to the way large-deductible workers

compensation policies are handled during insolvencies,” said Taylor Cosby, vp of the Washington-based American Insurance Assn.'s Mid-Atlantic Region. Under such policies, a workers comp insurer often pays the injured worker and then seeks reimbursement from the employer for payments made within the deductible. The law stipulates that the large deductible portion of a policy should be paid by the policyholder to the guaranty fund paying claims for an insolvent insurer, rather than to the estate of the insolvent insurer itself.

See **LATE NEWS**/page 35

NCR registers new approach to pension plan

Latest to phase out defined benefit plan

By JERRY GEISEL

DAYTON, Ohio—Another major U.S. employer is phasing out its defined benefit pension plan.

Information technology giant NCR Corp. of Dayton, Ohio, plans to close off its \$2.8 billion pension plan to new and younger employees and beef up its 401(k) retirement savings plan. Older employees will be given a choice of continuing to earn benefits in the pension plan or ceasing benefit accruals and instead becoming eligible for an enhanced 401(k) plan match.

Under the changes, NCR will sweeten its 401(k) plan match for employees under age 40 or hired on or after Sept. 1, 2004. NCR will match 100% of employees' contributions on the first 4% of pay and 50% of contributions on the next 2% of pay. Currently, NCR matches 75% of contributions on the

See **NCR**/page 34



FBI, insurers target fraudulent surgeries

Clinics paying people for unnecessary operations

By ROBERTO CENICEROS

LOS ANGELES—Surgical centers in Southern California are defrauding employer health plans by recruiting thousands of employees to undergo unnecessary operations that are then billed to the health plans, the Federal Bureau of Investigation says.

Health insurers as well as large self-insured employers and their third-party administrators have

fallen victim to the scams, according to Daniel Martino, supervisory special agent for the FBI's health care fraud unit in Los Angeles. Losses so far total about \$500 million, according to insurers and the FBI.

Under the scams, individuals are told that, depending on the procedure and their health insurance, they can earn hundreds or even thousands of dollars for undergoing surgery for various mal-

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NEWSPAPER

Spotlight Report

MIDYEAR MARKET REPORT

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July 5, 2004

Eye care company seeking to fund benefits in captive

By JERRY GEISEL

WASHINGTON—A Swiss pharmaceutical company is asking the Department of Labor for permission to fund benefit risks of its U.S. employees through its Vermont-domiciled captive.

Fort Worth, Texas-based Alcon Laboratories Inc., a subsidiary of Hunenber, Switzerland-based Alcon Inc., wants to use the captive to reinsure long-term disability and life insurance benefit policies written by Aetna Life Insurance Co.

That Vermont captive, TRICEL (USA) Inc., currently is used to write a variety of Alcon's property/casual-



Alcon, a maker of eye care products, wants to fund benefits through its Vermont captive.

ty coverages. TRICEL, which was set up in 2003, generated \$12.4 million in gross written premiums last year. Funding LTD and life insurance coverages for Alcon Laboratories'

6,000 U.S. employees would add more than \$3 million in premiums.

Dave Spence, Alcon Laboratories' director of global risk management, said the captive benefits funding arrangement is being driven by financial considerations. "This should be the most cost-effective approach to finance these risks," he said.

The request comes as the Labor Department this week is expected to publish its formal approval of a similar arrangement by another European company. Swedish paper, packaging and consumer products producer Svenska Cellulosa Aktiebolaget will use a recently formed

See **ALCON**/page 35

Benefit accounting rule spurs some plan changes

By GLORIA GONZALEZ and RUPAL PAREKH

Some public-sector employers already are changing their retiree benefit plans—including reducing or eliminating benefits—in anticipation of new accounting rules that will require them to disclose the cost and funding status of postemployment benefit packages.

The new rules, approved last month after years of deliberation by the Governmental Accounting Standards Board, will require state and local governments to accrue the present value of all future retiree nonpension benefit liabilities on their current financial statements (*BI*, June 28). Norwalk, Conn.-based GASB, an independent organization similar to the Financial Accounting Standards Board, sets accounting standards for public entities.

The GASB rules have raised concern among public employers and consultants that the accounting change will force state and local

governments to cut retirees' nonpension benefits, such as health care coverage. The alternative would be to record large liabilities that diminish their financial rating, or allocate sizable assets to offset those liabilities, which would be a challenge for many government budgets.

"The numbers are going to be a lot bigger than they've seen in the past," said Tom Cavanaugh, a New York-based principal with Mellon Financial Corp.'s Human Resources & Investor Solutions practice. "The only way you get control over your expense number is if you actually fund it."

Some public entities already have begun restructuring their retiree benefit packages in anticipation of the accounting changes.

The new rules are "going to have a significant impact on everybody," said Peter Pucillo, finance commissioner for Westchester County, N.Y., which has negotiated on restructuring union retiree benefits.

The current "pay as you go" system of funding retiree benefits is unhealthy for the long-term finances of a government entity, said Karl Johnson, project manager for GASB. He said governments may reach a point at which the cost-trend rate and the demographics of their employee populations—the aging of the baby boomers—make the cost of funding these benefits soar in a short period of time.

Pay as you go "requires less cash only in the short-term," Mr. Johnson said. "In the long term, that's the most expensive way to go," he said. "A government doing that may reach a year where they simply cannot afford it."

The new accounting rules will provide "a realistic view of our liabilities, which is helpful for fiscal policy in the future," said Mark Snodgrass, assistant director of accounting and budgeting for the Columbus-based Public Employees Retirement System of Ohio.

See **GASB**/page 33



PHOTO: GINA CARTY VAUGHN

Rep. Pete Sessions, right, has introduced a bill that would extend the Terrorism Risk Insurance Act. Insurance industry groups have applauded the legislation.

TRIA extension measure attracts support from insurance industry

By MARK A. HOFMANN

WASHINGTON—A group of 10 insurance and financial services industry groups is calling the Terrorism Insurance Backstop Extension Act a "positive first step" toward reauthorizing the Terrorism Risk Insurance Act this year.

TRIA, which would provide a federal financial backstop for insurers dealing with losses stemming from future catastrophic terrorist attacks, is slated to expire on Dec. 31, 2005. Insurers and policyholders have been urging Congress to extend the program for at least another two years as soon as possible.

A group of lawmakers led by Rep. Pete Sessions, R-Texas, last week introduced the Terrorism Insurance Backstop Extension Act—H.R. 4634—to reauthorize the program through the end of 2007.

The assessment came in a June 29 letter to House Financial

Services Committee Chairman Mike Oxley, R-Ohio. The industry letter read, in part, "Although the industry has concerns with some aspects of the legislation, we welcome the opportunity H.R. 4634 provides to work with you, the bill's sponsors and all interested parties to enact extension legislation this year. H.R. 4634 is a positive first step."

No companion bill has been introduced in the Senate.

The American Insurance Assn., the American Assn. of State Compensation Funds, the Council of Insurance Agents & Brokers, the Financial Services Roundtable, the Independent Insurance Agents & Brokers of America, the National Assn. of Mutual Insurance Cos., the National Assn. of Professional Insurance Agents, the Property Casualty Insurers Assn. of America, the Reinsurance Assn. of America and the Surety Assn. of America were signatories to the letter.

Inside Business Insurance

Risk managers, analysts view risk differently

A survey finds that risk managers and outside analysts differ on what they view as the biggest threats to corporate finances. **Page 4**

Fitness centers pay off for employers

Employer-sponsored fitness centers are paying dividends in reducing health care costs, a poll finds. **Page 4**

Sickening new twist on insurance fraud

Paul Winston writes that a new scheme involving "rented patients" is raising the stakes in fighting insurance fraud. **Page 6**

Kemper policyholders may lose if bill passes

Lawmakers should reject a bill that could harm Kemper clients, one of this week's editorials says. **Page 8**



Chinese city trying workers comp approach

Shanghai, a major manufacturing center in China, is tapping employers for a fund to compensate injured and ill workers. **Page 29**

Online

• The **Datebook** lists upcoming industry meetings as well as information on award competitions.

• Searchable **directories** provide all the listings of industry vendors found in *BI*'s Market Sourcebook.

• New **Opinion Poll** for readers: With the Senate beginning debate on class action reform legislation this week, how likely is enactment of federal class action reform by the end of this year?

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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

NYC contractors must offer partner benefits

By RUPAL PAREKH

NEW YORK—Companies that do business with New York City soon will be obliged to offer domestic partner benefits, as the City Council on Monday overrode the mayor's veto of a bill that requires firms contracting with the city to provide insurance to the domestic partners of employees.

The Equal Benefits Bill mandates that any company with city contracts of \$100,000 or more must extend the same benefits—including health care insurance, bereavement leave and family or medical leave—to the domestic partners of workers as are offered to the spouses of em-

ployees. The bill applies to both same-sex and opposite-sex domestic partners.

The City Council originally approved the legislation by an overwhelming majority in early May, before Mayor Michael R. Bloomberg delivered his veto last month.

"Our procurement system is already cumbersome, and, whether we like it or not, companies choose not to do business with us because of our existing requirements," the mayor said in a statement.

Thirty-four council votes are necessary to override a mayoral veto, and Monday's vote on the Equal Benefits Bill passed 41-4, a City Council spokeswoman said.

New York City will join other large municipalities in the nation, such as Seattle, Los Angeles and San Francisco, that have passed similar measures requiring companies that contract with those cities to offer equal benefits to domestic partners as the spouses of employees.

In response to the City Council decision, Mayor Bloomberg has announced plans to sue the body in order to uphold his veto, a spokesman from the mayor's office confirmed.

The legislation will take effect 120 days from the date the veto was overridden. It will affect new contracts and existing contracts upon renewal.



PHOTO: TALAE/SIPA

The New York City Council last week overrode Mayor Michael Bloomberg's earlier veto of a measure that sets requires businesses that contract with the city to offer equal benefits to partners.

Lockton executives to fund scholarship in founder's name

By SALLY ROBERTS

KANSAS CITY, Mo.—Lockton Cos. Inc. will endow a Spencer Educational Foundation Inc. scholarship in the name of its founder, Jack Lockton, who died in March after a long battle with pancreatic cancer.

Executives at the Kansas City, Mo.-based brokerage said last week that they hope to fund The John T. Lockton III Memorial Scholarship this summer and



Mr. Lockton

award at least two scholarships by the spring of 2005.

"We're not certain how big the endowment fund is going to be. We're going to raise it internally at Lockton and invite others to participate," said Ron Lockton, senior executive vp of Lockton and son of its founder.

Spencer requires that a scholarship be endowed with at least \$200,000, and "we've committed to do that," noted Brian M. Kawamoto, Lockton's executive vp and managing director.

The merit-based scholarships will be awarded to undergraduates majoring in business administration or insurance and risk management, the executives

said. Candidates also must meet certain criteria that mirror the legacy Jack Lockton established at the brokerage, they note, citing his passion and enthusiasm for the business.

"Jack was a very passionate guy who wore his emotions on his sleeve. He would let you know when he wasn't happy, and he'd certainly let you know if he was," Mr. Kawamoto said. "We'd like to recognize students that bring that same level of passion and enthusiasm into what they do."

"One of Jack's passions was imparting to all of us at Lockton the importance and the duty we have to give back to the community that we live and work in," Ron Lockton added. "This is sort of our way to memorialize his legacy and to give back to the industry that he was so passionate about."

Lockton also is looking at supplementing its scholarship with a potential summer internship at the firm.

P. Richard Hackenburg, chairman of the Spencer Foundation, said, "the foundation is so very pleased to accept these scholarship moneys in memory of Jack Lockton."

"Jack was a leader in our industry, was dedicated to the future of our business and was a firm believer in educating the next generation. We're pleased that the Lockton Cos. chose the Spencer Foundation to honor Jack and his memory," said Mr. Hackenburg, who is also vp, insurance & risk control services for FOJP Service Corp. in New York.

For more information about the Spencer Educational Foundation and scholarships, visit www.spencered.org.

Employers cite fitness benefits for gains in morale, cost control

By MEG SHREVE

Employers that sponsor fitness programs are seeing increased worker morale and productivity, as well as reduced health care costs, according to a new poll.

The National Business Group on Health, a Washington-based employer coalition, polled 84 U.S. companies and released its findings last week at the second annual Leadership Summit on Obesity in Washington. The summit was hosted by the Institute on the Costs & Health Effects of Obesity.

The poll found that 77% of the employers interviewed had onsite fitness centers, while 69% offered onsite fitness programs. Sponsored fitness programs were promoted by 67% of the employers, while 60% provided information on local fitness programs and 38% offered on-line information.

Higher worker morale was reported by 56% of the companies surveyed, while 27% attributed reduced health care costs to their fitness programs. The poll also found that two out of 10 employers saw productivity gains.



Sixty-one percent of employers polled share the cost of the fitness programs with their employees, while 27% pay the entire cost. For the remainder, employees pay

the entire cost.

Helen Darling, president of the NBGH, called the survey of fitness initiatives "a golden opportunity to change the weight profile of the workforce." More and more employers are trying a new approach to health care costs by focusing on the lifestyles of their employees, Ms. Darling said.

The poll also concluded that the biggest hurdle faced by companies was encouraging employees to make use of offered programs. Two-thirds of those interviewed reported that 25% of their employees use worksite programs, and three out of 10 said that between 25% and 50% of their employees take part. Only 2% reported that more than half of their employees make use of fitness initiatives.

A summary of the survey is available by e-mailing Colleen Maguire at maguire@businessgrouphealth.org.

FM Global finds views differ on biggest threats to revenue

By MARK A. HOFMANN

Company executives and risk managers view their organizations' main risks differently than do the investment professionals who analyze companies' performance, a report concludes.

Risk managers and corporate executives tend to rank property-related hazards as the leading threat to their "top revenue drivers," according to the report, which was released by Johnston, R.I.-based Factory Mutual Insurance Co., which does business as FM Global.

Top revenue drivers are defined as those assets that contribute most to earnings and those that executives are most concerned about protecting.

In fact, 69% of risk managers and

company executives cited property-related hazards collectively as the "top hazard." These risks included fire/explosion, natural disasters and supply-chain problems.

Only 31% cited nonproperty-related hazards—the most common being labor issues—as the biggest threat to their revenue drivers. Terrorism and sabotage, considered a property-related hazard, was cited by only 1% of the corporate executives as a threat.

The investment professionals, however, stressed nonproperty-related hazards—such as pricing fluctuations and government or regulatory actions—as the biggest threats to company revenue drivers.

Seventy-nine percent of the investment professionals cited a non-property-related risk as the top

threat, with only 21% citing a property-related risk.

In addition, 80% of the corporate respondents rated their companies as being "good" or "excellent" in protecting their key assets. However, only 51% of the investment analysts gave the companies similarly high marks.

Rochester, N.Y.-based Harris Interactive conducted the survey for FM Global in March and April of this year. The research company polled more than 200 risk managers, more than 200 chief financial officers and treasurers and about 200 securities analysts and portfolio managers in North America and Europe.

The report, "Managing Business Risks," can be accessed at www.protectingvalue.com.

Puzzled?

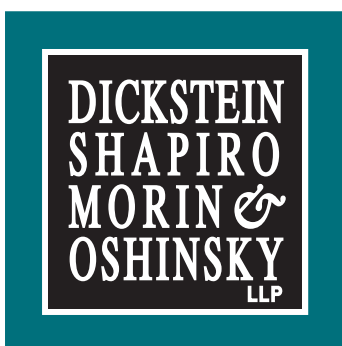
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Paul Winston

If flesh is willing hard to stop fraud

The lengths that some people will go to to defraud an insurance company boggle the mind.

I'm not talking about run-of-the-mill insurance fraud, such as adding extra zeroes to a claim, staging car accidents, scuttling a boat or burning down a house. That's relatively tame compared to a new breed of fraud.

These new scams are a perverse form of medical claims fraud—and not just everyday medical claims fraud, such as upcoding of medical bills, dispensing generics and billing for brand-name drugs, charging for extra services or masking cosmetic surgery as medically necessary procedures.

As we report on page 1, these new scams involved finding poor suckers willing to take a little cash so that medical clinics can recover thousands of dollars from filing claims. This rent-a-patient phenomenon has an appalling twist, though.

In the past, such frauds usually involved filing claims for procedures and medical care that were never provided. But that always runs the risk that a claims investigator might ask to see the appendectomy scar. So now the fraudulent claimants have to put more skin in the game.

Yes, the clinics are actually cutting on people, then reaping the claims payments. And they are not just making an incision to make it appear as if surgery were performed, but are actually performing surgery on their willing patients. Poking around inside. Removing things.

An April 24, 2003, article on the phenomenon by the Phoenix New Times interviewed one individual who agreed to let his body be used as a claims mill. In a five-month period, he underwent: a circumcision, removal of his sweat glands, a nose operation, a colonoscopy and an endoscopy. He acknowledged there was nothing wrong with him to warrant any of these procedures.

It's tough to spot and deter fraudulent claims when the participants are willing to go to such lengths to provide verisimilitude, which is a fancy way of saying it's hard to catch a thief who's willing to go to insane extremes.

This con involves the worst of greed and criminal ingenuity taking advantage of the desperation and low standing of immigrants, and the convoluted red tape that governs insurance claims processes.

It's also a variation on the black-market harvesting of healthy organs from poor people—willingly or unwillingly—which widely occurs in some countries. In fact, it wouldn't surprise me if that were a heretofore

undisclosed element of this scam in the states—that the unscrupulous clinics are also removing kidneys and other vital organs under the guise of removing a gallbladder or appendix. After all, if these docs are willing to go to such lengths to cut open people to defraud insurers, it's not a stretch that they would also have the means and opportunity to make an extra buck on the side.

What makes this kind of fraud especially insidious is the difficulty for insurers to catch and challenge these claims.

Consider, for example, an insurer facing a rash of sweat-gland surgeries—one of the most common of these procedures. In many states, laws requiring prompt payment of

claims give it only a limited time in which to challenge a claim.

Granted, a bill provided by Wayne's Auto Body, Welding & Outpatient Surgical Center might offer a clue, but let's say the provider has an innocuous name like North Suburban Outpatient Care Clinic.

The insurer is suspicious and decides to challenge a claim, at which point the

claimant only has to pull up his shirt and display surgical scars in the vicinity of the sweat glands.

Now what? If the insurer is unconvinced, it can perhaps demand the claimant submit to an MRI. Assuming the claimant has not hired an attorney by this point and submits to the scan, it would confirm the absence of sweat glands.

Now the insurer has to build a case that the surgery was unnecessary and fraudulent. Not impossible, but the clock is ticking. With both the doctor and the patient in on the scam, it's now the insurer that is sweating to prove fraud.

And what if the claims challenge backfires? What if an insurer beset by bogus surgical procedures wrongly challenges a valid claim filed by someone who was truly ill and in need of surgery? Can you imagine the adverse publicity and punitive damages that would accompany such an assertion? It would play into the public's worst assumptions about claims denial tendencies.

I don't think the situation is hopeless. Several insurers are making an effort to identify these scams and the clinics involved. And the FBI is assisting in the effort. But the stakes in insurance fraud have gotten sickeningly higher.

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Business Insurance

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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

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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; 777 E. Speer Blvd., Denver, Colo. 80203-4214; Fax: 303-733-2244; 1133 W. 108th St., Overland Park, Kan. 66210. Fax: 312-280-3174; 77 Franklin St., Suite 809, Boston, Mass. 02110-1510; Fax: 212-210-0704. 4 Executive Circle, Suite 185, Irvine, CA 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). Rudolf Von Bartsch, 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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Editorial

Avoid market swing to other extreme

HAPPY DAYS might not exactly be here again, but risk managers appear to be getting what they wished for—a property/casualty insurance market that gives all signs of taking a turn for the better. As we report in a package of articles beginning on page 10, rates seem to be finally stabilizing after a relatively short but brutal hard market, spurred in part by the aftermath of the Sept. 11, 2001, terrorist attacks, and in part to the industry's need to correct years of underpricing. Now, nearly three years later, rates for some lines of coverage—notably for property—are actually

dropping, and dropping significantly. And it gets better—terms and conditions for many lines are definitely improving. Capacity is returning, as well, to several once-depleted lines, particularly property. In short, the market looks like it's heading back to normal, if there is such a thing where property/casualty insurance is concerned. That's certainly welcome news for risk managers, who've been badly battered by the hard market conditions. But we hope that the apparent return to market stability isn't a harbinger of the return of something considerably less attractive down the road.

That would be the kind of market that existed during much of the 1990s. Underwriting discipline went out the window as insurers engaged in blind pursuit of market share. Generating cash flow became the operating philosophy of many insurers. That meant buyers saw prices drop at just about every renewal, which looked like good news to some, or an irresistible bargain to many. Of course, in hindsight, that market couldn't last any more than the stock market bubble with which it coincided. Ultimately, the consequences of the long competitive market resulted in painful dislocations for some insurers that aren't

here anymore and for some risk managers who placed their coverage with them. Everyone wants the broadest possible coverage for the lowest possible price. It's an understandable wish. And the property/casualty market will always have a competitive nature. But as market conditions return to stability, and risk managers wish for ever better deals, both buyer and seller would do well to remember what preceded the last hard market, and be careful what they wish for. As the last property/casualty cycle painfully taught so many, there can indeed be too much of a good thing.

Special breaks don't benefit all

ILLINOIS LAWMAKERS should reject pending legislation that would enable defunct insurer Kemper Insurance Cos. to reach commutation agreements that cannot be voided if they are later deemed to be inequitable. As we report on page 1, the Illinois proposal—which was proposed by state regulators—would revoke the principle of “voidable preference” that has governed runoffs in Illinois and many other states and allows a liquidator to recoup funds paid out in preferential settlement agreements should the insurer in

runoff later head for liquidation. The principle is designed to guard against the possibility of one set of policyholders being paid too much too soon, while other policyholders are left without sufficient funds to meet their claims. Supporters of the bill argue that the measure would enable runoff insurers and policyholders to negotiate with certainty and enable everybody involved to move forward without having to endure a protracted liquidation. Also, the voidable preference provision has rarely been invoked, they say.

While we recognize the benefits of an orderly runoff over a liquidation, we believe that certain policyholder protections should remain in force regardless of the consequences. Few people benefit from a liquidation, so most people will do whatever is necessary to avoid it, including negotiating realistic commutation agreements that do not favor one set of policyholders over another. Many insurers have successfully completed runoffs in the past and, no doubt, many will do so in the fu-

ture under the existing rules. Kemper has already received accounting concessions from the state that are designed to help it run off its business (BI, March 15). It is also proving itself adept at utilizing unusual runoff tactics, such as reclaiming past dividends to policyholders of the mutual and billing for services the insurer provided decades ago. We hardly think it is necessary for the state to give it another leg up—especially one that could disadvantage policyholders' future claims if its condition worsens.

Schillerstrom



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Spotlight

Midyear Market Report

Spotlight Editor: Gavin Souter

Reinsurers softening rates a bit at renewal

By JUDY GREENWALD and DOUGLAS McLEOD

Reinsurers and reinsurance intermediaries describe a market that is softening modestly for certain property coverages but is otherwise little changed since Jan. 1.

"We're starting to see property rates dropping anywhere between 10% and 25%, and the casualty market is getting a little bit softer," said Richard DiClemente, president of New York-based THB Intermediaries Inc. "Reinsurers are looking for 5% to 10% increases where possible, but more often than not, they're willing to renew as expiring" on casualty business, he said.

Paul Karon, president of reinsur-

Reinsurance Report

ance intermediary Benfield Blanch Inc. in Minneapolis, said that, to no one's surprise, rates are coming down more on the property than the casualty side. If they were down 10% for the January renewals, they are down another 10 percentage points for the July 1 renewals, said Mr. Karon. Meanwhile, casualty is flat to down 5%, he said.

Property rates have gone down as much as 13% or more, "but, certainly, 5% to 10% is the norm," said Patrick J. Denzer, president and co-chief executive officer at reinsurance intermediary John B. Collins Associates in Minneapolis.

The property catastrophe market is "reasonably stable at the moment," said Timothy J. Carroll, global markets leader with General Electric Co.'s Employers Reinsurance Corp. unit in Overland Park, Kan.

Continuing a trend from the Jan. 1 renewals, many ceding insurers are buying more cat protection in response to a 2003 upgrade of catastrophe modeling software that revealed greater exposures than companies previously thought they had.

Many ceding insurers are seeing

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Abundance of capacity drives down D&O prices

By DAVE LENCKUS

Directors and officers liability insurance is a much better buy at midyear renewals as expanded capacity drives underwriters to compete, but many market executives say that those conditions cannot last much longer.

Indeed, one insurer executive said that the deals being offered by many D&O underwriters—from lower rates to improved terms and conditions—demonstrate that underwriters are "intoxicated."

If they can, risk managers who renew their D&O coverage late this year or early next year should try to take advantage of current conditions and renew early, one broker

D&O Report

advised.

While the softer market is obviously good news for buyers because rates are lower for many risks, it also may lead to some problems, said Lance J. Ewing, vp-risk management at Caesars Entertainment Inc. in Las Vegas.

Risk managers have to be wary of shopping only for price at the expense of their long-term relationships with insurers, Mr. Ewing said.

The market may be attracting more competitive underwriters because the number of large D&O securities claims settlements has decreased over the past year, market executives said.

But that lull has occurred only because much more time has been needed to resolve the complex claims that are in the litigation pipeline, said John Keogh, president and chief executive officer of National Union Fire Insurance Co. of Pittsburgh, Pa., a subsidiary of New York-based American International Group Inc.

"The settlements will be breathtaking," in large part because the lead claimants are institutional in-

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Property market improves as rates decrease, terms ease

By MARK A. HOFMANN and GLORIA GONZALEZ

It's not quite the good old days yet, but the hard property market that followed the destruction of the World Trade Center is rapidly receding.

Double-digit rate decreases and improved terms and conditions are common during this year's midyear renewals. Adequate capacity exists for most risks. Buyers are also benefiting from a lack of major catastrophes in the United States.

"It's a very favorable environment for clients," said Gary Marchitello, the New York-based managing director-national property practice of Chicago-based Aon Corp. "Market conditions have improved greatly. We have seen, over the past six to 12 months, a reduction of about 20%" in rates.

Bob Howe, director-global property placement for Marsh Inc. in New York, said 40% of Marsh

clients experienced very slight or moderate rate increases in the third quarter of 2003. Currently, fewer than 15% face increases of any magnitude, and those increases usually relate to loss control concerns or changing exposures, Mr.

Property Report

Howe said. "There's been a clear progression toward increased percentage reductions for our clientele over the last six months," he said.

"We've actually seen the vast majority of our renewals turning over close-to-flat premiums," said Randy Schreitmueller, vp at Johnston, R.I.-based Factory Mutual Insurance Co., which does business as FM Global.

"That's before the membership credit, which varies from between

6% to 15%, depending on the longevity of the client relationship," Mr. Schreitmueller said.

Risk managers are enjoying marketplace conditions they haven't seen for years.

"It was a very positive renewal in the property side of things," said Lance Ewing, vp-risk manager for Las Vegas-based Caesars Entertainment Inc. "We actually increased our limits, lowered our deductibles and saved over a million dollars in premium. We also expanded coverage, including some mold coverage that was put into play."

Steven La Shier, deputy director-risk management for the Los Angeles Unified School District, said he found "very aggressive pricing" on the school system's excess property program. The district—which has more than 13,000 buildings—retains the first \$500,000 of each property claim, he said.

One broker quoted the system an

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Property: Market conditions improving

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18% rate decrease and another a 20% decrease, Mr. La Shier said.

In addition, the rates for the earthquake policy covering the system's 29-story headquarters building dropped more than 20%, Mr. La Shier said.

"That's the first decline since 9/11," he said, adding that property rates tripled on the district's first renewals after the terrorist attacks in 2001.

"We saved almost half a million dollars this year" on the district's excess property program, Mr. La Shier said.

Increasing capacity

Capacity has been plentiful for most accounts over the last six to 12 months. Increased capacity is being driven not by new entrants but by existing players increasing their capacity levels and adding more supply, market observers say.

"Generally speaking, the market has done well since 9/11 in terms of combined ratios, so the influx of capacity domestically and from London and Bermuda will give buyers something to cheer about," said Alexandra Glickman, managing director and practice leader of Gal-

lagher Real Estate & Hospitality Services in Los Angeles, a unit of Arthur J. Gallagher & Co.

After Sept. 11, startups in Bermuda and London had an effect on capacity and have become important players in the market, but there are no new entrants having that type of market influence now, Marsh's Mr. Howe said. "When prices are declining, you start to see fewer entrants into the marketplace," he said. "With falling rates and increasing capacity, I think investors and other new entrants would proceed cautiously in this area."

With capacity returning to prior

levels, there are no real tough risks to place, said Aon's Mr. Marchitello. Probably the toughest are Caribbean exposures, he said, while capacity is tight in areas such as downtown New York. "Insurers are tracking much more closely the accumulation of risks in major metropolitan areas," he said.

In addition, while some insurers are offering higher limits on earthquakes and floods, they are not offering increased limits in high-risk areas such as along fault lines or in major flood areas, said Tim Rose, president of Liberty Mutual Insurance Co.'s Liberty Mutual Property

division in Weston, Mass.

"Risks that have poor loss history or a high catastrophic profile tend to be more difficult to place," said John Gallagher, senior vp at ACE USA in Philadelphia.

How long the favorable property market conditions will last remains to be seen, though most observers expect the market to continue to soften into 2005. "Clearly, the market will remain, in the short term, very favorable for buyers," Mr. Howe said. "It will be interesting to see how the next 12 to 18 months progress. Some underwriters will become less flexible on price reductions as they find price no longer meeting their technical needs."

Favorable conditions could disappear, though, if a major catastrophe—manmade or otherwise—were to strike. The market is fragile, and a large natural catastrophe in the United States, a Caribbean windstorm or another terrorist attack "could turn the market very quickly," said Aon's Mr. Marchitello.

While a terrorist attack would have the greatest impact on the market if it were to occur in the United States, an attack in London or Paris also would have a significant effect, Mr. Marchitello said. He

'Clearly, the market will remain, in the short term, very favorable for buyers. It will be interesting to see how the next 12 to 18 months progress. Some underwriters will become less flexible on price reductions as they find price no longer meeting their technical needs.'

*Bob Howe
Marsh Inc.*

noted, though, that the terrorist attack in Spain earlier this year did not have much impact on the U.S. property insurance market.

Risk managers' interest in adding terrorism coverage has increased in recent months, said Marsh's Mr. Howe. Some Marsh clients appear to be considering using property renewal savings to buy either stand-alone coverage or cover backed by the Terrorism Risk Insurance Act, he said. Takeup rates, which had been about 30%, are now popping up above 40%, and are over 50% in some classes of the business. "The fact that those takeup rates are robust is an interesting dynamic in the marketplace," he said.

FM Global's Mr. Schreitmueller said that the terrorism takeup rate for that insurer's clients has been running between 50% and 60%.

Whither TRIA?

A key concern going forward is whether Congress will reauthorize TRIA, which is slated to expire at the end of next year; Gallagher's Ms. Glickman called the uncertainty over TRIA's future a "sword of Damocles" hanging over the market. Although legislation that would extend TRIA was introduced

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Property: Market improving

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in the House late last month, no similar bill has been introduced in the Senate (BI, June 28).

Mr. Marchitello said Aon has proposed a mechanism whereby clients could reserve capacity in the event TRIA were not to be renewed. He noted that though the program is not yet available, Aon is discussing it with a variety of markets and gotten very favorable feedback.

Despite current market conditions, risk managers should expect the unexpected, said George Stratts, senior vp at Lexington Insurance Co., a unit of New York-based

American International Group Inc. A program should be designed in such a way that it could handle a large exposure and the insurer would still be there the next day. "They should expect their property program to respond in an unexpected event," Mr. Stratts said.

Risk managers should also continue to provide as much information as they can about their risks and how they protect against them, even if the market is in a downward cycle, Mr. Marchitello said. Buyers are sometimes less likely to provide information during good market conditions, but underwriters are looking

for solid information on everything, including potential threats to their property from surrounding businesses, observers say.

Underwriters are also getting more diligent about the research and underwriting of particular risks, observers note. Mike Benishek, risk manager for Palmetto, Fla.-based Pacific Tomato Growers, said his underwriters are asking for very specific data about the petroleum storage tanks owned by his company. "They're making me jump through hoops to get coverage and, basically, for not a whole heck of a lot of premium," he said.

Reinsurance: Rates softening a bit

Continued from page 10

small price reductions of about 5%, but the savings are being offset by the cost of the additional limits, keeping premium levels for reinsurers largely unchanged, Mr. Carroll said.

The largest cat programs, carrying limits of \$800 million to \$1 billion, are also using most of the market's capacity, a situation that generally keeps prices from softening much, he added.

Market conditions for some property pro-rata treaty and per-risk excess covers, meanwhile, are slightly more competitive, reinsurers suggest.

"The biggest risks are seeing rate decreases. The middle market, the smaller stuff, is holding up well," said John R. Berger, president and CEO of Chubb Re in Bernardsville, N.J.

Rate reductions for large property accounts vary widely but can range up to 20%, Mr. Berger reported.

Terry Van Gilder, CEO of Toa Reinsurance Co. of America in Morristown, N.J., said that some of Toa Re's "main street" property programs are seeing rate reductions where there has been a "significant run-up" in prices in previous renewals and where loss experience justifies it. Those rate decreases generally are under 10%, he said.

Timothy J. Carroll of General Electric Co.'s Employers Reinsurance Corp. notes that the largest cat programs, carrying limits of \$800 million to \$1 billion, are using most of the market's capacity, generally keeping prices from softening much.

"In all candor, (those programs) are probably a tad overpriced as they sit," Mr. Van Gilder said.

Reinsurers are seeing less business from some ceding insurers that have decided to cut back their cessions under property quota share treaties, ERC's Mr. Carroll said. These ceding companies have built up their surplus over the last year or two and are thus in a position to retain more of their profitable lines, he explained.

"We are seeing a little bit less demand for coverage there," Mr. Carroll said.

The state of the casualty market depends on what part of it you're in, reinsurers say.

On run-of-the-mill general liability and auto risks, last year's rapid rate increases have slowed and small hikes are the most reinsurers can hope for, Mr. Carroll said.

Mr. Van Gilder agreed, saying most of Toa Re's general liability business is renewing as expiring with no changes in terms and conditions.

For pro-rata casualty risks, "the biggest pressure is on ceding commissions," with many ceding insurers demanding a higher level of commission from reinsurers on ceded business rather than demanding rate reductions, Mr. Berger said. Ceding insurers that have gained financial strength as underlying casu-

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Reinsurance: Rates seen softening a bit at renewal

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ality prices have jumped are also retaining more of that business now, ceding less to the reinsurance market, he added.

Professional liability is a tougher market, though; ceding insurers and reinsurers are still taking big losses on directors and officers liability programs for financial institutions, mutual fund managers and others that have been caught up in accounting, trading and other controversies.

"All of these scandals and investigations are taking their toll," Mr. Van Gilder said. "I think we are in

for another year or two, maybe more, of (loss) development in various policy years."

As a result, D&O, errors and omissions coverage and public entity liability programs are all still renewing with rate increases—though not the doubling or tripling of prices that characterized previous renewals—and are the subject of "a huge amount of underwriting focus," Mr. Carroll said.

On D&O renewals, "it's a question of which ceding companies you want to be partners with," Mr. Van Gilder said. "My approach is to try to underwrite the underwriter

and the underwriter's book."

Reinsurers and intermediaries say that the market remains disciplined despite the huge inflow of capital since 2001 to Bermuda start-ups and other reinsurers and the gradual expansion of those reinsurers into a wider array of casualty lines.

"We're seeing a lot of underwriting discipline in the market now," Mr. Carroll said. "There's been so much (financial) pain, we aren't seeing anybody breaking ranks now."

"I was a little concerned that the new money in the business would

cause a little softening," Mr. Van Gilder said. But, "generally speaking, we find things are actually pretty stable," he said.

"I think the reductions that we saw really would kind of fall more into the warranted category," said Collins' Mr. Denzer.

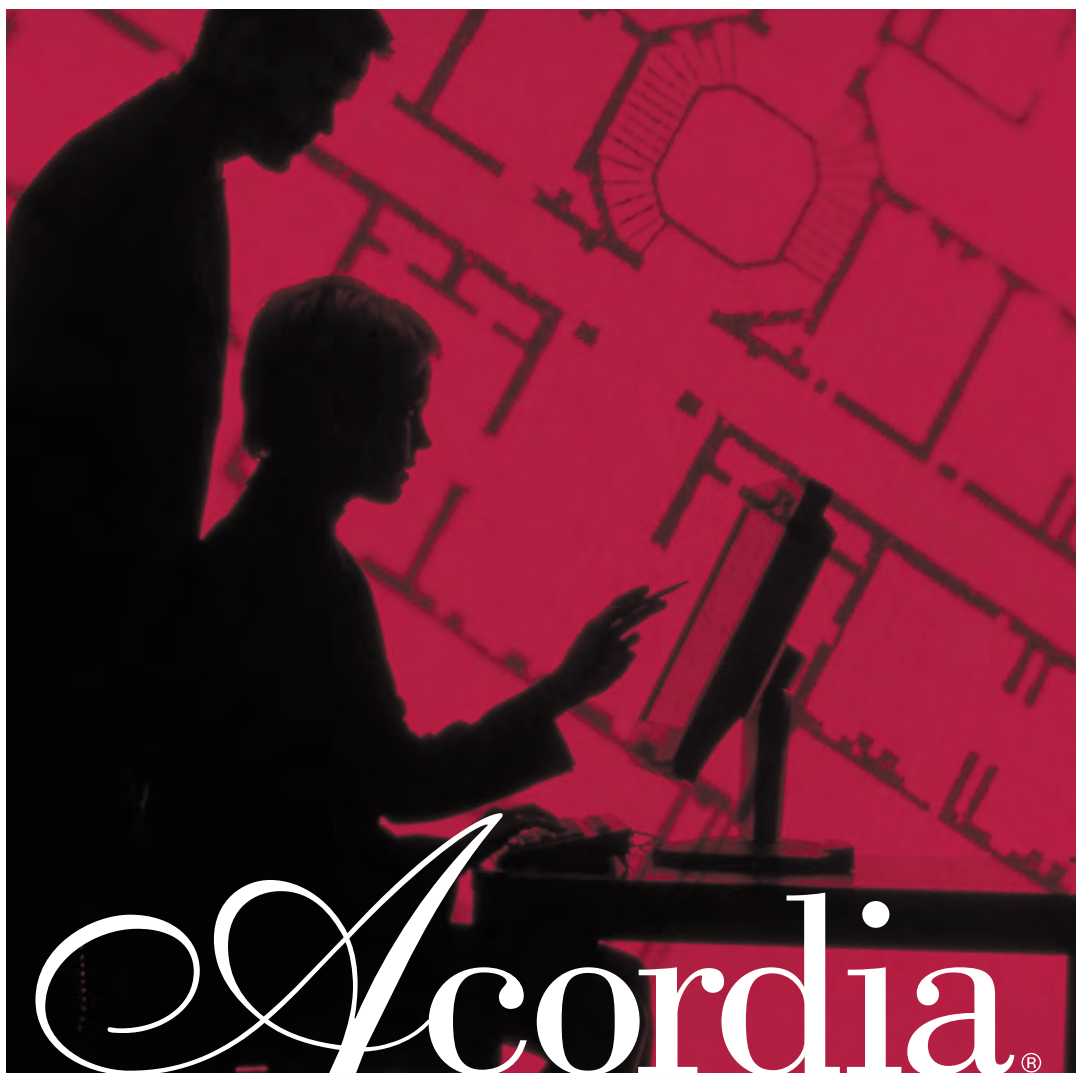
"I don't think I would necessarily become too alarmed that this is the start of a drastic downward movement," he said.

"I think that the market's pretty orderly," Mr. Denzer said, observing that while it is definitely changing, "I don't think it's changing unexpectedly."

"I still think it's the hard market," said Albert P. Amato, senior vp at Greenwich, Conn.-based C.L. Frates Reinsurance Intermediary Inc. "Is it getting softer? Yes," Mr. Amato said, but he noted that the market is still not at the point where reinsurers are willing to write the business at any price.

Mr. Berger warned, though, that a bad hurricane season or a large terrorism loss could alter the picture.

"There's this appearance of stability, but, as you know, things in our business can change pretty quickly," he said.



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D&O: Abundance of capacity drives down prices

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vestors that, unlike individual investors, have no interest in settling "for pennies on the dollar," Mr. Keogh said.

"When that happens, it will force underwriters, who I think are intoxicated, to sober up" and boost rates and tighten up terms and conditions, he said. "When that will happen is the unknown."

Some market executives predict it will happen before January renewals.

"We have a gut feeling that there's a distinct possibility that the market could become hard again

near the last quarter of this year," said Rick Warner, the Houston-based senior vp and national practice leader of the executive risk group for Summit Global Partners of Texas Inc.

"I think we're in a little bit of a unique window right now. Rate decreases don't make sense," said Jack Wagner, the Dallas-based CEO of Summit's Western Division.

For risk managers, the possibility of renewing early before the D&O market hardens is "probably a meaningful discussion to have with their broker," Mr. Wagner said.

Capacity abundant

Market executives agree that D&O capacity is abundant and growing.

For example, Mr. Ewing noted that "certain carriers wanted our business that we weren't able to accommodate this year." Caesars' coverage renewed Jan. 31.

But while insurer and broker executives agree that recent market entrants have boosted capacity, they do not agree on whether existing underwriters are beginning to make their full capacity available, thus expanding actual

capacity further.

Some executives estimated that advertised capacity worldwide has grown to as much as \$1.5 billion, with actual capacity ranging between \$700 million and \$1 billion.

Most executives estimated during January renewals that advertised worldwide capacity exceeded \$1 billion but that real capacity ranged between \$500 million and \$800 million.

But, many buyers are not seeking additional limits, noted Lou Ann Layton, managing director and national D&O practice leader for New

York-based Marsh Inc.

Others, however, are using their savings from rate decreases to purchase additional Side A limits, which serve as the ultimate protection against losses draining executives' personal wealth, Ms. Layton noted.

Side A directly covers executives' losses when their organizations cannot cover them because of corporate governance or statutory restrictions. Side B covers the corporate entity for the D&O losses for which it has reimbursed its executives. Side C covers the entity for the portion of a securities-related loss for which the organization is liable.

As some D&O insurers try to gain market share, the overabundance of capacity means they have to compete on price, market executives said.

But with only a limited number of insurers willing to write primary D&O limits, rate relief is more prevalent for excess coverage, they explained.

'I think we're in a little bit of a unique window right now. Rate decreases don't make sense.'

*Jack Wagner
Summit Global Partners
of Texas Inc.*

Regarding primary rates, Mr. Ewing said, "I was not as pleased as I was with the reduction we saw on excess layers."

Excess rates now range between 70% and 80% of the rate for the underlying coverage, down significantly from 85% to 90% last year, according to market executives.

For primary coverage, "it's kind of all over the board where you see rates going," said Tim O'Donnell, executive vp with the professional risk division of ACE USA in New York.

Before Jan. 1, underwriters were consistently differentiating among industry groups; now, they are differentiating among individual risks, he said.

There still is some differentiation among certain groups, however.

Fortune 1,000 companies are renewing at expiring rates or a few percentage points higher or lower, market executives agreed.

"It's a bit unpredictable in the larger-market-cap world and, frankly, a bit irrational," National Union's Mr. Keogh said.

Buyers at companies with less than \$1 billion of market capitalization are negotiating the best deals—commanding rate cuts of 5% to 15%, depending on the risk, market executives said.

Among financial service organizations, "virtually no one is getting relief," other than some small regional banks, said Ms. Layton of Marsh. But some risks are renewing at expiring rates, she said.

Other sectors that are not obtaining any rate relief are health care,

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D&O: Abundance of capacity drives down prices

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technology and energy, said Gary Dubois, chief underwriting officer for New York-based Liberty International Underwriters, a division of Liberty Mutual Insurance Co. of Boston.

Terms improving

Underwriters also are competing on terms and conditions, market executives agreed.

"All terms are negotiable, even those that weren't a year ago," Ms. Layton asserted. "I think clients at renewal are getting several en-

hancements they weren't getting a year ago."

Market executives agree that risk managers can negotiate significant improvements in their terms for severability, or the concept of covering losses for innocent executives but not those whose deliberate misdeeds created the problems that eventually led to a D&O liability loss.

Some underwriters now will cover the corporate entity as well as all executives who were not involved in submitting a D&O insurance application containing misleading or false statements that the underwrit-

er discovers after claimants have sued the policyholder.

Other underwriters, though, do not offer such full severability. Instead, they will refuse to cover the corporate entity if the wrongdoers included the policyholder's chairman, CEO or chief financial officer.

And the severability provisions offered by some insurers, such as National Union, are even more restrictive.

Their approach is to provide severability for Side A coverage only, which would leave the corporate entity without coverage for the loss-

es it shouldered in reimbursing its executives and the losses imputed directly to the entity.

Mr. Keogh characterized that approach as "a fair balance," because providing full severability still would result in a full-limits loss "due to the criminal behavior by somebody."

Other coverage enhancements that risk managers can expect include a return to wording in the fraud exclusion that bars coverage upon the "final adjudication" of the wrongdoers. Previously, insurers could more easily invoke the exclusion, because it barred coverage

when a fraudulent action was determined "in fact." Some 95% of securities claims never reach full adjudication, Mr. Keogh noted.

Insurers, however, will not budge on some terms and conditions for D&O coverage, market executives said.

Summit's Mr. Warner said insurers no longer will waive the policyholder's retention requirement when litigation over a claim is dismissed or successfully defended. "That's gone," he said.

And the underwriting process is as thorough as it has been in recent years, with underwriters often insisting on meeting their policyholders' top management, Ms. Layton said.

'I think clients at renewal are getting several enhancements they weren't getting a year ago.'

*Lou Ann Layton
Marsh Inc.*

Mr. Ewing agreed. Caesars' submission "had to be as in-depth as humanly possible."

Market executives disagreed over whether risk managers face better or worse terms for discovery and extended reporting period coverage.

Marsh's Ms. Layton said that underwriters now are willing to negotiate terms with policyholders, rather than impose unfavorable terms unilaterally.

Summit's Mr. Warner said premiums for that period now often amount to 200% of the original premium, though some risk managers can negotiate that to 125%. Recently, the premium had ranged from 75% to 100% of the original premium, he said.

"The interesting part for the rest of the year is whether supply and demand will drive the market or, more importantly, whether the litigation in the pipeline will override that," Liberty International's Mr. Dubois said.

Mr. Ewing, who recently completed a midyear review of Caesars' profile with its D&O insurers, stressed the importance of risk managers also keeping the corporate CEO and CFO apprised of market conditions and the coverage they and their board have.

"Otherwise, it could be a career-ending decision, especially if a claim goes bad," he said.

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E&O price hikes not as high as last year

By SALLY ROBERTS

Risk managers renewing their errors and omissions liability coverage this summer may not be seeing the same hefty rate increases they did last year, but double-digit increases remain the norm for most accounts, according to insurers and brokers.

Because the E&O market has largely gone through the transition from a soft market to a hard market with accounts being re-underwritten over the past couple of years, the market is more stable today, they say. But while some E&O lines

are seeing rate increases slightly above expiring rates, other lines remain incredibly tough, they note.

"The rate increases have slowed from what we saw a year ago, but we're still getting modest rate increases across the books," said Michael Smith, president-professional liability at New York-based National Union Fire Insurance Co. of Pittsburgh, Pa. He cited increases of about 10%, on average.

"On large national accounts three years ago, you were seeing increases that were in the triple digits, and you don't see that anymore,"

Mr. Smith said. "You still have increases, but because some of that work was done a couple of years ago, you don't have a need for that kind of massive increase."

"We're maintaining terms and conditions, for the most part, and we are achieving some rate (increases). Not a lot, but still some," said Clint Johnson, senior vp for professional risk at ACE USA in New York.

"I think there is more capacity available in this marketplace for insureds, so there are more options for them," he said. "So, from a buyers' and sellers' perspective, it's a pretty good marketplace" when

compared with last year, when there were fewer players in the market, rate increases were averaging 40% to 50% and some terms and conditions were hardening, Mr. Johnson said.

Although the market has stabilized, renewal terms still depend on the specific line of business and the experience of the individual account, brokers note. So while some business sectors—including law, insurance and certain technology areas—are seeing low double-digit increases on their professional liability renewals, others are having a more difficult time this renewal season.

For example, large banks "are really having an incredibly difficult time procuring E&O coverage at all," said Daniel Wadley, a Marsh Inc. managing director in New York who leads the broker's E&O placements. "If it's even available, it would not be unusual to see a retention of \$150 million of each and every claim. And you're likely to only be able to achieve approximately \$100 million of risk transfer over that significant of a retention," he said.

"You're seeing dozens of major banks whose E&O policies would be tapped by claims that they aided and abetted their clients—the borrowers and (companies) they brought public—in circumventing the securities code," explained Ann Longmore, senior vp of Willis Group Holdings Ltd.'s executive risk practice in New York.

"We're looking at billions of dollars in settlements so far and dozens more that are settlements that are still waiting to be made, and these are wiping out entire insurance programs," Ms. Longmore said.

In addition, the accountants professional liability group is "experiencing a fairly significant change in their marketplace with respect to pricing going up at a dramatic rate

as well as retentions," Mr. Wadley said. "There is concern from insurance carriers over the exposure base, so we have a contracted base of insurers that are willing to write the coverage in general for the larger firms and an even more contracted group of insurers that are willing to write the primary," he said.

Those seeking architects and engineers professional liability coverage are seeing rate increases in excess of 25%, Mr. Wadley noted. "There's been a flurry of activity in the claims arena," particularly with "fast track" stadiums, facilities designed to switch their primary uses within short periods of time, allowing such a facility to quickly convert, for example, from use as a hockey rink to a basketball court to a concert venue, he said. "There's a lot that goes into designing a stadium like this that has resulted in fairly significant claims activity for architects and engineers," he said.

Some media companies are also having a difficult time finding large capacity, Ms. Longmore noted. Because a major insurance player pulled back due to some significant claim activity, "it's becoming more and more difficult to structure some sizable risk transfer for some large global media companies," she said.

Despite the market timing and late trading scandals that plagued several mutual fund firms recently, those companies are experiencing a fairly standard renewal, according to Mr. Wadley.

"For the most part, rates and retentions have stabilized. While that may sound surprising, some of the issues that have impacted the industry have been going on for a period of time now, and most insureds have experienced restriction in coverage and adjustment in rates and retentions over the last 18 months or so," he said. Mr. Wadley noted that while most policyholders were hit with market-timing or late-trading exclusions last year, those that were not are facing the prospect of those exclusions this year.

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Workers comp market moderates

By ROBERTO CENICEROS

Pricing has moderated for workers compensation policies that renew at midyear, helping to end a trend that saw employers offsetting rising costs by raising their retentions.

Workers Comp Report

Offsetting price hikes by increasing retentions became a popular strategy over the past two years, as prices rose significantly. The move toward higher deductibles continued for policies that renewed in January.

But that has changed for policies renewing at midyear. With a slow-

ing in the rise of insurer loss costs, rate increases have also slowed and deductibles generally are remaining unchanged. And employers are reporting no trouble finding coverage.

"The marketplace is starting to moderate in that regard," said Tim Brady, managing director in New York for Marsh Inc.'s U.S. casualty practice. "Customers don't have to automatically assume much larger retentions in exchange for getting a moderating price increase. That differs from where we were at the first part of the year, when, to get a moderate price increase, potentially, you also increased your deductible."

Others agree, although they stress that many policies are now experience-rated, so rates can vary from average pricing.

See **WORKERS COMP**/page 24

Workers comp: Competition returning for some risks

Continued from page 22

"In January, we were still seeing increasing rates and larger retentions," said Marcia Hahn, senior vp for Arthur J. Gallagher & Co. in Itasca, Ill. "But now the market is improving."

Ms. Hahn said she has seen midyear renewal rates remain flat, with a few accounts even decreasing, though not substantially so. A few insurers are engaged in price competition, putting downward pressure on policy costs, she said, but overall, insurers are still careful about their underwriting and pricing. Meanwhile, large, loss-sensitive programs have fewer nationwide insurers to turn to, which counters much of the price competition, Ms. Hahn added.

Some price competition exists for large accounts with healthy retentions, good loss experience histories and work forces that are not con-

centrated in a few areas, said Ken Riegler, senior vp in New York for Ace Risk Management.

Yet insurers are not giving coverage away, and they are underwriting each account on its own merits, Mr. Riegler stressed. Overall, the market is reaching equilibrium. After price corrections over the last two years or so, price is catching up with losses, he said.

On average, policies that renew in July are seeing increases of 7% to 10%, Mr. Riegler said. Policies that include coverage for employees working or traveling overseas—particularly the Middle East—can expect to get more underwriting scrutiny and to pay more, he added.

Mr. Brady describes the current situation as "a market with some inconsistencies to it." Rate increases will vary, depending on individual insureds' loss histories and the rate increases they might have experi-

enced during past renewals, he added.

The midyear renewals he is familiar with have seen increases that are flat to 15%, Mr. Brady said.

California, though, is bucking that trend, with some employers seeing rate decreases. Because of reforms adopted in April, some insurers and brokers say that, on average, insureds have seen 10% decreases for July renewals (*BI*, June 7).

Nationwide, clients renewing in January saw increases in the high single digits, added Mike Betlinski, executive vp in Los Angeles for Aon Corp. In contrast, clients with midyear renewals, on average, are seeing low single-digit increases, he said.

In April, Lee Wood, human resources manager for The Pape Group in Eugene, Ore., wrangled a "little bit of a decrease" in pricing, she said. To do so, Ms. Wood can-

celed separate policies purchased from a variety of insurers in January for coverage in five states.

She consolidated the coverage under a contract obtained from Morristown, N.J.-based Crum & Forster Corp. Though she had been looking at price increases, she said, her volume business helped her win a price decrease. Ms. Wood said she also was helped because overall rates dropped between January and April.

In the first quarter, insurers were able to hold price increases, on average, to high single digits, said Bryan Melas, senior vp of commercial markets administration for Liberty Mutual Insurance Co. in Boston.

Still, that pricing allowed insurers to earn a margin over loss costs, said Mr. Melas, who stressed that he was describing the insurance industry and not just Liberty Mutual.

"The margins are not as large above the loss cost trend as they were, say, in the last year or two, but we still feel pretty well about them," Mr. Melas said.

A moderating of loss cost trends has helped, he added.

According to the Boca Raton, Fla.-based NCCI Holdings Inc., for example, the growth in workers compensation medical costs appears to be decelerating. Average medical costs per claim increased 9% during 2003, compared to rising 11% during 2004, an NCCI spokesman said.

"It wouldn't be surprising that, as loss trends start to mitigate somewhat, the need to increase the deductibles is also tempered," added Mr. Melas, who declined to discuss July renewal rates.

"In general, I would say deductibles are not rising at the same pace they have," he said.

Health care cost hikes continue at double-digit clip

By JOANNE WOJCIK

Although health care plan cost hikes are easing, employers still should brace next year for another round of double-digit rate increases.

The largest increases likely will be for health maintenance organizations and traditional indemnity plans, with point of service and preferred provider organizations imposing slightly lower hikes.

And, with underlying trend, or increase in the cost of health care, averaging about 14%, self-insured employers are not immune. They will either have to pay substantially more for stop-loss coverage or accept higher attachment points, consultants say.

But some cost-cutting efforts seem to be paying off: Employers that have incorporated elements of consumerism into their benefit

plans are experiencing below-average rate hikes.

"The good news is, the cost increases seem to have leveled out. The bad news is, they're still in the double digits," said Randall K. Abbott, a senior consultant and national leader for workforce benefit

HMO that the retirement system of- fers enrollees (*BI*, May 24).

Stop-loss rates go up

Soaring health care costs also have driven up self-insured employers' premiums for stop-loss insurance, consultants say.

"Our expectations are increases of between 15% and 25%, with averages around 20% for specific stop-loss," said Aon's Mr. Sharon.

"In the last several years, there has been a real increase in the real big-ticket claims, so that puts more pressure on the stop-loss component," said Rich Ostuw, a principal at Towers Perrin in Stamford, Conn. As a result, "typically, the stop-loss coverage premium hikes are greater than the plan increases."

To help mitigate their stop-loss rate hikes, most employers increase attachment points to reflect the underlying trend. For example, they may raise their \$100,000 specific stop-loss attachment point by \$15,000 if their costs are expected to climb 15%, Mr. Sharon said.

While most small and many mid-size employers purchase both specific and aggregate stop-loss, many large employers no longer buy the aggregate coverage because they feel it's not worth the money, consultants say.

"Having aggregate and specific is like wearing a belt and suspenders," said Mr. Abbott. Moreover, the chances of an employer reaching the typical 125% attachment point "are infinitesimal," he said.

Cost-sharing on the rise

To combat rising health care costs, many employers are increasing cost-sharing with employees and implementing disease management programs to attack chronic conditions, he said. In addition, some are moving toward consumer-driven approaches, such as providing education and financial incen-

tives to encourage employees to be better health care consumers, Mr. Abbott said.

In most cases, the financial incentives—typically ranging from \$50 to \$100 per employee in the form of a credit toward their premium contribution or additional funds in a health care savings account—are tied to participation in health risk assessments that usually

'The good news is, the cost increases seem to have leveled out. The bad news is, they're still in the double digits.'

*Randall K. Abbott
Watson Wyatt Worldwide*

form part of wellness programs, consultants say.

Employers have found that if they don't provide some incentive, only about 5% of their employees will complete a health risk assessment, and those who do usually are the healthiest employees, Mr. Sharon explained. But when an incentive is offered, 40% to 50% of employees will complete the assessment, he said.

Many employers that have adopted some type of consumer-driven approach that emphasizes cost-sharing are reaping the rewards this renewal season.

Indianapolis-based Marsh Supermarkets L.L.C., a grocery store chain that also owns and operates convenience stores, florist shops and a restaurant, saw its health care costs drop 5.2% in 2004, and it is projecting another 7% decline in 2005, according to Mark Kitchen, benefits manager. The company self-funds its health care benefits.

That represents a significant turnaround since 2003, when the company's health benefits costs surged 17.4% following rate hikes

See **HEALTH CARE**/next page

Health Care Report

strategies at Watson Wyatt Worldwide in Philadelphia.

Mr. Abbott said that his clients are seeing, for Jan. 1 renewals, increases averaging about 12% for PPO and POS plans, and around 14% to 15% for HMOs and traditional indemnity plans.

"The general feeling going into 2005 is, premium rates may be in below trend this year because the carriers have been doing reasonably well and the pressure is on the carriers to increase market share, so there tends to be more of a growth focus," observed Bill Sharon, a senior vp at Aon Consulting in Tampa, Fla.

Still, "any way you slice it—whether it's 14% or 12% or 10%—it's still pretty high. The way that we are going, this will be the sixth year of double-digit increases," Mr. Sharon said.

Some organizations, though, through aggressive cost-control efforts, are holding cost increases next year to just under double-digits. For example, the California Public Employees' Retirement System reported that 2005 premium increases will average 9.9%, compared with a 16.4% average increase in 2004.

CalPERS, the largest purchaser of health care services in California and one of the largest purchases in the nation, was able to reduce cost increases in part by eliminating 38 high-cost hospitals from a large



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July 5, 2004

Health care: Costs continue to climb

Continued from previous page of 24.5% in 2002, 8.3% in 2001 and 16.9% in 2000, he pointed out.

Marsh Supermarkets was able to turn this trend around by redesigning its benefit program to encourage employees to take more responsibility for their own health and health care decisions, Mr. Kitchen explained.

The redesign included increasing cost-sharing and providing wellness benefits, using centers for excellence for cardiac and cancer patients, offering a mobile mammogram center to make it easier for women to undergo screening. Marsh Supermarkets also offers a \$250 incentive to encourage spouses with access to other health benefits to leave its plan, he said.

Other consumer-driven plan models are also reporting lower trends for 2005.

The annual trend, or percentage increase in health care costs, for employers using Humana Inc.'s Smart-Suite products ranged from 5.9% to 6.2%, according to Jeff Bringardner, vp of commercial sales.

In fact, Humana is so confident in the cost-containment capabilities of its new consumer-driven health plans that it is capping second-year

rate increases at 9.9% for any employer that renews, he said.

The average 2004 renewal across Definity Health's high-deductible, health reimbursement account-based plans was up just 3.2%, and this lower trend is expected to continue into 2005, said a spokesman for Minneapolis-based Definity.

Wausau Benefits Inc.'s tiered network product has had cost trends of just 7%, according to Ray Caldwell, product director in Wausau, Wis.

"The tiered network product, which requires employees to make higher copayments to access higher-cost providers, has been a very successful product in terms of controlling cost trends," he said.

Indeed, these "high-performing employers"—those that have increased cost-sharing with employees, instituted disease management and wellness programs and have used quantitative analysis to evaluate cost drivers in their health plans—are seeing more moderate increases of between 7% and 8%, according to Mr. Abbott.

Conversely, those that haven't taken any steps to mitigate their rising health care costs could see rate increases as high as 17% to 19% going into 2005, he said.

Marine hull rates increasing; insurers competing on cargo

By PETA MILLER and SARAH VEYSEY

Marine hull rates generally are still rising, with most risks renewing 5% to 10% higher at midyear, though some shipowners are seeing flat renewals.

Cargo rates, meanwhile, are down slightly, observers say, as insurers increasingly compete for business.

But another marine line, coverage for shipyards, is seeing large rate increases and a withdrawal of capacity as underwriters grapple with large losses in that line.

Marine market sources say that hull rates overall are still rising at midyear.

"If you are renewing with the same underwriter, they will be looking for a rise of some sort," said Piers O'Hegarty, a broker with the marine division at Lloyd's of London brokerage Tyser & Co.

Alex Gibson, director of the hull and liability brokering team at Aon Ltd. in London, said that hull rates generally are going up by 5% to 7.5% over prior-year levels, though some accounts are renewing without an increase.

David Southwood, a marine bro-

ker at Heath Lambert Group P.L.C. in London, said that marine hull rate increases have averaged between 5% and 10% during the past year.

Simon Beale, divisional under-

writer at Amlin P.L.C.'s marine division, said hull rates have gone up by 10% over past year, while Paul Manders, chief operating officer at the London branch of Allianz Marine & Aviation in Hamburg, Germany, estimated average increases to be between 10% and 12.5%.

Marine Report

Despite the continued increases, growing competition in the marine hull market is putting downward pressure on rates, observers note.

George Trumbull, chairman and chief executive of New York Marine & General Insurance Co. Inc. in New York, said that European marine markets, including Lloyd's and London, have become more aggressive in pursuing business. As a result, NYMAGIC is writing 10% to

15% less business than a year ago because "we do not find rates to be that attractive now," he said.

"Looking to the future...there are many out there who still consider rates should be rising in the double-digit figures rather than the single digits," Mr. Gibson added.

In addition, new capacity from markets in the Far East and Eastern Europe has put further pressure on rates, according to Mr. Manders of the Allianz A.G. Holding unit.

Christopher Spratt, joint chief executive at Tyser, noted that while some London marine underwriters have pulled out of the market, a portion of that capacity has turned up elsewhere in London.

Marine hull war risk, meanwhile, "is something that underwriters still see as a good area to make money," said Marcus Baker, managing director in the marine practice of Marsh Ltd. in London.

Mr. Spratt said, though, that marine hull underwriters have concentrated too closely on war hull coverage since the Sept. 11, 2001, terrorist attacks in the United States, which has slowed insurers' rate recovery in the marine hull account.

The base rate for marine war hull

See MARINE/next page

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Marine: Hull rates still rising

Continued from previous page
coverage has fallen to 0.02%-0.025% of hull value from about 0.4% on reasonable fleets a year ago, according to Mr. O'Hegarty.

On the cargo side, Mr. Manders said shipowners are seeing rates that are around 4% lower than those of a year ago, but he describes the market as "responsible."

Mr. Spratt also said the cargo market is profitable but noted that there is some competition. As a result, he said, specialist "stock

through put" policies, which extend the coverage beyond transit to include some predistribution storage, can more easily be placed this year than last. The rate for the stock element of the coverage has reduced from 0.25% of cargo value 12 months ago to 0.15%, Mr. Spratt said.

In addition, marine market observers note that freight rates—the rates shipowners are paid for transporting cargo—have increased over the past year, as demand for ship-

ping has risen. As a result, shipowners are purchasing higher limits for their vessels.

Mr. O'Hegarty said he thinks insured hull values in many cases are 50% higher than a year ago, and Amlin's Mr. Beale is also seeing increased insured values but stresses that although underwriters are getting more money, they are more exposed.

Some, however, see shipowners retaining more risk. Mr. Manders has seen instances of shipowners

taking much larger aggregate deductibles for marine hull or placing 50% of their risk in the conventional markets and retaining the rest in a captive protected with excess-of-loss reinsurance.

Aon's Mr. Gibson, though, said he thinks buyers are not retaining more risk, as such moves don't make enough difference in the price of coverage.

Shipowners also are showing more interest in income protection coverages, such as insurance to cover delays in delivering products, said Nicolas Wilmot, senior vp of claims at Assuranceforeningen Gard of Arendal, Norway.

The toughest marine risk to place in the current market is shipyard liability, observers say.

"Building risks have had a calamitous two to three years," said Marsh's Mr. Baker, adding that many underwriters have pulled out of that line.

"We do not get involved in building risk to any great extent. We have been in the past, but we feel the rating is not adequate," said Mr. Beale of Amlin.

A broker who declined to be named said that, in some instances, poorly performing shipyards have seen rates treble and deductibles increase by 200% to 300%.

Buyers seeing some CGL rate cuts in stable market

By MICHAEL BRADFORD
and MEG FLETCHER

Commercial general liability insurance buyers are hearing one word a lot more often these days, and it has a nice ring to it after years of rate hikes.

"Stable" is a word many insurers and brokers are using to describe the current CGL market. While not as appealing to buyers as the phrase "significant decrease," the term indicates that rates at least are no longer soaring for most risks.

Industry sources do report some rate increases among CGL risks, but, overall, things are quieter in the marketplace. Those buyers who do experience rate hikes are not likely to see the big increases of past renewals.

And, some are getting rate reductions on their primary and excess liability coverages. As always, the trend does not necessarily apply to harder-to-insure risks such as pharmaceuticals, transportation and nursing homes; many of those exposures can expect to see rates con-

tinuing to rise at a healthy clip, sources said.

Casualty lines remain relatively stable, said Gary Thompson, senior vp of middle-market and specialty practices at Hartford Financial Services Group Inc. in Hartford, Conn. "We're not expecting the terrain to change much short term."

"It's natural that things would stabilize over time" in the primary CGL market, which has been rattled in recent years as several insurers closed up shop or stopped writing the coverage, said Charles H. Dangelo, president of AIG Global Risk Management Inc. in New York. "I would say it's more stable than in the past."

As for excess liability insurance, "I would characterize the market as relatively stable," said John Q. Doyle, president of AIG unit American Home Assurance Co. in New York. "Obviously, we are coming off a number of years of significant rate change and changes to terms."

Craig Simon, managing director at Willis Group Holdings Ltd. in New York, said it is "not surprising"

for a buyer to receive a 10% decrease in primary CGL costs. As for excess layers, "we're seeing even larger decreases," he said. "It really varies a lot, but it's over 10% sometimes."

General Liability Report

In addition, insurers are not seeking increased retentions or attachment points, though sources say that some buyers have requested them.

Mr. Simon did note, though, that many insurers remain inflexible on coverage terms as prices fall.

Buyers confirm trends

Risk managers are confirming that there are savings or modest increases in this year's CGL costs.

Bruce Birney, director of risk management for Forsythe Technology Inc., a consultant and equipment provider in Skokie, Ill., said his primary CGL costs dropped 10% at a recent renewal, while excess coverage was "almost flat, having nudged up very slightly—less than 1%."

Mr. Birney said he placed the coverages with different insurers from those that wrote the expiring policies.

David Hennes, director of risk management at The Toro Co. in Minneapolis, said a spring renewal of his excess coverage was "generally flat," with a "rate increase that was commensurate with our revenue increase."

Rates for primary coverages are being reduced more often than those for excess layers, observers said.

"We are definitely in a transitioning marketplace" with regard to primary rates, said Tim Brady, managing director with Marsh Inc. in New York. Until recently, rates had risen since the Sept. 11, 2001, terrorist attacks, he noted. "How high?" was the only question, he added.

Now, many companies are experiencing "modest decreases or flat renewals" of primary CGL coverage, with prices dipping around 5% in many cases or rising only around 10%, according to Mr. Brady.

Rates for excess liability layers are

following the same track, sources point out.

"It varies greatly by risk," said Robert Shine, New York-based executive vp-excess casualty in the specialties division at Zurich Financial Services Group. "Since January, average rates continue to be slightly up."

"We are looking to get, and are achieving, inflationary increases," said Mr. Doyle of American Home. Those hikes are justified by the security of the insurer's strong balance sheet, experience in the market and other "competitive advantages" that American Home believes it has established, he said.

Nadine Silva, vp-excess and special risks for Fireman's Fund Insurance Co. in Novato, Calif., said: "On the whole, renewal and new business pricing has stabilized, with perhaps some increases, depending primarily on the complexity of the risk or geographic locations. We have seen a few early warning signs of irrational competition arising, particularly in the Northeast and Southwest."

Marsh's clients with nonhazardous exposures generally are seeing excess casualty rates move slightly lower, with average decreases in June of around 1% to 2%, according to Ed McNenney, New York-based managing director.

Mr. McNenney said he has seen an increasing willingness by insurers to lower attachment points to the traditional \$1 million to \$5 million level. "The markets are demanding less underlying coverage," he said.

A difference at this year's renewals is that attachment points are being raised on large accounts only when buyers ask that they be pushed up, Mr. Doyle said.

At previous renewals, "that was a decision we were making," Mr. Doyle said of insurers. Now, attachment points are, for the most part, left alone, "except when clients are coming to us," he said.

Mr. Hennes of Toro said his attachment points were "pushed up two years ago pretty significantly" to \$2 million, and the company subsequently decided its risk appetite could handle that much exposure. At renewals since then, Toro has been content to leave the attachment points alone, he said.

In cases where rates do go up,

they aren't rising as sharply as they did in past renewals, according to Don Pickens, chief underwriting officer-national markets at Liberty Mutual Group Inc. in Boston. "We're still talking about rate levels increasing," he said, with many large accounts seeing "low double-digit" hikes on primary and excess layers.

Those hikes, though, represent a "slower pace" of increases, he said.

The same is true for middle-market risks, said Joseph Gilles, president and chief operating officer of Wausau Insurance Cos. in Wausau, Wis. Similar price hikes for those accounts represent a stabilizing of the market, he said, referring to renewals a year ago as "more hectic."

A moderating of underlying costs that affect insurance pricing is helping stabilize CGL costs, according to Mr. Gilles. Medical inflation has slowed, courts are "a little more conservative" and the marketplace has lost some weaker players, he pointed out.

Many buyers are leaving deductibles alone or only slightly increasing the amount of coverage they buy, industry sources point out.

Mr. Birney of Forsythe Technology said he chose not to make changes to his deductibles or limits at his recent renewal.

"There have been years with lots of change, but this isn't one of them," said Hartford's Mr. Thompson. "We've observed both higher limits and coverage expansion in general liability, but everything in moderation."

Risk managers with renewals later in the year are not likely to see a drastic change in pricing, barring a catastrophe that could tighten the market, sources say.

"I think it should turn out pretty well," said Lauren M. Gregory, director of insurance and risk management at New York's Metropolitan Transportation Authority. The authority self-insures the first \$7 million of its CGL exposure, funds another \$50 million in a captive and buys excess insurance up to \$200 million.

Last year's renewal "turned out well, considering who we are and what we do," Ms. Gregory said. With few changes since then, "I'm not expecting much of a rate increase" at the upcoming fall renewal, she said.

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Mr. Cahen



Mr. Colosso



Mr. Baker



Mr. Snage

Agents/brokers:

Willis Group Holdings Ltd. has named **David Cahen** managing director of claims and loss control in its San Francisco office. Before joining Willis, Mr. Cahen was global claims manager with Levi Strauss & Co.

Chicago-based Aon Corp. has named **Kevin Junod** director of the health care practice for Aon Risk Services Americas' Philadelphia office. Before his promotion, Mr. Junod was director of business development.

Adrian Colosso has been named group managing director of London-based Heath Lambert Group P.L.C. Previously, Mr. Colosso was managing director-U.K. He will continue as head of broking.

Boston-based William Gallagher Associates has named **Jennifer Sharkey** senior vp in its management liability practice. Previously, Ms. Sharkey was New England regional practice leader for executive risk accounts for Willis.

Jerry L. Kielman has been named chief operating officer of the Dallas/Fort Worth region for Summit Global Partners Inc. Before joining the Dallas-based broker, Mr. Kielman was assistant vp of regional distribution for CNA Financial Corp.

Also at Summit Global Partners:

- **Gary H. Morris** has been named chief operating officer of the Boca Raton, Fla., office. Previously, he was vp/sales executive.

- **Bruce A. Baker** has been named chief operating officer of the Coral Gables, Fla., office. Previously, he was vp/sales executive.

John Nicholson has been named to the newly created position of managing director of U.K. regional operations for the corporate client practice of Marsh Inc. Before his promotion, Mr. Nicholson was Northern regional director.

Insurers:

Zurich London, a unit of Switzerland-based Zurich Financial Services Group, has appointed **Jane Hayes** head of corporate underwriting. Previously, Ms. Hayes was head of Zurich Global Energy London.

The Hartford Financial Services Group Inc. has named **Dana A. Drago** executive vp of field, sales and service for its property/casualty operations. Before joining the Hartford, Conn.-based insurer, Ms. Drago led strategy, marketing, training and communications for the small business and premier segment of Bank of America.

Venture Programs Inc., based in West Chester, Pa., has named

Louis R. Snage Jr. senior vp for the Southeast and South Central re-

gions. Before joining Venture, Mr. Snage, who will be based in Atlanta, was vp of The St. Paul Insurance Co. in Atlanta.

Reinsurance:

Hamilton, Bermuda-based Platinum Underwriters Holdings Ltd. has named **Joseph F. Fisher** executive vp and chief financial officer. Previously, Mr. Fisher was chief financial officer of the U.S. unit of Royal & SunAlliance Insurance Group P.L.C.

Surplus lines:

The Access Group, an Atlanta-based managing general agency, has named **Jerry Morris** senior vp

of claims. Previously, Mr. Morris was director of claims at Hartford Omni Insurance Co.

Also at Access, **Don Johnson** has been appointed controller. Before joining Access, Mr. Johnson was finance division manager for the Southeast region for Allstate Insurance Co.

Other providers:

New York-based consulting firm Deloitte & Touche L.L.P. has appointed **William O'Connell** the national leader of the firm's dispute consulting and forensic investigations practice. Before his promotion, Mr. O'Connell was the national product line leader. He will be based in Dallas.

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Commentary

Watching the Fed, with interest

Having, like most Americans, spent the last several months on tenterhooks, searching desperately for any clues to what might be in store, it was a relief to finally get the answer last Wednesday.

A quarter point.

Now I can go on with my summer.

Unless you've been living in some sort of cash-free, barter-based utopian commune somewhere, you know I'm referring to the Federal Reserve's decision to raise its federal funds rate a quarter point last week. The hike, to 1.25%, was the first Fed increase in four years. It did move rates off of a 46-year low, which gives it a sort of historic dimension, but the extent of the media coverage kind of took me by surprise.

I guess it wasn't so much the coverage of the Fed's action itself that took me aback, but rather all the analysis and coverage that preceded it. For months.

Analysts sifted through comments of Fed governors like Kremlinologists, looking between the lines of speeches to local manufacturing groups for some hint of their intent. And story after story was published or broadcast detailing those analysts' predictions.

The Fed did its part as well. Trying to prevent any market surprises, Fed officials have made it pretty clear for the past few months that they were planning to hike rates. But how fast? And, ultimately, to what level?

It's all important stuff, of course, but I still think the extent of the obsession with the Fed's pronouncement has been pretty amazing. Sure, the fed funds rate affects us in all kinds of ways—credit card interest, mortgage rates, corporate borrowing and bond rates among them. And in the insurance market, the change is bound to have an impact on insurers' investment returns and, ultimately, could affect the price of coverage.

But have we really turned into a nation of Fed watchers?

What could be driving this sudden nationwide obsession with economics? Well, I guess they do call economics "the sweet science." Oh, sorry. That's boxing. Economics is "the dismal science."

I'm sure election-year politics played into the attention the Fed received, though no one seems to know for sure what the impact might be in the political arena.

And, if they're going to fill all the hours in the broadcast day, all those cable news channels have an unending appetite for subjects that

lend themselves to breathless speculation.

No doubt making educated guesses on which way the Fed will move is critical for insurers and others making major investment decisions. And as average Americans have become more involved in the markets through self-directed retirement plans and the like, we've all become more market conscious, even if we're not moving millions between equities and fixed income or up to our elbows in currency arbitrage.

The impact of low interest rates was obvious in the mortgage market, car purchases and the consumer spending that helped keep the economy churning. But

with inflation starting to rear its ugly head, the Fed has decided that, like all good things, this party must end. Now the Fed's task is to achieve "sustainable growth" in our economy: not too fast, not too slow. The object is reining in inflation without snuffing economic growth. Which makes the new game for the analysts and Fed

watchers determining just how far the Fed might raise rates, and how quickly it will do so. I'm sure we'll all see plenty of discussion along those lines in the months ahead.

Will they take a "measured" approach to raising rates or take the economy "cold turkey," hiking rates in one big step to what the Fed governors consider the necessary level? Will the cycle of increases continue through this year? This year and next? You can pretty much find an opinion covering each of those possibilities.

For now, though, the only sure thing is that it's time to say goodbye to the 1% fed funds rate. Since it had been more than four decades since it last reached that level, it's entirely possible many of us won't see it again. Maybe that played into our Fed fixation, too. The dismal science becomes even more so when it starts forcing us to confront mortality.

Ultimately, it was nice of the Fed to get this first hike out of the way before a long Independence Day weekend, allowing us all to focus on parades and barbecues rather than the text of Alan Greenspan's latest speech to the Cincinnati Chamber of Commerce.

With the Fed's decision behind us, now we can all move on to more important things. Like what's the Fed going to do next?

Senior Editor Rodd Zolkos can be contacted at rzolkos@businessinsurance.com.



Rodd Zolkos

Comings & Goings-Buyers

Jack E. Landers has been appointed vp of human resources for Verity Inc., a capital management software provider based in Sunnyvale, Calif.

In his new position, Mr. Landers is responsible for the entire human resource department, including employee benefits, compensation, recruitment, employee communications, development and retention.

He reports to Steve R. Springsteel, senior vp of finance and administration and chief financial officer.

Before joining the company, Mr. Landers was vp of human resources at Mountain View, Calif.-based Legato Systems Inc.

Mr. Landers earned a bachelor of arts degree in English literature and a master of arts degree in teaching with a concentration in English from Boston College in Boston.

Bonnie Henderson has been appointed director of risk management of the Walt Disney Co.'s entertainment and production unit in

Glendale, Calif.

Ms. Henderson is responsible for purchasing coverage for Disney's production, media and studio business segments. She reports to Steve Wilder, vp of risk management for Walt Disney Co.

She replaces **Tanya Karn**, who left the company in January.

Before joining Disney, Ms. Henderson served as executive underwriter for Fireman's Fund Insurance Co.'s entertainment division in Universal City, Calif.

Lynn McKee has been promoted to executive vp of human resources for ARAMARK Corp., a food and facilities management services provider based in Philadelphia.

Ms. McKee will oversee all global human resource issues, including employee benefits and relations, recruiting and labor.

She replaced **Brian Mulvaney**, who assumed the position of executive vp of administration in January but has recently retired.

Prior to her promotion, Ms. McKee served as ARAMARK's senior vp of human resources.

Ms. McKee earned a bachelor of science degree in business administration from St. Joseph's University in Philadelphia and a master's degree in business administration from Drexel University in Philadelphia.

Mark J. Scott has joined Dresser Inc., a Dallas-based manufacturer of highly engineered equipment for the power systems and energy industry, as senior vp of human resources.

Mr. Scott is responsible for all global human resources, which encompasses employee benefits, compensation, recruitment and strategic development of the organization.

He replaces **James F. Riegler**, who left the company. Prior to joining the company, Mr. Scott held a dual position as vp of human resources for industrial conglomerate Saint-Gobain Corp., based in Paris, and its subsidiary, CertainTeed Corp., based in Valley Forge, Pa.

He earned a bachelor of arts degree in liberal arts from Marquette University in Milwaukee and a juris doctorate degree from The John Marshall Law School in Chicago.

We'd like to report on staff changes in your risk management, safety and employee benefits departments. Contact Carrie A. Brittain, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; telephone: 312-649-5313; fax: 312-649-7801; e-mail: cbrittain@businessinsurance.com.



Mr. Scott

Directory deadline set for July 23 for 401(k) plan administrators

Business Insurance will publish its online Directory of 401(k) Plan Administrators in conjunction with the Aug. 30 issue. The issue will include a chart of the leading 401(k) plan administrators and a Benefits Management Take-Out section on retiree benefits.

The directory is published as an editorial service; there is no charge to be included.

The online directory will be available to *BI* subscribers on www.businessinsurance.com and will be included in the 2004/2005 Market Sourcebook, a special printed compilation of all of *BI*'s directories and rankings, which will be published in December.

To be listed in the directory, a

company must provide 401(k) plan administration services such as enrollment recordkeeping, daily maintenance of participants' accounts and handling of account activity. Plan administration services must be available on an unbundled basis.

If your company meets the requirements and has not received a questionnaire, please request one immediately by calling Kevin P. Edison at 312-649-5279.

Copies of the questionnaire also may be printed from the directories area of www.businessinsurance.com.

Completed questionnaires must be submitted by the extended deadline of July 23.

Business Resources

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International

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Aussies reject national comp system

By ELIZABETH FRY

SYDNEY, Australia—Hopes that large employers would soon have access to a national workers compensation system have been dashed by a federal government decision that private-sector workers compensation arrangements will remain state-based.

The decision frustrates many employers that have operations in more than one of the country's eight states and territories and must run separate compensation programs in each state.

Major differences exist among the state-based plans in terms of coverage, benefits and self-insurance obligations, and this has created a huge compliance and cost burden for national employers, according to Australia's Productivity Commission, a government advisory board.

The commission conducted a

yearlong inquiry into workers compensation arrangements and national occupational health and safety (*BI*, August 18, 2003), releasing its final report June 24.

In its report, the commission urged the federal government to encourage more companies to join the existing national self-insured plan, known as Comcare, subject to their meeting Comcare's prudential, claims management, health and safety requirements.

Currently, though, relatively few companies are eligible to join. Membership in Comcare is restricted to government agencies; former government agencies that have been privatized, such as Melbourne-based Telstra Corp., the country's largest telecommunications carrier; and the national competitors of those former agencies, such as North Sydney-based SingTel Optus Pty. Ltd., the country's second-biggest telecommunications carrier.

The commission further recommended that the federal government create an alternative self-insurance plan for private-sector employers operating nationally that are not now eligible to participate in Comcare. And in the longer term, the commission advocated the establishment of a national premium-paying plan that would be competitively underwritten by private insurers.

But Australia's Treasurer, Peter Costello, and Minister for Employment and Workplace Relations, Kevin Andrews, rejected those Productivity Commission recommendations, saying that the shift of large companies that operate nationally to a federal workers compensation plan would leave the small nonnational businesses to support the state-based plans, which have considerably higher premiums.

Part of the problem with convert-

ing Australia's workers compensation system to a national plan is the financial state of many of the state funds, observers say. For example, three state government plans—those in New South Wales, South Australia and Victoria—are in deficit, and though Queensland's plan currently is in the black, it would lack enough net assets to meet federal regulatory standards should large companies transfer to a national plan.

While the government rejected the commissions' recommendations to develop an alternative national workers compensation plan to operate in parallel with existing state plans, it announced moves to promote a greater alignment of the state plans with the current federal plan.

The government will create a new advisory body, the Australian Safety & Compensation Council, to

See **AUSTRALIA**/next page

World Updates

Financial conversions for names delayed

A proposal that would give individual investors at Lloyd's who are converting to limited liability partnerships the same tax treatment as other limited liability businesses is taking longer than hoped to be approved by the U.K. government, according to the Assn. of Lloyd's Members. Before April, unlike other sole traders in the United Kingdom, names who sought to transfer business to a company in order to convert to limited liability underwriting were not able to carry forward income tax losses or defer capital gains tax. This stopped many names from converting to a limited liability structure.

U.K. to restructure export credit insurer

The U.K. government has unveiled plans to restructure its export credit insurer to improve the insurer's efficiency and reduce premiums. Last week, Trade and Industry Secretary Patricia Hewitt announced a program to establish a fund to support the Export Credit Guarantees Department, which would eliminate the need for an explicit government guarantee. The so-called "Trading Fund" would be divided into a new business account, which would be capitalized at £1.8 billion (\$3.27 billion) to support recent liabilities and future business; and a realizations account, which would isolate reserves for past liabilities.

Kiln's property capacity nearly depleted

Kiln P.L.C. said its Lloyd's of London syndicate has exhausted almost all of its property capacity of £260 million (\$474.6 million) for 2004 because of higher-than-expected rates. Kiln syndicate 510 is close to achieving its 2004 business goals for property lines, will not be taking on any new business and will be monitoring renewals, said Robert Chase, director of underwriting at Kiln. Once Lloyd's syndicates have allocated capacity to a business line, they must obtain approval from the market's Franchise Board to revise their allocations.

FM Global to offer cargo cover in London

FM Insurance Co. Ltd. has opened a marine cargo unit in London to offer coverage to U.K. and continental European companies. The Windsor, England-based insurer said the office will serve existing clients and customers of its parent, Johnston, R.I.-based Factory Mutual Insurance Co.—which does business as FM Global—and other FM Global units.



PHOTO: EPA

Employers in Shanghai, China, such as this bicycle manufacturer, must provide coverage for work-related illnesses and injuries.

Shanghai complies with new comp laws

SHANGHAI, China—New workers compensation regulations in Shanghai, China, require employers to fund coverage that will cover workers' injuries.

The regulations were promulgated by the Shanghai Municipal Labor and Social Security Bureau. They took effect July 1 and are retroactive to Jan. 1, bringing the city into compliance with nationwide occupational injury regulations that were passed in 2003 and put in force at the beginning of this year.

Under the new rules, employers in Shanghai must pay 0.5% to 3% of workers' monthly wages as premiums for the coverage, which is provided by a government-run compensation fund. Employees do not contribute to the cost of the insurance.

The coverage applies not only to workplace injuries, but also to those that happen during business trips or during commutes, among other situations. Occupational diseases also are covered

under the mandatory insurance. Full-time and part-time workers, as well as contract employees, are covered under the program.

Workers off the job because of an injury will be able to claim compensation equal to their monthly salary under the new rule.

The regulation is the latest step in the local government's push to create a system to better care for workers.

Adding the workers comp requirement "will form a complete social security net composed of pension, medical, employment, pregnancy and industrial injury benefits," available to residents, according to a statement released by the Shanghai Municipal Government.

Migrant workers, which total nearly 5 million in Shanghai, are expected to be big beneficiaries of the new regulation. Many of those workers are employed in low-wage jobs that generally do not emphasize workplace safety.

—By Michael Bradford

ALARM 13th Annual Conference

Worker absences presenting concerns for U.K. employers

By SARAH VEYSEY

MANCHESTER, England—Risk managers have a real interest in managing and reducing absences from work-related illness, says Claire Howarth, employee relations and equality manager at the Hertfordshire County Council.

Ms. Howarth pointed out that the London-based Confederation of British Industry recently estimated that work-related absences cost British business about £11 billion (\$20.08 billion) a year.

But although the immediate risk posed to local authorities by high absence rates is this direct cost, "it is not the one you should focus on exclusively," she said.

In addition to reducing direct costs, lowering absenteeism can also help limit indirect costs and reduce staff turnover, among other things, she told attendees at the recent Assn. of Local Authority Risk Managers conference in Manchester, England.

High rates of work-related illness may indicate that health and safety standards within a local authority are not high enough, Ms. Howarth noted. High levels of work-related sickness hurt productivity, and this could mean that, in some cases, local authorities are leaving vulnerable people at risk, she noted.

Risk managers must also be mindful of discrimination law when managing sickness absence, Ms. Howarth pointed out. If risk managers run afoul of this legislation, they may find "the sky's the limit in terms of claims."

While the concept of "duvet days," whereby an employee may stay away from work if he or she has a hangover, for example, is a useful tool in encouraging workers to be more honest about their absences, it can also create a certain amount of disruption, if, for exam-



Continued coverage on page 32

ple, workers must be reassigned to cover the absent employee's duties, noted Ms. Howarth.

Ms. Howarth also discussed policies recently instituted by some employers whereby an employee is not paid for the first three days of any sickness absence or whereby staff are given extra holidays if they do not take their full sick-leave entitlement.

While these policies may well be shown to reduce sickness absence, they may also have unwanted side effects, she said.

For example, Ms. Howarth noted, See **ABSENCE**/page 31

Australia: National comp system rejected

Continued from previous page
develop policies and strategies on workers compensation and occupational health and safety programs for the Workplace Relations Ministers' Council, a congress of federal, state and territory ministers responsible for workplace relations matters in their respective jurisdictions that typically meets twice a year.

Brad Geer, the president of the Assn. of Risk & Insurance Managers of Australasia Ltd., expressed disappointment at the dashed expectations of reform.

The cost of complying with up to eight different managerial and legislative systems is expensive and leads to inconsistencies in benefits,

Mr. Geer said. "If we could operate under one structure, all staff would get the same level of cover, no matter where they were employed," he said.

The current system is inherently complex and expensive, agreed Ken Gaunt, risk manager of Sydney-based transportation giant Toll Holdings. "Companies are faced with different overheads, government fees (and) bank guarantees and cope with a myriad of different legislation on health and safety, claims management and rehabilitation," he said.

One risk manager of a Melbourne-based private transportation company who asked not to be

identified said, "It's not just that dealing with the various state plans adds layers of administration costs. Pricing is unique to each state plan and is often not reflective of the risks carried by the employer. And there are state differences in the very definition of wages."

Nonetheless, Mr. Gaunt said he believes the government's agreement with the commission's suggestion that self-insured companies in competition with federal operations be encouraged to join Comcare is positive; the government, he said, has been reluctant to grant these licenses in the past. He noted, though, that even if more companies were to join Comcare, the ef-

fect on the national plan would be marginal because the percentage of employees involved would be relatively small.

Graeme Burton, a principal with the Sydney-based consultant Workers Compensation & Risk Management Pty. Ltd., said the high exit fees attached to state plans would make it very hard for companies to leave even if they could transfer to a national plan. Those exit fees, which are legislatively mandated, are calculated by the various workers compensation authorities ostensibly to cover the cost of dealing with existing claims and the tail.

Mr. Burton said he also doubts

that an alternative national plan would ever be established; that's because federal regulations require insurers to hold one dollar of shareholders' funds for every dollar of premium written in workers compensation plans, and national workers compensation premiums have reached \$10 billion Australian (\$7.0 billion). "Three years ago, the federal government tried to privatize Comcare, but they couldn't find an insurer," he noted.

The federal government did agree with the commission's recommendation that those firms that are currently eligible to self-insure under Comcare also be allowed to operate under a single set of national occupational health and safety rules; this is one of the tasks to be undertaken by the new Australian Safety & Compensation Council.

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LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re
Petition of Gareth Hughes
and Anthony Joaquin, as Joint
Provisional Liquidators of
the Bermuda Fire & Marine
Insurance Company Limited,
Debtor in Foreign Proceedings.

In Proceedings Under
Section 304 of the
Bankruptcy Code
Case No.
93-B-46013 (PCB)

PLEASE TAKE NOTICE that on June 23, 2004, the Bankruptcy Court entered an order pursuant to 11 U.S.C. §§ 105(a) and 304(b) modifying the Bankruptcy Court's Permanent Injunction Order, dated January 7, 1997, in order to encompass within its terms, and thereby give full force and effect in the United States to, the Amending Scheme of Arrangement, dated April 15, 2004 between the Company and its respective Scheme Creditors, comprising General Scheme Creditors and Protected Scheme Creditors (as those terms are defined in the Amending Scheme).

CLIFFORD CHANCE US LLP
Madlyn Gleich Primoff • Amy E. Halpert
31 West 52nd Street, New York, New York 10019-6131
Telephone: (212) 878-8000, Fax: (212) 878-8375
Attorneys for Gareth Howard Hughes, Leon Anthony Joaquin
and John Christopher McKenna as the Joint Liquidators

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LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re
Petition of Gareth Howard Hughes and Martin Fishman, as
Joint Liquidators of BRADSTOCK LIMITED,
Debtor in a Foreign Proceeding.

In a Proceeding Under Section
304 of the Bankruptcy Code
Case No. 04-B-14311 (ALG)

NOTICE IS HEREBY GIVEN that, in connection with the Petition filed on June 22, 2004, pursuant to section 304 of the Bankruptcy Code (the "Petition"), by Gareth Howard Hughes and Martin Fishman, as Joint Liquidators of Bradstock Limited (the "Company"), the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") has issued an Order to Show Cause for Preliminary Injunction, dated June 24, 2004 (the "Order"), pursuant to which a hearing will be held on July 14, 2004 at 11:00 a.m. before the Honorable Allan L. Gropper in Room 617 of the Bankruptcy Court, One Bowling Green, New York, New York (the "Hearing"), to consider the Petitioners' Request for a Preliminary Injunction on the terms as substantially set forth below:

1. enjoining all persons and entities from: (a) seizing, repossessing, transferring, relinquishing or disposing of any property of the Company in the United States, or the proceeds of such property; (b) commencing or continuing any action or legal proceeding in connection with any claim (including, without limitation, arbitration, or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever), including by way of counterclaim, against the Company or any property in the United States that is involved in the foreign proceeding, or any proceeds thereof, and seeking discovery of any nature against the Company; and (c) enforcing any judicial, quasi-judicial, administrative or regulatory judgment, assessment or order or arbitration award obtained in connection with any claim against the Company, and commencing or continuing any act or action or legal proceeding in connection with any claim (including, without limitation, arbitration, or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever) or any counterclaim to create, perfect or enforce any lien, attachment, garnishment, setoff or other claim against the Company, or any of the Company's property in the United States, or any proceeds thereof;
2. requiring all persons and entities in possession, custody or control of the Company's property in the United States or the proceeds thereof, to turn over and account for such property to the Petitioners; and
3. awarding the Petitioners such other and further relief as this Court may deem just and proper.

All parties-in-interest opposed to the Petitioners' Request for a Preliminary Injunction must appear at the Hearing at the time and place set forth herein. All papers submitted for the purpose of opposing the Petitioners' Request for a Preliminary Injunction shall be filed with the Bankruptcy Court with a copy to Chambers of the Honorable Allan L. Gropper and served on Chadbourne & Parke LLP (Attn: Howard Seife, Esq.) so as to be received on or before July 12, 2004 at 12:00 Noon, New York time. The Order and supporting papers will be made available upon request at the offices of the Petitioners' United States counsel at the address below:

CHADBOURNE & PARKE LLP
Attorneys for the Petitioners • 30 Rockefeller Plaza • New York, New York 10112 • (212) 408-5100 • Attn: Howard Seife, Esq.

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re
Petition of Gareth Howard Hughes and Margaret Mills, as Joint
Liquidators of BRADSTOCK BLUNT & CRAWLEY LIMITED,
Debtor in a Foreign Proceeding.

In a Proceeding Under Section
304 of the Bankruptcy Code
Case No. 04-B-14312 (ALG)

NOTICE IS HEREBY GIVEN that, in connection with the Petition filed on June 22, 2004, pursuant to section 304 of the Bankruptcy Code (the "Petition"), by Gareth Howard Hughes and Margaret Mills as Joint Liquidators of Bradstock Blunt & Crawley Limited (the "Company"), the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") has issued an Order to Show Cause for Preliminary Injunction, dated June 24, 2004 (the "Order"), pursuant to which a hearing will be held on July 14, 2004 at 11:00 a.m. before the Honorable Allan L. Gropper in Room 617 of the Bankruptcy Court, One Bowling Green, New York, New York (the "Hearing"), to consider the Petitioners' Request for a Preliminary Injunction on the terms as substantially set forth below:

1. enjoining all persons and entities from seizing, repossessing, transferring, relinquishing or disposing of any property of the Company in the United States, or the proceeds of such property;
2. except to the extent set forth in paragraph 3 below, enjoining all persons and entities from commencing or continuing any action or legal proceeding in connection with any claims (including, without limitation, arbitration or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever), including by way of counterclaim or cross-claim against the Company, or any property in the United States that is involved in the foreign proceeding, or any proceeds thereof, and from seeking discovery of any nature against the Company;
3. permitting AAHRU (as defined in the Order) and Sedgwick (as defined in the Order) to continue the prosecution of their claims in the AAHRU Litigation against the Company in the Pennsylvania Court (as defined in the Order) for the sole purpose of liquidating the amount of their claims, if any, against the Company based on the following conditions, unless otherwise ordered by the High Court (as defined in the Order): (i) any judgment against the Company shall be treated as a general unsecured claim against the Company in the liquidation proceeding of the Company pending before the High Court in England; (ii) any costs awarded against the Company in connection with the AAHRU Litigation (as defined in the Order) shall be added to the amount of any judgment against the Company obtained in the AAHRU Litigation and any such costs shall be treated as a general unsecured claim against the Company and not as a cost or expense of the liquidation of the Company; and (iii) no action taken by the Petitioners, their successors, agents or representatives, or any of them or their counsel, in preparing for, prosecuting, litigating, defending or otherwise acting in furtherance of the AAHRU Litigation shall be deemed to give rise to any personal liability on behalf of the Petitioners, their successors, agents or representatives or any of them or their counsel;
4. enjoining all persons and entities (including, without limitation, AAHRU and Sedgwick) from enforcing any judicial, quasi-judicial, administrative or regulatory judgment, assessment or order or arbitration award obtained in connection with any claim (including, without limitation, arbitration or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever), including by way of counterclaim, to create, perfect or enforce any lien, setoff, garnishment, attachment or other claim against the Company, or any of the Company's property in the United States, or any proceeds thereof;
5. requiring all persons and entities in possession, custody or control of property in the United States, or the proceeds thereof, to turn over and account for such property or its proceeds to the Petitioners; and
6. awarding the Petitioners such other and further relief as this Court may deem just and proper.

All parties-in-interest opposed to the Petitioners' Request for a Preliminary Injunction must appear at the Hearing at the time and place set forth herein. All papers submitted for the purpose of opposing the Petitioners' Request for a Preliminary Injunction shall be filed with the Bankruptcy Court with a copy to Chambers of the Honorable Allan L. Gropper and served on Chadbourne & Parke LLP (Attn: Howard Seife, Esq.) so as to be received on or before July 12, 2004 at 12:00 Noon, New York time. The Order and supporting papers will be made available upon request at the offices of the Petitioners' United States counsel at the address below:

CHADBOURNE & PARKE LLP
Attorneys for the Petitioners • 30 Rockefeller Plaza • New York, New York 10112 • (212) 408-5100 • Attn: Howard Seife, Esq.

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Absence: Lost time may signal safety risks

Continued from page 29

these policies could affect low-income workers, who might be genuinely sick but believe they must come to work in order not to lose pay.

This could make their illnesses worse and reduce their productivity, she said.

Such workplace policies also may have the effect of making workers stay off the job longer than they might otherwise have done in order to qualify for the three-day threshold.

Ms. Howarth explained to attendees that Hertfordshire County Council recently instituted a new policy aimed at improving its sick-

ness absence rates.

One key element of the Hertfordshire council's policy is early intervention, Ms. Howarth said. Managers at the council are encouraged to communicate with workers who are sick during their absence.

Employees are also encouraged to raise issues with their managers and inform their managers when they are going to be off work.

This is important in keeping communications open, noted Ms. Howarth, pointing out that absences are frequently reported by the partner or roommate of the sick person rather than by the employee himself or herself, meaning that there is no direct contact between

employer and employee.

Once first-day contact has been made, it is then easier for employer and employee to maintain contact throughout the period of absence, she said.

One important element of the council's strategy is that there must be face-to-face contact between employer and employee within four weeks, she explained.

As soon as the council is informed that an employee is going to be off work for 28 days or more, a referral is made to the council's occupational health unit, Ms. Howarth said.

The employee's return to work must also be carefully planned, she

said, and may involve a phased return to full duties or modified duties.

When an employee returns to work after a sickness absence, he or she is given a return-to-work interview, said Ms. Howarth. This enables the employer and employee to discuss anything the employee may have missed and to raise any further concerns.

Underpinning the Hertfordshire County Council's strategy is the assumption that sickness absences are genuine, Ms. Howarth pointed out, and an absence is treated as not genuine only if there is very good reason to believe that the employee is faking.

ALARM meeting attracts over 300

MANCHESTER, England—The Assn. of Local Authority Risk Managers' 12th Annual Conference drew about 310 attendees from all over the world.

The theme of the conference was "Risk Management: Pushing Back the Frontiers." The event was held June 28-30 at the Manchester Conference Centre at the University of Manchester's Institute of Science and Technology in Manchester, England.

Next year's conference will be held July 4-6 at the same venue. For more information, visit the ALARM Web site, www.alarm-uk.com.

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LEGAL NOTICE

NOTICE OF PROCEDURE AND DEADLINE FOR FILING CLAIMS AGAINST HERITAGE WARRANTY MUTUAL INSURANCE RISK RETENTION GROUP, INC., A HAWAII CORPORATION - EIN # 47-0816604

J.P. Schmidt vs. Heritage Warranty Mutual Insurance Risk Retention Group, Inc., S.P. No. 02-1-000398 GWBC, First Circuit Court, State of Hawaii

Heritage Warranty Mutual Insurance Risk Retention Group, Inc., a Hawaii corporation with a Federal employer identification number 47-0816604 (hereinafter "Heritage Hawaii") is in liquidation proceedings. On September 17, 2002, the court in the above-entitled proceedings (hereinafter "Court") entered an order placing Heritage Hawaii into liquidation. Substantially, all of the assets and liabilities of Heritage Hawaii were transferred to the Liquidator to hold in trust for Heritage. The Honorable J.P. Schmidt was appointed as successor Liquidator of Heritage on February 1, 2003.

The Court has entered an order directing that all persons who wish to assert a claim against Heritage Hawaii **must** complete a Claim Response Form and return the form to the following address so that it is **received by August 31, 2004**:

Mr. Kerry M. Komatsubara
Special Deputy Liquidator of the Heritage Warranty Mutual Insurance Risk Retention Group, Inc., a Hawaii corporation
c/o Kobayashi, Sugita & Goda
999 Bishop Street, Ste. 2600
Honolulu, Hawaii 96813

Claim Response Forms and accompanying instructions have been mailed to all known potential creditors, including policyholders, member-insureds, and anyone else believed to hold a claim against the Heritage Hawaii. Additional copies may be obtained by writing to Mr. Kerry M. Komatsubara, Special Deputy Liquidator, at the above-stated address, or by calling (808) 539-8700 and asking for Bruce Nakamura, Esq., attorney for the Liquidator.

Any person (including member-insureds, policyholders, and other creditors holding claims of any kind or nature) who fails to complete and return a Claim Response Form, so that it is **received** by August 31, 2004, will not receive a distribution from the Heritage Hawaii, and claims that said person may have against the Heritage Hawaii shall be disallowed and forever barred.

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Commonwealth Insurance Company



Barry Y. M. Dang BEB



Thomas E. Wilson



Michael A. Baugh

Mr. Ronald G. Schwab, President and Chief Executive Officer of Commonwealth Insurance Company is pleased to announce the following appointments: **Barry Y. M. Dang**, to Senior Vice President, U.S. Industrial Risks Division; **Thomas E. Wilson**, to Senior Vice President, U.S. Commercial Risks Division; and **Michael A. Baugh** to Vice President, U.S. Commercial Risks Division.

Mr. Dang's career with Commonwealth spans over 19 years and includes positions in both the U.S. and Canadian Property Divisions. During the past four years Mr. Dang has been instrumental in the success and growth of the U.S. Division portfolio. Mr. Dang's extensive knowledge of the reinsurance market and ability to produce a superior product will continue to enhance the U.S. Industrial Risks Divisions' success.

Mr. Wilson has been with Commonwealth some 20 years spending his entire tenure with the U.S. Division. His commitment, contributions and leadership have directly

resulted in the success of this division. Mr. Wilson's vast experience, knowledge and leadership will continue to expand the U.S. Commercial Risks Divisions' portfolio.

Mr. Baugh joined the company 20 years ago as an underwriter and has held positions in both the U.S. and Canadian Divisions. Throughout his tenure, Mr. Baugh has dedicated himself to leadership, management and growth. Mr. Baugh will continue to enhance the success and growth of the company through his management and increased responsibility of the U.S. Commercial Risks Division.

Commonwealth Insurance Company commenced operations in 1950 and is a major writer of all classes of commercial property, casualty, oil, gas, petrochemical and marine insurance through brokers in Canada, United States and abroad. Commonwealth is a wholly owned subsidiary of Northbridge Financial Corporation which is traded on the TSX (NB).



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Scam: FBI probing surgical fraud scheme

Continued from page 1

advertisements at the California clinics. Actual surgeries often are performed, and the clinics then file inflated claims with the patients' insurers, investigators say.

Sweat gland removals, colonoscopies, endoscopies and nasal surgeries are among the most common procedures performed under the schemes. The FBI says these are generally significant surgeries, requiring anesthesia, and are performed at substantial markups. Procedures such as colonoscopies, for example, are normally billed at \$1,500 but in a scam might be filed as costing \$10,000, the bureau says.

In some cases, recruiters have brazenly conducted their recruitment on employer property, including distributing fliers to employees, after identifying someone working there.

The recruiters—also called marketers or cappers—coach recruits on how to describe the symptoms asso-

ciated with a procedure to their insurers, as well as how to handle claims, investigators say.

Recruiters might earn \$100 or \$200 per patient they attract, Mr. Martino said. Or, in some cases recruiters are paid depending on the procedures their recruits submit to, he said.

Oil companies, large transportation companies, major electronics manufacturers and other employers have all had employees recruited for the racket, Mr. Martino said.

"If I showed you the list of (company) names, you would be astounded at the Fortune 500s listed," he said.

CIGNA Corp.—which the FBI says is one of the most aggressive health insurers in identifying and fighting this form of fraud—has detected about 50 to 60 Southern California surgery centers involved in the "rent-a-patient" schemes, said Bruce Chambers, assistant vp-special investigations for CIGNA in Philadelphia.

The FBI, meanwhile, has identified 100 surgery centers for investigation, and it so far has raided several of them to collect records.

While the clinics performing the operations are located in Southern California, they have expanded their recruitment effort nationwide. Employees have been recruited in the 48 contiguous states, according to the FBI. The recruiters will pay their transportation expenses, in addition to other incentives.

The scams typically target employees of companies with fee-for-service or preferred provider organization plans with generous coverage. Then they bill the surgical procedures at out-of-network reimbursement levels and often inflate the cost of medical supplies.

The unnecessary procedures wouldn't survive the screening process for health maintenance organization plans, said a spokesman for Thousand Oaks, Calif.-based Blue Cross of California, which is work-

ing with investigators.

Recruiters also look for generous employee benefit plans covering large populations and low-wage immigrant employees with limited English skills. "It's pretty easy to recruit somebody by paying \$400 to \$500 for a medical procedure" when they earn \$9 per hour, Mr. Martino said. The recruiters seek employees who are looking for quick cash, not necessarily those with legitimate ailments.

In some cases, the surgery centers don't perform any procedure at all and submit false claims. But it is more typical that some surgery is performed to make the claim appear legitimate, investigators say.

CIGNA has seen cases where a surgery center performed one procedure, then billed the health insurer for several others, Mr. Chambers said.

CIGNA helped successfully prosecute participants in a similar scam in the mid-1990s, Mr. Chambers said. In that instance, the insurer discovered that employees from other states were traveling to California, where unscrupulous medical providers performed cosmetic surgeries, which health plans generally do not cover. The providers then falsely billed the insurer for medically necessary treatments.

Some of the same clinics participating in those scams have resurfaced in the current surgical center fraud, according to the FBI's Mr. Martino.

Mr. Chambers said CIGNA also has found "professional patients" participating in the racket who have had repeated unnecessary surgeries.

While software exists that can help insurers detect certain kinds of medical fraud, CIGNA was alerted to the current surgery center scheme from legitimate doctors,

employees and employers who learned of workers traveling for medical treatments they could receive close to home.

"It was our customers calling and saying 'We hear our employees are driving from Tucson to Los Angeles to have a colonoscopy done,'" Mr. Chambers said. "Once we caught on to what the scheme was, we could start looking at other surgery centers that we were receiving bills from and we did find things that way."

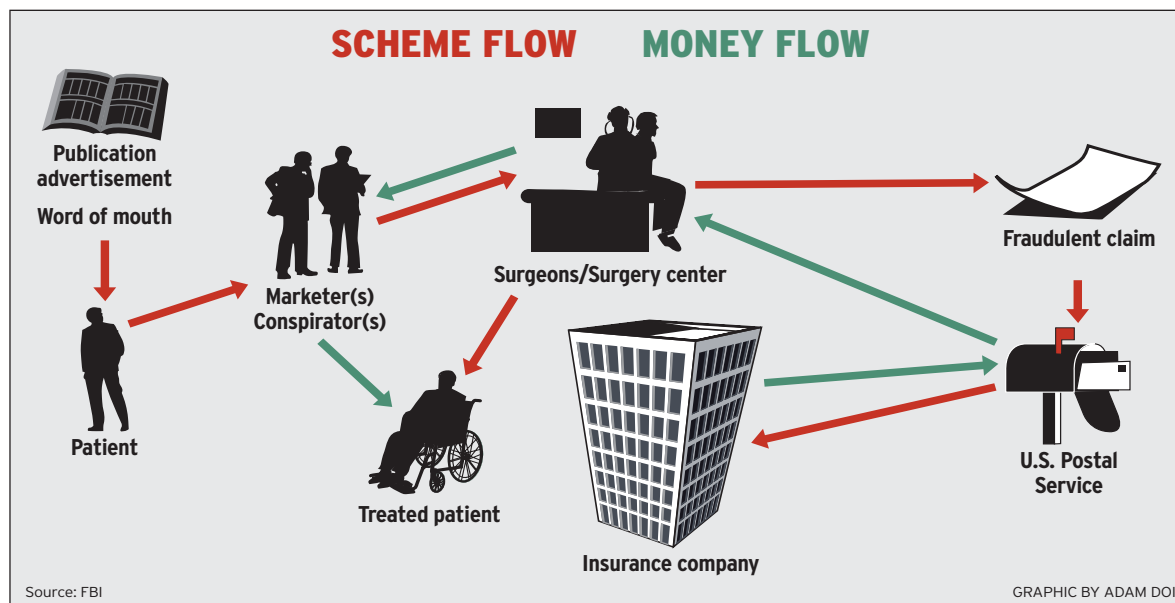
CIGNA said that it and other insurers it went to the FBI to help stop the practice. The FBI is now building a case and recently raided some of the surgery centers suspected in the fraud.

Some insurers were caught off guard "early on because they didn't know what they were getting hit with," Mr. Martino said. "Once they began looking for it, they were able to identify it. Some insurers took a very proactive stance and others became more conservative in their approach."

Insurers have been hampered in their effort to fight the fraud by state laws requiring them to pay a health claim within 30 to 45 days, which leaves little time for an investigation before the claim must be settled, Mr. Martino said.

Detection software can help uncover about 90% of fraudulent claims, added Cy King, vp of predictive products in Irvine, Calif., for Fair Isaac Corp., a maker of fraud management tools. But human informants also play a vital role in exposing it.

For employers, fraud currently is not among the top five cost drivers they most worry about, said Larry S. Boress, vp of the Midwest Business Group on Health, a Chicago-based purchasing group. Employers, however, do audit their health care claims to deter fraud. They also concern themselves with the overutilization of their health care benefits.



ALARM 13th Annual Conference

'Failure to educate' claims increasing

By SARAH VEYSEY

MANCHESTER, England—U.K. local education authorities face a growing risk of so-called "failure to educate" claims, particularly from individuals with learning disabilities, attorneys say.

Such suits generally claim that an individual's education suffered because educators failed to properly address certain learning needs, resulting, ultimately, in a reduction in the person's earning potential.

In many cases, these suits involve claimants with dyslexia, a learning disability that involves difficulty with reading and writing, said attorneys speaking at a session of the Assn. of Local Authority Risk Managers' recent conference in Manchester.

"Litigation in the education sphere is something of a growth industry," said Brian Goodwin, a partner at Berrymans Lace Mawer in Liverpool, England.

For example, a 2002 U.K. Court

of Appeal ruling in *Robinson vs. St. Helens Metropolitan Borough Council* determined that emotional and psychological damage resulting from a failure to ameliorate dyslexia is a personal injury, even though it falls short of psychiatric injury, Mr. Goodwin explained.

And awards for failure to address a student's dyslexia average £10,000 to £15,000 (\$18,000 to \$27,000) and can be higher, he noted.

But to succeed in failure to educate cases, claimants must prove that there was a breach of duty on the part of the local education authority, Mr. Goodwin explained. "It is not enough (for claimants) to say, 'I could have been educated better,'" he said. The claimant must prove, for example, that the local education authority failed to take appropriate action to deal with a condition such as dyslexia, or failed to respond to reports of educational psychiatrists in an appropriate manner.

One challenge for local education

authorities is that some claimants bring their cases many years after they have left the educational system, Mr. Goodwin told risk managers. "A lot of these claims are very old, which creates difficulties in investigating them," he said.

Schools may not have kept records that could prove helpful as risk managers works to mount their defenses, noted Roy Woollard, a solicitor at Berrymans Lace Mawer in Leeds, England, and a former school administrator.

It may also be difficult to get statements from the teachers involved with the education of the claimants, he said, particularly if they are now retired.

One good strategy a risk manager can use when seeking to defend against such a claim is to get a "generic picture" of the rest of the claimant's class. This may help to establish a defense if, for example, it can be shown that other members of the class were given access to extra support for dyslexia,

he said.

In a separate conference session on trends in litigation against local authorities, John Morrell, a partner at the law firm of Weightman Vizards in London, said that courts tend to rule for local authorities in failure to educate cases.

And while it is possible for claimants to bring actions several years after they have left school, they must prove that they sought medical advice on their conditions within a reasonable amount of time, Mr. Morrell noted.

To illustrate that point, he cited a case, *Adams vs. Bracknell Forest Borough Council*, which was decided last month by the House of Lords, the United Kingdom's highest court.

The House of Lords ruled that the claimant, who was 30 years old when he brought his claim, could have been expected to have been curious about what caused his problems before then. His claim was refused on these grounds.

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GASB: Benefit accounting rule

Continued from page 3

Many public entities have not finalized their projections, but early estimates indicate their retiree benefit liabilities are substantial.

The GASB rules will create a liability of about \$13 billion or \$14 billion for North Carolina, estimated Paul G. Sebo, operations manager of the state employees' health plan for North Carolina Retirement Systems, based in Raleigh, N.C. To fund the deficit, "the state Legislature would need to set aside \$1.2 billion a year, which would be difficult, because we're close to break-even as it is," he said.

Such a deficit would "threaten the solvency of the state," because there are no additional sources of revenue in North Carolina, such as a lottery, Mr. Sebo said. Also, previous attempts to raise taxes on alcohol and tobacco have been unsuccessful, he added. "The first line of defense may be noncompliance."

Some California school districts have retiree benefit liabilities in excess of \$100 million, some of which are funded but most of which are not, said Steve Gedestad, executive vp of Torrance, Calif.-based Keenan & Associates, which specializes in public entity consulting. Virtually every public entity has some retiree benefit liability, he said.

"Some districts have provided

lifetime health care for their retirees, and there is a substantial liability as a result of that commitment," he said. "They all have assessed what their current liabilities are; the challenge going forward is how to fund these liabilities."

For many public entities, the first step will be to introduce or increase retiree cost sharing, consultants say.

The first approach will look at "how to manage the costs, looking at some cost shifting," said Cathie Eitelberg, national director of public-sector practice for New York-based The Segal Co. "A plan that has higher levels of cost sharing is less likely to see the benefits reduced or eliminated. If it's a strictly employer-paid benefit, it's far more likely that change is going to be suggested or pushed than if it's already a cost-sharing arrangement."

When the Financial Accounting Standards Board made a similar change for the private sector in 1990, private employers began reducing or eliminating benefits.

"It would have happened sooner or later anyway, but it did open the eyes of more companies when they were required to do it from an accounting perspective," said Dale Yamamoto, health care actuary for Hewitt Associates Inc. based in Lincolnshire, Ill.

"Thinking about it from the per-

spective of government entities, who really have to watch their pennies, I believe that they will have the same reactions as private entities did when the FASB rules came into play," he said. "But unlike the FASB side, where it didn't really affect smaller employers who didn't have retiree health benefits, a lot of smaller municipalities do offer retiree benefits."

Some public-entity employers have already changed benefit plans.

Westchester County negotiated a reduction in the retiree health care benefits that will begin July 1, Mr. Pucillo said. "By the time GASB goes into effect, there should be some savings," he said.

Some California public entities also have begun to eliminate retiree coverage for their new employees, said Mr. Gedestad. "Over time, that will control their liability," he said.

Any attempts to terminate retiree benefits for current employees, though, would be difficult due to union opposition and morale and productivity concerns, consultants say. "I think the path will be a path of reduction rather than elimination," Ms. Eitelberg said.

Other cost-control methods are being explored, consultants say. Some local entities, for example, are looking at moving their employees into their state postemployment

benefit plans, Ms. Eitelberg said.

Public entities could also attempt to decrease their liabilities by putting caps on retiree benefits, Mr. Yamamoto said.

The entities should also coordinate with Medicare to see if they can shift some costs to the federal government now that it has passed legislation that will provide a prescription drug benefit for seniors, Mellon's Mr. Cavanaugh said.

They could also restrict eligibility for retiree benefits to employees who have reached a predetermined service threshold, he said.

While other nonpension benefits—such as life, dental and vision insurance—may be acted upon to a lesser extent as well, observers expect retiree health benefits to be the most affected because they are the most expensive.

The pace of the transition will be slower for the public entities than it was for private employers because, compared with private employers, public entities historically provide more and better benefit packages, have stronger union representation and pay a larger portion of employees' benefits, Ms. Eitelberg said.

Some governments, though, may be unable to institute any changes due to legal obstacles.

In North Carolina, the government is legally required to offer the same benefits to its retirees as it does to its active employees, Mr. Sebo said.

Public entities also may need to

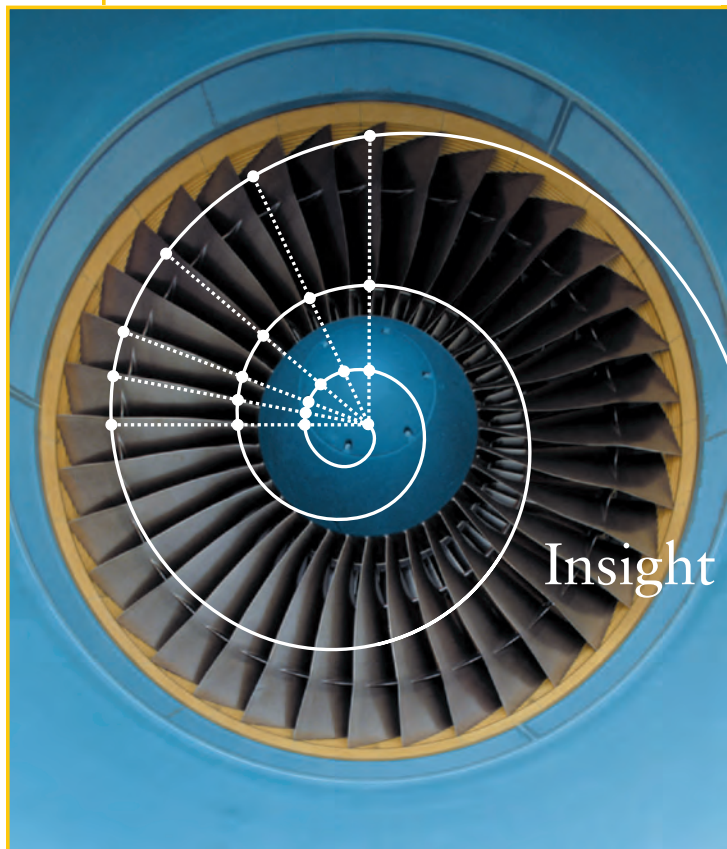
continue to offer full benefits to retain and attract key workers.

"Benefits are, frankly, what draws people to government jobs, not the money," Hewitt's Mr. Yamamoto said. "There's a security for the future in having those benefits."

The new public accounting rules will apply to the estimated one-third of state and local governments that offer postemployment benefits other than pensions, GASB's Mr. Johnson said. There are about 80,000 state, county and municipal governments in the country; they employ more than 15.6 million full-time equivalent workers, according to the latest U.S. Census Bureau statistics.

Public entities with total annual revenues of \$100 million or more must implement the rules in their first fiscal year after Dec. 15, 2006. Smaller entities will have additional time to make the change.

The GASB rules are technically voluntary, but observers say public entities will have to comply if they want to raise capital in the municipal bond market. If an entity's finances are audited and do not meet GASB requirements, it will get a "qualified opinion," which will hurt its bond rating, Ms. Eitelberg said. "Entities want to keep their finances solid so they can get the best bond rating possible, because that reduces the cost of borrowing," she said. "There are ramifications if you're not in compliance with GASB rules."



Insight and Analysis

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Kemper: Runoff change debated

Continued from page 1

sure would be useful when we are dealing with a company in supervised runoff," said Deirdre K. Manna, acting director of the Illinois Insurance Division in Springfield.

"We think (the proposed legislation) is very important and will greatly facilitate our runoff," said Mr. Conway.

The result of encouraging commutations would be to reduce Kemper's liabilities, thus increasing its ability to continue running off its liabilities to other policyholders.

S. 2404 is awaiting a final vote in the Illinois Senate before it can advance to the governor's desk. The Senate reconvenes Wednesday.

According to several experts, giving a state's top insurance regulator such final authority overrides the established legal principle of "voidable preference," which is found in both bankruptcy and liquidation laws.

That principle allows a liquidator to rescind preferential settlements made by a troubled insurer during specific time periods before it fails. Once recouped, the settlement payouts are added to an insolvent insurer's total assets and then equitable distributions can be made to all policyholders.

"Every state has some type of preferential avoidance statute," said Robert F. Craig, an insolvency attorney with offices in Omaha, Neb., and Atlanta. That view was echoed by a former insurance regulator, who asked not to be named.

Ms. Manna, however, said she believes that New York has a law similar to that proposed in Illinois.

"The voidable preference law be-

comes a real concern to management because it interferes with its ability to choose which policyholders it will pay first," said Mary Cannon Veed, an attorney with Arnstein & Lehr L.L.C. in Chicago. "Conversely, it is real protection for all policyholders, especially those who are not receiving preferential treatment, because it helps ensure that the company's assets will be fairly distributed."

"There are pros and cons" to such laws, said a risk manager for a Fortune 500 company that is a former Kemper policyholder. On one hand, she said, it enables Kemper to move forward with policy buybacks, because "no client will come to the table without the protection provided by the amendment."

Proceeding with buybacks reduces Kemper's liabilities and increases its surplus, which increases the resources it has to run off other policyholders' claims for a longer period of time, the risk manager said.

On the con side, she said, policyholders that negotiate early may be able to get more cents on the dollar for their claims than buyers that try to settle with an insolvent insurer later.

The former state insurance regulator, however, downplayed the importance of voidable preference statutes in liquidation proceedings. "Very few voidable preference cases are pursued, except against insiders," the former regulator said.

Kemper's ongoing runoff plans call for it to negotiate with about 70 "first-tier" policyholders, which it defines as those that have non-workers compensation net liabilities

of about \$2 million or more, according to Mr. Conway and Kemper documents. Kemper then plans to target about 60 "second-tier" policyholders that have non-workers compensation net liabilities above \$1 million but less than \$2 million, according to a Kemper document.

The company, however, will likely negotiate with anyone willing to consider a deal to commute their liabilities, Mr. Conway said.

The Illinois Insurance Guaranty Fund provides some protection for policyholders of insolvent insurers on certain types of risks, though insured businesses and affiliates deemed to have a combined net worth of \$25 million are exempt from coverage by the fund.

A maximum payment limit of \$300,000 applies to most covered claims submitted to the guaranty fund. The exception is workers compensation claims, for which there is no limit.

The Fortune 500 risk manager said this creates a dilemma: "You have guaranty fund protection (for policyholders) at the bottom of the ladder and preferential settlements for policyholders at the top of the ladder, but companies in the middle—where do they stand?"

Kemper's confidential runoff plan, which Illinois regulators approved last month, calls for "an orderly medium-term runoff," that is projected to last through 2006, according to a mid-June presentation by Michael Cuoto, Kemper's acting president, chief executive officer and chief financial officer. Kemper's financial condition is expected to then be reassessed.

He told the International Assn. of

Insurance Receivers that the company's combined balance sheet for the first quarter of 2004 showed \$4.6 billion in assets balancing an equal amount of liabilities and surplus.

According to its first-quarter 2004 financial statement, Kemper reported it had combined statutory surplus of \$163.8 million, which is about \$48.6 below its year-end 2003 surplus. Also, the company reported operating losses of about \$28 million in the first quarter of 2004.

The company's financial situation would be worse if Illinois regulators had not approved accounting rule changes in December 2003 that added about \$1 billion to the policyholder surplus of Lumbermens Mutual Casualty Co., Kemper's main operating unit (*BI*, March 15).

While those rule changes improved Kemper's financial position, producers and policyholders have concerns about other tactics that Kemper is using to improve its financial standing.

For example, Kemper is billing policyholders to recoup not only dividend payments that the mutual insurer made in prior years but also is recalculating loss adjustment expenses on cases up to 28 years old, according to a letter to Ms. Manna from Ken A. Crerar, president of the Washington-based Council of Insurance Agents & Brokers.

Kemper is ignoring requests by some policyholders to review excess collateral and is cutting staff and failing to establish an orderly communication process, he wrote.

Mr. Crerar's concerns stemmed from questions raised by CIAB member brokers with clients that are Kemper policyholders. Mr. Crerar has requested a meeting with Ms. Manna on the brokers' behalf.

In addition, observers have expressed concern about Illinois regu-

lators' response to Kemper's runoff.

The Illinois Insurance Department "seems to be taking a back-seat role" rather than "moving quickly and aggressively to protect policyholders," the risk manager said.

The CIAB's Mr. Crerar said in his letter that his members have dealt with insurance failures elsewhere, but that such situations "have generally been more open and businesslike."

Ms. Manna, the Illinois director, and Jack Messmore, chief deputy director, rebutted complaints about their oversight of the runoff.

The division "is confident about the way it is handling this complex project," Ms. Manna said. The division's "first priority and first goal" is "to protect policyholders and consumers."

The Illinois Insurance Division has a sufficient number of experienced staff to provide "extensive oversight" of Kemper's runoff operations, according to Mr. Messmore and Kemper's Mr. Conway.

While the regulators declined to discuss the specific concerns the council outlined in its letter, Mr. Messmore said it is Kemper's general position that such actions are permitted under its contracts.

The Insurance Division, however, "is willing to sit down and talk to anyone who is interested in Kemper," Ms. Manna said. "Communication is important."

"Kemper's solvent runoff is one of the largest companies for which this has been attempted," Mr. Messmore said.

"I think this is new ground for a company this size and in this much trouble," said Harold S. Horwich, a receivership attorney with Bingham McCutchen L.L.P. in Hartford, Conn.

NCR: Phasing out pension plan

Continued from page 1

first 3% of pay and 50% of employees' contributions on the next 3% of pay.

NCR, a 120-year-old company with 2003 revenues of about \$5.6 billion, said phasing out the defined benefit plan, which has roughly 57,000 participants, is part of a broader effort to reduce its cost structure and make the employer more competitive.

NCR's objective is to offer "employee benefits that are more closely aligned with competitive market averages, while minimizing the volatility, expense and cash flow requirements associated" with its pension program, the company said in a filing with the Securities and Exchange Commission.

These changes "strike the right balance with respect to these objectives," NCR said in its filing.

NCR, whose name once was synonymous with cash registers, is at least the third major employer since the start of the year to announce that it is phasing out its defined benefit plan.

Earlier this year, Sears Roebuck & Co., the huge Hoffman Estates, Ill.-based retailer, said it was closing off its defined benefit plan—effective Jan. 1, 2005—to new and younger

employees and instead will offer them an enhanced 401(k) plan. Like NCR, older Sears employees can remain in the defined benefit plan or opt out and receive a more generous 401(k) plan match (*BI*, Feb. 2).

Sears, which said it made the changes to enhance its attractiveness as an employer and to become more competitive in the retail industry, is believed to be the largest U.S. employer ever to close off its defined benefit plan to new employees. Sears has more than 200,000 employees in the United States.

Additionally, at Chicago-based Aon Corp., employees hired as of Jan. 1, 2004, are eligible for a new defined contribution plan, as well as an existing 401(k) plan, but not for Aon's defined benefit plan, which the company is retaining for employees hired before then (*BI*, March 22).

Aon, the world's second-largest insurance broker, said it made the changes to reduce what it identified as a big problem with its defined benefit plan: volatility of contributions.

Contributions that employers are required to make to their defined benefit plans can swing wildly due

to interest rate changes and investment results. By contrast, in a defined contribution plan, where corporate contributions are tied to employees' salary, contributions are more stable and easier to predict.

The move of big employers away from defined benefit plans to defined contribution plans has significant implications for employees, for the nation's pension insurance system and for the companies that support that system through mandatory insurance premiums.

For employees who stay only a few years at an employer, a greater emphasis on defined contribution plans, like 401(k) plans, may mean they will earn richer benefits compared to traditional defined benefit plans, whose benefit formulas are tilted in favor of older, longer-service employees.

But defined contribution plans are not without drawbacks for some employees. For example, older, longer-service employees are likely to earn smaller benefits in a defined contribution plan. Also, all employees in such plans face investment risk, which they are shielded from in defined benefit plans.

In addition, while the federal Pension Benefit Guaranty Corp. guarantees benefits earned in de-

LEAVING DEFINED BENEFIT PLANS

How some big employers are moving away from defined benefit pension plans.

Employer	Action
Aon Corp.	Defined benefit plan not offered to employees hired as of Jan. 1, 2004.
NCR Corp.	Employees under age 40 or hired on or after Sept. 1, 2004, not eligible for defined benefit plan.
Sears Roebuck & Co.	Employees under age 40 or hired on or after Jan. 1, 2005, not eligible for defined benefit plan.

defined benefit plans—up to certain limits—the agency does not cover defined contribution plan benefits.

If the shift of big employers away from defined benefit plans continues, the PBGC could see premium income paid by employers erode at a time when the agency, whose deficit now exceeds \$9 billion, can least afford it.

"The PBGC will have less income to cover plan shortfalls," said Ethan Kra, chief actuary at Mercer Human Resource Consulting in New York.

While just 624 of the 29,500 pension plans insured by the PBGC have at least 10,000 participants, those big plans account for more than 50% of the roughly \$1 billion a year the PBGC collects each year

in pension insurance premiums.

Indeed, the PBGC recently announced that it intends to survey employers to find out how many of them have frozen their pension plans and how many intend to do so in the future.

If premium income does erode due to pension freezes, that eventually could force the agency to seek approval from Congress to boost premium rates. The basic annual premium is \$19 per plan participant, while underfunded plans pay an additional premium of \$9 per \$1,000 of plan underfunding.

A PBGC spokesman, though, noted that aside from insurance premiums, the agency earns revenues from assets it holds.

July 5, 2004

Late News

Continued from page 1

Mercer, Marsh units form benefits venture

Mercer Human Resource Consulting's Health Care & Group Benefits Practice next month will form a not-yet-named joint venture with Marsh Inc.'s benefits unit. Historically, the Mercer consulting unit has served employers with at least 2,000 employees, while the Marsh benefit unit has focused more on smaller companies. Separately, Marsh & McLennan Cos. Inc. said it will combine the defined contribution plan administration business of Putnam Investments with Mercer Human Resource Consulting's HR outsourcing business. Services that the newly expanded Mercer HR Outsourcing will offer clients include defined benefit and defined contribution plan administration, health care and group benefit administration and other HR services, the company said.

P/C insurers increase profits

The U.S. property/casualty insurance industry more than doubled its net income for the first quarter of 2004 from the same period a year ago, to \$13.31 billion. Signs of renewed competition, though, suggest insurers' earnings are approaching a cyclical peak, according to Jersey City, N.J.-based Insurance Services Office Inc. and the Des Plaines, Ill.-based Property Casualty Insurers Assn. of America, which gathered the

data. The ISO and PCI data are consolidated estimates based on 96% of all business written by private U.S. property/casualty insurers. Growth in net written premiums slowed to 4.5%, to \$105.98 billion, vs. a 12.7% increase for the year-earlier period. The industry's combined ratio for the first quarter improved to 93.3% from 99.6%.

New York approves malpractice rate hike

Medical malpractice liability insurers in New York have received approval to raise rates by 7%, a fraction of the increase they had sought. New York Insurance Superintendent Gregory V. Serio approved the lower rate increase for primary coverage, which became effective July 1 for most of the state's 50,000 physicians. The rate increase applies regardless of physician specialty or location. Malpractice insurers had requested approval to raise rates by as much as 25.7%. Last year, Mr. Serio approved an 8.5% increase.

W.R. Berkley creates specialty unit

W.R. Berkley Corp. has formed a unit to offer specialty insurance products on behalf of various W.R. Berkley subsidiaries. Berkley Specialty Underwriting Managers L.L.C.'s business will include the renewal rights to certain excess and surplus lines casualty business that Berkley just acquired from New York-based Gulf Insurance Co., a subsidiary of the St. Paul Travelers Cos. Inc. The acquired business represents about

\$110 million of annual in-force premiums, according to W.R. Berkley, which will not assume any past liabilities or loss reserves as part of the deal. In 2003, W.R. Berkley wrote \$1.3 billion in net specialty lines premiums, a spokesman said.



PHOTO: AFP

A policeman surveys one of two jets that collided and crashed in Germany in July 2002, after faulty air traffic guidance.

Skyguide settles more air crash claims

Skyguide, Switzerland's air traffic control agency, has reached a settlement with 28 more claimants over a July 2002 midair collision that claimed 71 lives. Geneva-based Skyguide in May accepted partial responsibility for the accident, saying errors by its air traffic controllers had contributed to the collision of a Bashkirian Airlines passenger jet and a DHL cargo aircraft over Germany (BI, May 20). An attorney in Berlin, representing the 28 families, said in a statement that the settlement is in the low six figures in U.S. dollars. Skyguide previously had provided compensation for another 13 families from a pool funded by the air traffic control agency and the German and Swiss governments.

Briefly noted

Daytona Beach, Fla.-based Brown & Brown Inc. is acquiring **The McDuffee Insurance Agency Inc.** The Merrimack, N.H.-based retail agency has annualized revenues of about \$7 million....Chicago-based **Hub International Ltd.**'s previously announced \$90 million acquisition of Albuquerque, N.M.-based Talbot Financial Corp. from Seattle-based SAFECO Corp. closed July 1.... President George W. Bush signed into law a measure that will extend the **National Flood Insurance Program** until Sept. 30, 2008. The program had been set to expire Wednesday....**Francis X. McCahill Jr.**, former risk manager for Bristol-Myers Co., died last month at age 86. Mr. McCahill was director of insurance and safety at the company from 1963 until 1983. He was active in the American Society of Insurance Management and the Risk & Insurance Management Society Inc., as well as in the captive industry in Bermuda. Many of his nine children followed him into insurance and risk management careers, said one of his sons, James McCahill, president and chief executive officer of Braishfield Associates Inc., a Clifton, N.J.-based program manager.

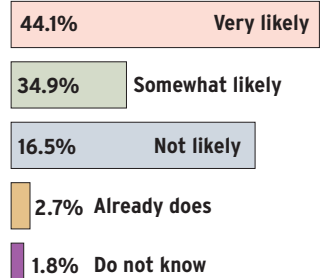
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Online Poll

[6/28-7/2]

As health care costs continue to increase, how likely is your employer to offer a consumer-driven health plan?



BI Stock Index

[6/28 - 7/2]

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	2263.12	↑ 0.07
Dow Jones	10282.80	↓ -0.86
S&P 500	1125.38	↓ -0.80

Largest gains

SCOR	14.29%
Meadowbrook Ins. Group	6.03%
PMA Capital Corp.	4.66%
Philadelphia Cons. Holding	4.45%
Vesta Insurance Co.	4.43%

Largest losses

EMC Insurance Group	-8.95%
Gainsco Inc.	-8.00%
Penn-America Group Inc.	-4.76%
St. Paul Travelers	-4.76%
Baldwin & Lyons Inc.	-3.32%

Weekly change by market segment

Brokers	-0.14%
Insurers/Reinsurers	1.73%
Managed Care Organizations	-0.83%

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

Alcon: Seeking to fund benefits in captive

Continued from page 3

U.S. Virgin Islands branch of its Ireland-based captive, SCA Re, to fund the LTD, life insurance and accidental death/dismemberment risks of SCA's U.S. employees.

Three other large U.S. employers—Columbia Energy Group, Archer Daniels Midland Co. and International Paper Co.—earlier got Department of Labor approval for captive benefits funding arrangements.

All those approvals have come since 1999, when federal regulators said they would be more flexible in evaluating captive benefit funding arrangements.

Prior to that change, the department said that, to win its approval, such arrangements would have to

be structured so that no more than 50% of the captive's business—including benefit risks—was related to its parent. That was a rigid requirement that few employers wanted to meet due to concerns about the hazards of taking on such a big block of third-party business.

But in 1999, the department, while not abandoning the 50% rule, said that it would no longer be an absolute prerequisite to winning approval for benefits funding arrangements.

The department said it would consider proposals if employers used top-rated primary insurers to write the policies, boosted benefits for plan participants and used independent fiduciaries to see that all

conditions were met, among other factors.

Columbia Energy, ADM, International Paper and SCA all followed the blueprint drawn up by the Labor Department, and Alcon Laboratories is proposing to do so as well.

For example, in its application, filed by the Groom Law Group in Washington, Alcon Laboratories said it is sweetening benefits by adding a tuition benefit that will provide up to \$2,000 per semester for college tuition expenses for individuals who require training in order to return to work following a period of disability.

In addition, Alcon Laboratories recently reduced the premium for supplemental life insurance coverage by two cents for each

\$1,000 of coverage.

Alcon Laboratories also will use a highly rated insurer to issue policies reinsured through the captive. Hartford, Conn.-based Aetna Life holds an A rating from A.M. Best Co. The company also will use an independent fiduciary—U.S. Trust Co., a subsidiary of Charles Schwab Corp.—to oversee the arrangement.

While no other employer currently has a captive benefits funding proposal pending at the Labor Department, benefits experts say more should soon follow as awareness of the financial advantages of the arrangements grows.

"We expect to see a gradual increase. The savings are real," said Mitch Cole, a Towers Perrin principal in New York.

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