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HOUSE BILL WOULD ALLOW HIGHER OFFSHORE ENERGY DAMAGES / PAGE 3

OBAMA BYPASSES CONGRESS TO APPOINT HEAD OF PBGC / PAGE 4

In Brief

Liberty Mutual sues Goldman over offerings

Liberty Mutual Insurance Co. filed suit against Goldman Sachs & Co. in U.S. District Court in Boston last week, accusing the stock brokerage of making "materially misleading statements and omissions" in connection with two 2007 Fannie Mae preferred stock offerings. As a result, Liberty Mutual said in the suit that its $62.5 million in investments in the offerings are "virtually worthless." The suit seeks damages from Goldman Sachs.

Sugar plant violations settled for $6M

Imperial Sugar Co. will pay more than $6 million to resolve litigation with the U.S. Department of Labor over a 2008 plant explosion that killed 14 and injured dozens. The agreement settled 124 violations found at the sugar plant after the explosion, the Department of Labor said. The Occupational Safety & Health Administration alleged the company failed to properly address combustible dust problems, among other hazards. In a statement, Imperial Sugar said it is pleased to settle the allegations, but admitted no wrongdoing. The company also agreed to a series of safety improvements.

The Doctors Co. to buy American Physicians

The Doctors Co. will acquire American Physicians Capital Inc. for about $386 million, the two companies said. The acquisition will expand The Doctors Co. to nearly 55,000 physician members, according to a joint statement by the insurers.

See **IN BRIEF** page 21

AGENTS & BROKERS

Bid-rig convictions tossed by judge

Former Marsh execs escape jail time after new evidence emerges

By COLLEEN McCARTHY

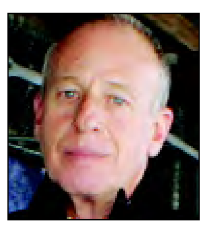
NEW YORK—A state judge's decision to throw out the bid-rigging convictions of two former Marsh Inc. executives caps a series of failures by prosecutors targeting individual brokers named in 2004 Spitzer investigations.

While the decision to overturn the convictions was unusual, it was not entirely surprising given the outcome of the other charges in the case, legal experts say.

In his ruling, New York County Supreme Court Judge James A. Yates overturned the convictions of former Marsh Managing Directors William Gilman and Edward J. McNenney, citing new evidence that "undermines the court's confidence in the verdict."

The evidence included undisclosed documents that would have been "invaluable" to the defense and contradictory statements by witnesses who cooperated with prosecutors, according to the 25-page opinion issued July 2.

The first former Marsh executives to face trial in the case were accused of colluding with employees at various insurers including American International Group Inc., ACE USA, Liberty International Insurance Co. and Zurich American Insurance Co. to rig the market for excess casualty insurance between 1998 and 2004.



The convictions of Mr. Gilman, top, and Mr. McNenney were overturned.

Judge Yates convicted Messrs. Gilman and McNenney in February 2008 of violating New York antitrust law, but acquitted them of 20 counts of fraud and larceny. They were sentenced to 16 weekends in jail but appealed the convictions.

At trial, prosecutors called Mr. Gilman the "architect" and Mr. McNenney the "enforcer" of the price-fixing scheme.

"This is total vindication," said

See **MARSH** page 21

SAFETY

Thorough training delivers safer drivers

By JEFF CASALE

SOUTH HOLLAND, Ill.—Glancing around the classroom at United Parcel Service Inc.'s feeder truck Driver Training School in South Holland, Ill., one sees a poster on the wall that reads: "Excuses are tools used by the incompetent, which cannot be corrected."

See **UPS** page 20

BENEFITS MANAGEMENT

Social media sites still emerging as benefits tools

By JOANNE WOJCIK

Benefit consultants continue to encourage employers to integrate Internet-based social media tools into their benefit communications campaigns despite a survey finding that workers are not yet ready to embrace the communications channel for that purpose.

75%

47% of U.S. workers regularly use social media networks such as Facebook and Twitter daily for personal reasons, but three-quarters said they are not interested in receiving benefits information from their employers via those websites.

The survey, released last week by the Washington-based National Business Group on Health, found that even though 47% of U.S. workers regularly use social media networks like Facebook and Twitter daily for personal reasons, three-quarters said they are not interested in receiving benefits information from their employers via those websites.

"Because we hear so much about social media…we're made to feel that we're out of it if we're doing the old-fashioned things like home mailings," said Helen Darling, president of the Washington-based NBGH, a consortium of nearly 300 large U.S. employers. "But even the

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VIDEO: BIG RIG SAFETY

In a new Issues in Risk Management video, *Business Insurance* talks with instructor Tom Brokop at United Parcel Service Inc.'s driver training school about the importance of safe driving. Click through the Multimedia tab to Video Reports.

Business Insurance RESEARCH CENTER

A subscription to *Business Insurance*'s Research Center provides premium access to directory and ranking data and special rates on *Business Insurance* White Papers, such as *BI*'s new "Counterparty Risks: How to Avoid Weak Insurers and Find Strong Ones." Click through the Research Center tab.

Nominations due July 30

Business Insurance's 2010 WOMEN TO WATCH

Business Insurance is accepting nominations for the 2010 Women to Watch feature, with a deadline of July 30. Download a nomination form at *www.BusinessInsurance.com/section/women-to-watch*.

HEALTH CARE REFORM FAQ

BusinessInsurance.com's Health Care Reform section includes an updated FAQ written by *Business Insurance* Editor-at-Large Jerry Geisel that describes key provisions of the new law for employers. Click through the Health Care Reform Online Feature on the home page.

MOST POPULAR STORIES

Week of July 5, 2010

1. Judge overturns convictions of ex-Marsh executives
2. Property/casualty insurance rates fall again: Analysis
3. Insurers trying to limit Deepwater-type losses: Marsh
4. Tugboat in 'duck boat' crash was insured
5. Chartis reorganizes European insurance operations
6. First-half insured catastrophe losses a record: Munich Re
7. Tokio Marine expands property, reinsurance operations
8. USI Holdings names regional CEO
9. Employers get more time to tweak mental health cover
10. Social media won't work for benefits information: Survey

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PROFESSIONAL LIABILITY

New York OKs medical malpractice rate increase

Despite ending moratorium, most insurers avoid the state

By ZACK PHILLIPS

NEW YORK—The New York State Insurance Department has ended a two-year moratorium on medical malpractice rate increases, but observers say more changes are needed to lure insurers to the state.

Effective July 1, medical malpractice rates in the state increased an average of 5%, which underwriters say is sorely needed after two years of rate freezes and rising claims costs.

"This rate will help hold the line on costs for physicians while giving the insurance companies the resources to pay claims as they come due," Superintendent James J. Wrynn said last week in a statement.

Mr. Wrynn said he approved a 5% rate increase for Medical Liability Mutual Insurance Co., which has about 60% of the New York market; Physicians' Reciprocal Insurers, which has about 30% of the market; and two smaller, specialty insurers, Hospitals Insurance Co. and Academic Health Professionals Insurance Assn.

Meanwhile, the department established an average rate increase of 9.9% for Medical Malpractice Insurance Pool, the state-run residual market for the most difficult medical malpractice risks, which has about 300 doctors, the department said in the statement.

Market observers have said most medical malpractice insurers do not write business in New York state in part because of the perception that the department does not allow them to charge adequate rates. Another deterrent is the pool, which is funded with contributions from the few licensed medical malpractice insurers in the state and has a deficit of nearly $500 million.

This year, Mr. Wrynn said he was working to attract more underwriters to New York with two initiatives. One would shore up the pool's deficit through a one-time, pass-through assessment on all property/casualty insurers in the state. The other would establish an independent, nonpolitical rate servicing organization to advise the department on rates.

Department officials said both initiatives require legislation and are on hold pending a new session of the General Assembly and support among state lawmakers.

Herbert E. Goodfriend, a senior vp at Gill & Roeser Holdings Inc. in New York, said he doubt-

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New York Insurance Superintendent James J. Wrynn has approved an average 5% med mal rate increase.

FEDERAL LEGISLATION & REGULATION

REUTERS/LANDOV

A widow of one of eleven workers killed aboard the Deepwater Horizon wears a ribbon to honor her late husband.

BP spill triggers effort to broaden liabilities

House passes bill to allow higher offshore damages

By MARK A. HOFMANN

WASHINGTON—Tort reform advocates fear a House bill that would expand maritime liability could be part of larger effort to roll back liability limits.

The House approved the Securing Protections for the Injured from Limitations on Liability Act—or SPILL Act—only hours before lawmakers left for their Fourth of July recess.

The bill, filed in response to the April 20 explosion of BP P.L.C's Deepwater Horizon drilling platform and the massive Gulf Coast oil spill that resulted, would amend the Death on the High Seas Act to allow recovery of noneconomic damages for maritime death victims' families, starting with the 11 workers who died in the accident. The SPILL Act, H.R. 5503, also would amend the Jones Act to provide noneconomic damages for loss of care, comfort and companionship to surviving family members by seamen's employers.

In addition, the bill would repeal the 1851 Limitation of Liability Act, which holds that if an accident occurs that is beyond the knowledge of a ship's owners, the owners' liability is limited to the value of the ship at the time it sinks.

A provision that would have amended the Class Action Fairness Act to give state attorneys general greater leeway in filing class actions in state courts that otherwise would have been filed in federal courts was dropped before the vote.

The Senate has yet to act on the matter.

The Washington-based American Assn. for Justice, which represents plaintiffs attorneys, pushed the

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CAPTIVES

Isle of Man eyes benefit captives

By MICHAEL BRADFORD

DOUGLAS, Isle of Man—Isle of Man wants to capitalize on a trend among large employers to gain control over their international employee benefit plans by consolidating them into a single funding vehicle.

Multinationals in Europe and the United States have looked in recent years to consolidate such benefits as death, disability and, where allowed, health care benefits into captive insurers, experts say.

A more recent trend has been for companies in Europe, where regulations are less restrictive than the United States, to move pension benefits into captives, sources say. Such moves increase captive owners' control and reduce the cost of funding and administering benefits, experts say.

The Isle of Man is among domiciles trying to capitalize on those trends.

Isle of Man Finance, a government agency that promotes the island as a financial services center, has put together a working group of captive managers, pension administrators, life insurers and others to come up with ways to tout the jurisdiction's attraction as a place where international employee benefits can be funded through captives or other financial vehicles such as trusts.

"It seems to be a good fit," said Derek Patience, chairman of the Isle of Man Captive Assn. and head of office at Marsh Management Services Isle of Man Ltd. "Captives here already are doing employee benefits in various guises depending on the needs of the owner."

John Batty, business development manager at Isle of Man Finance, said the island has strong captive, banking, life insurance and other service sectors, and a dedicated regulator of insurance and pension activities, which he called a "major benefit" and advantage over other jurisdictions.

While other jurisdictions in the region may be stronger in some areas—Guernsey, for example, has more captives but cannot claim the same strength in life insurance services—none has the same combination of strengths in all financial services areas, Mr. Batty said.

Though Isle of Man is touting itself as the domicile of choice for international employee benefits, that decision will be based on more than the number of services offered, said Paul Kelly, London-based director of consulting services for Towers Watson & Co.

See **ISLE OF MAN** page 12

RISK MANAGEMENT

How to manage risks posed by insurers

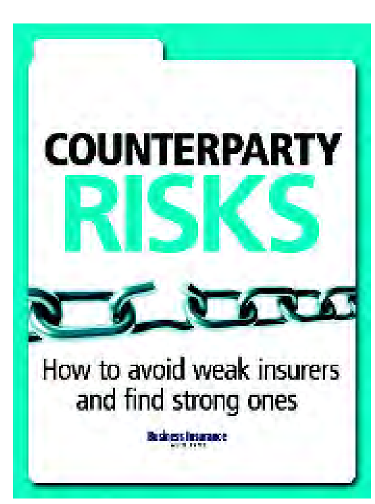
Risk managers should look beyond insurer financial-strength ratings as they strive to assess the security behind their insurance programs, according to a new *Business Insurance* research white paper.

While rating agencies continue to provide valuable assessments of insurers, they missed key developments at several commercial insurers during the recent financial crisis, the paper notes.

The white paper, "Counterparty Risks: How to Avoid Weak Insurers and Find Strong Ones," advises risk mangers to look at a range of financial indicators in addition to traditional ratings as they seek to protect their organizations.

Key indicators of an insurer's financial strength include:

- Credit default swap spreads
- Share price
- Reserve adequacy
- Investment quality
- Surplus notes
- Combined ratio
- Leverage



By conducting their own analysis of these key measures, risk managers can gain greater comfort that the insurers on their programs will be able to pay future claims, the paper finds.

In addition, if an insurer does fail, risk managers should have strategies in place to mitigate their counterparty exposure, according to the paper.

Diversified programs, drop-down coverage, cut-through endorsements and cancellation clauses are some of the strategies that risk managers can use to minimize their potential losses in the event of insurer insolvencies.

For information on rating agency weaknesses, how to reduce counterparty risks, strategies to manage the risks and more, see *www.businessinsurance.com/whitepapers.*

RISK MANAGEMENT

Risk management vital to safe, successful Olympics

Volume of events, venues across U.K. add to challenge

By SARAH VEYSEY

LONDON—Sound risk management plays a vital role in ensuring that the London 2012 Olympic & Paralympic Games are a success, speakers at a Chartered Insurance Institute seminar said last week.

The "multiplicity of events and venues" involved in Olympic Games poses a huge challenge to event organizers and the insurance industry, said Jonathan Clark, technical director at Cunningham Lindsey U.K., a London-based loss adjuster and claims management firm.

Many of the venues slated for use at the games will be, or have been, used to stage major events for their respective sports, so they will be "stress tested" before the 2012 Games, he said at the London seminar.

But holding many events simultaneously at venues across the United Kingdom during the 2012 Summer Olympic Games adds to the challenge, and the venues may have some risks in common, Mr. Clark said.

One risk that needs to be consid-

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AP PHOTO

Workers prepare the seating area in London Stadium to get ready for the London 2012 Olympics.

FEDERAL LEGISLATION AND REGULATION

Gotbaum named PBGC director

FRANCES M. ROBERTS/NEWSCOM

Joshua Gotbaum, an operating partner at private equity firm Blue Wolf Capital Management L.L.C. in New York, was named director of the Pension Benefit Guaranty Corp.

With Congress out, president names PBGC, CMS leaders

By JERRY GEISEL

WASHINGTON—President Barack Obama last week bypassed Congress and named Joshua Gotbaum as director of the Pension Benefit Guaranty Corp., using a tactic known as a "recess appointment."

The president appointed Mr. Gotbaum, an operating partner at private equity firm Blue Wolf Capital Management L.L.C. in New York.

In a separate appointment also made while Congress is in recess this week, the president named Harvard Medical School professor Dr. Donald Berwick to be the administrator of the Centers for Medicare & Medicaid Services.

President Obama said he acted so "extremely qualified" candidates can "get to work on behalf of the American people right away."

See **PBGC** page 7

ALTERNATIVE RISK TRANSFER/CAPTIVES

Bermuda works toward equivalency

Regulators look to comply with rules for Solvency II

By RODD ZOLKOS

SOUTHAMPTON, Bermuda—The European Union's impending Solvency II regulatory regime will affect many captive insurance companies in a variety of ways, according to one group of industry experts.

Meanwhile, Bermuda regulators are working to achieve Solvency II "equivalence" that makes sense for the island's companies.

"The importance of equivalence to the Bermuda market—it allows Bermuda companies to conduct business in Europe on a much more efficient basis," said Shelby Weldon, director of insurance licensing and authorization at the Bermuda Monetary Authority, at the annual Bermuda Captive Conference in June.

Speaking as part of a panel discussing Solvency II and captives, Mr. Weldon said Solvency II equivalence also should help Bermuda-based companies avoid duplication of regulatory oversight.

Solvency II "is the real big gorilla in the room right now," Mr. Weldon said, adding that the BMA has spent considerable time on the issue during the past two years.

"Our goal is to achieve broad equivalence by 2012," Mr. Weldon said of the effort, which is taking a pragmatic approach to equivalence.

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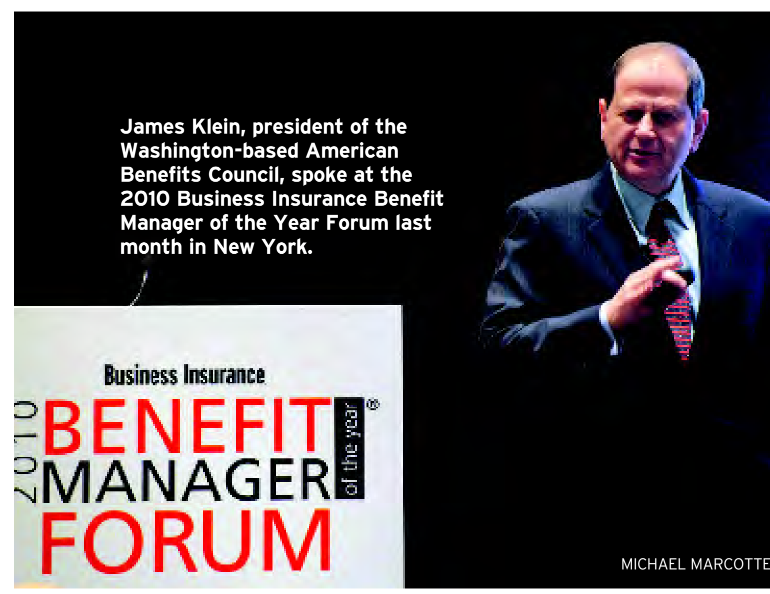
The annual Bermuda Captive Conference was held last month in Southampton, Bermuda.

BENEFITS MANAGEMENT



James Klein, president of the Washington-based American Benefits Council, spoke at the 2010 Business Insurance Benefit Manager of the Year Forum last month in New York.

MICHAEL MARCOTTE

Health care costs will rise despite reform: Expert

By JERRY GEISEL

NEW YORK—It could be years before it is known whether the new health care reform law has a positive or negative effect on employers, the leader of an employer benefits lobbying organization said.

Extending coverage to millions of previously uninsured U.S. residents under the law could reduce uncompensated care, said James Klein, president of the Washington-based American Benefits Council. Requiring full coverage of preventive services and allowing employers to boost financial incentives for participation in wellness programs could improve employees' health and reduce health care costs.

However, it also is possible that the health care reform law could result in employers dropping health care coverage and an unraveling of the employment-based system, Mr. Klein said during the keynote address at the 2010 *Business Insurance* Benefit Manager of the Year Forum last month in New York.

That could happen if rates paid to providers treating patients covered by Medicaid don't cover costs and providers inflate charges to patients in insured plans to such an extent that those plans no longer are affordable, Mr. Klein said. The law will provide Medicaid access to millions of additional lower-income uninsured individuals.

"As we all know, Medicaid pays the lowest rates," Mr. Klein said.

Providers may have to "look elsewhere" to make up for those costs, he said.

While it is too soon to say how it will unfold, the result of more immediate changes resulting from the law is more obvious, he said.

In the short run, employers' health care costs will go up. For example, while it may be good public policy to require employer plans to extend coverage to employees' adult children up to age 26, such a mandated change "will raise costs," Mr. Klein said.

Other provisions that impose new taxes on health insurers and medical device manufacturers, among others, will get passed on to

See **KLEIN** page 13

INTERNATIONAL

Chartis reorganizes European insurance operations

Move clears way to establish insurer with U.K. domicile

By MICHAEL BRADFORD

LONDON—Chartis Inc. is reorganizing its European operations to bring Chartis Insurance U.K. Ltd., Chartis Insurance Ireland Ltd. and Chartis Europe S.A. under a single management team headquartered in London.

As part of the restructuring, Alexander Baugh, president and CEO of Chartis Europe Holdings Ltd., has been named to the additional position of CEO of Chartis Europe S.A. He succeeds Julio Portalatin, who earlier was named president and CEO of Chartis' emerging markets division.

"The main reasons for structuring our European business in this way are to facilitate a pan-European solution for the preparation of Solvency II, to better support and empower local underwriters, and to benefit from a more efficient structure," Mr. Baugh said in a statement last week.

"It will also help to position us for the proposed creation of a single U.K.-domiciled pan-European insurer," Mr. Baugh said. "However, I would emphasize that as far as our brokers and clients are concerned, there is no change to the way we operate in each country."

Three managing directors, who report to Mr. Baugh, will be responsible for operations in the European countries covered by Chartis, the property/casualty unit of American International Group Inc.

James Shea is managing director of Chartis U.K. and will oversee U.K. operations. Previously, he was regional president for Chartis CECIS.

Ralph Brand is managing director responsible for operations in Austria, Czech Republic, Denmark, Finland, Germany, Hungary, Ireland, Netherlands, Norway, Poland, Slovakia, Sweden and Switzerland. Mr. Brand previously was chief operating officer of Chartis Europe S.A.

Nicolas Aubert, who previously was Chartis' managing director for France, is managing director responsible for Belgium, Bulgaria, Cyprus, France, Greece, Italy, Luxembourg, Malta, Portugal, Romania and Spain.

RISK MANAGEMENT

Lower rates, administration costs weigh on the sector

Average total cost of risk declined 3.1% in 2009: RIMS

By ROBERTO CENICEROS

Lower insurance and risk management administrative costs drove a 3.1% decrease in the 2009 average total cost of risk per $1,000 of revenue, according to a survey released last week by the Risk & Insurance Management Society Inc.

The survey data compiled by New York-based Advisen Ltd. is contained in the "2010 RIMS Benchmark Survey."

The 30th annual edition of the book allows risk managers to compare their total cost of risk and benchmark their insurance programs against data collected from more than 1,400 companies, according to New York-based RIMS.

Survey results also show that workers compensation insurance costs dropped substantially and that the average directors and officers liability premium per $1,000 of revenue increased sharply for banks.

"Falling insurance premiums were the largest contributor to lower TCOR in 2009," said Dave Bradford, Advisen executive vp and survey editor-in-chief. "Risk management administrative expenses also were lower. Both were likely influenced by the depressed economy."

Survey results also show that although risk managers have assumed additional responsibilities in recent years, relatively few are involved in leadership roles in enterprise risk management and supply chain risk management.

The book is available for a fee. For more information, visit *www.RIMS.org/book.*

Commentary

Michigan medical pot law needs clarification

ROBERTO CENICEROS

Senior Editor Roberto Ceniceros can be reached at: rceniceros@businessinsurance.com

Joseph Casias' lawsuit presents a compelling narrative of someone who uses marijuana for medical purposes during his time away from work despite his employer's prohibition against keeping someone on staff who does so.

I've followed Mr. Casias' story for months, and even used a video news report on his firing by Wal-Mart Stores Inc. in a speech I presented to workers compensation professionals in May.

I used the video to show pro-medical marijuana users demonstrating outside of a Wal-Mart store in Battle Creek, Mich., as an example of why the growing number of states allowing medical marijuana use is an emerging issue for employers.

The video got a laugh when a medical marijuana proponent rallying outside the store said, "Employees should be judged by the quality of their work, not the quality of their urine."

The statement referred to a routine post-injury drug test Wal-Mart ordered after Mr. Casias twisted his knee in 2009 in the Battle Creek Wal-Mart store where he worked.

He was fired after the test results came back positive for marijuana use.

Then, two weeks ago, the American Civil Liberties Union of Michigan filed a lawsuit on behalf of Mr. Casias that alleges he was wrongfully terminated.

The suit against Wal-Mart reveals that Mr. Casias, a 30-year-old father of two, was diagnosed with sinus cancer and a brain tumor at age 17. The tumor is near his spinal column and already was the size of a softball when he first was diagnosed.

The cancer is inoperable. Radiation and chemotherapy kept him hospitalized and then in a nursing home for several months.

But he battled his way back into the workforce, first at a fast-food restaurant, then on an overnight shift at a grocery store for five years. Wal-Mart hired him in 2004 to stock shelves and later promoted him to inventory control manager.

The Battle Creek Wal-Mart went as far as naming him Associate of the Year for 2008.

Mr. Casias continues to suffer from pain in his face, head and neck, although his cancer is in remission. But he finds the medical marijuana recommended by his oncologist stems the nausea caused by prescription pain medication and provides additional pain relief.

His lawsuit says he never consumed marijuana at work nor did he perform his store duties while under the influence, which differs from testing positive.

In contrast with Mr. Casias' medical history, news stories make me think there are probably thousands of Californians who have medical-marijuana prescriptions provided by doctors who specialize in providing them to anyone who can pay their fees while complaining of minor back pain or a mild headache.

Mr. Casias is not one of those people, if his lawsuit is correct. He has been seriously ill and needs relief that conventional prescription drugs can't provide.

He has been seriously ill and needs relief that conventional prescription drugs can't provide.

That makes his case a good one to test whether courts think employees complying with a medical marijuana law that Michigan voters adopted in 2008 are protected from employer disciplinary action, as Mr. Casias' attorney argues.

But it could take more than a truly sympathetic story of battling cancer to ultimately settle this issue in Michigan, such as a court's interpretation of existing law.

In California, the majority of the state Supreme Court justices in *Gary Ross vs. Ragingwire Telecommunications Inc.* examined voter intent along with existing state and federal laws to rule in 2008 that employers can fire employees who use medical marijuana.

The California justices didn't spend much time considering the legitimacy or seriousness of the plaintiff's medical condition. Michigan courts could do the same.

PBGC: Obama names Gotbaum director

CONTINUED FROM PAGE 4

The president nominated Mr. Gotbaum to the top PBGC position in November, but the nomination has stalled. The Senate Health, Education, Labor and Pensions Committee unanimously backed him for the post in a May vote, but neither the Senate Finance Committee nor the full Senate has acted since then.

Sen. Sherrod Brown, D-Ohio, blocked Mr. Gotbaum's nomination as part of dispute with the PBGC over the termination of pension plans sponsored by Troy, Mich.-based Delphi Corp.

As a recess appointee, Mr. Gotbaum can serve through the end of 2011, or longer if he is confirmed later by the Senate.

Financial trouble

His appointment comes at a time when the PBGC's financial condition has deteriorated. Huge losses and lower interest rate assumptions nearly doubled the PBGC's deficit in fiscal 2009, which jumped to $22 billion from $11.2 billion in fiscal 2008.

The PBGC estimated that its exposure to future losses from financially weak companies was about $168 billion in fiscal 2009, up from $47 billion the prior year.

The agency is supported by premiums paid by employers with defined benefit plans and by investment income earned on assets held by failed pension plans that the PBGC has taken over from employers.

The PBGC has been without a permanent director since January 2009.

AP PHOTO

Sen. Sherrod Brown, D-Ohio, blocked Joshua Gotbaum's nomination as director of the PBGC as part of a dispute over pension plans sponsored by Delphi Corp.

Med mal: No moratorium

CONTINUED FROM PAGE 3

ed the rate increase would bring more commercial medical malpractice underwriters to New York. He also said the industry will continue to push for change in the state's medical malpractice landscape.

"It's a prudent step toward keeping the proverbial wolf from the door," Mr. Goodfriend said of the rate increase. "How long it will last is another question."

Howard Mills, New York-based director and chief adviser of Deloitte & Touche USA L.L.P.'s insurance industry group, said when he was New York superintendent four years ago, the department awarded rate increases between 5%

'The writers of medical malpractice view New York with great suspicions because historically it's been difficult to get (adequate) rate.'

Howard Mills,
Deloitte & Touche USA L.L.P.

and 7%. He said any serious attempt at luring more medical malpractice insurers to New York must include tort reform measures.

"The writers of medical malpractice view New York with great suspicions because historically it's been difficult to get (adequate) rate," Mr. Mills said. "Hopefully he gave the medical malpractice (under)writers enough with 5% to keep them writing in New York state."

Mr. Wrynn said the department would continue "working toward a long-term solution."

"In the short term, this (5%) increase will relieve the pressures on both doctors and insurers," Mr. Wrynn said. "But long term, the system is still in crisis and needs to be reformed."

The department does not set rates for captives and risk retention groups.

Business Insurance OPINIONS

PBGC director has big problems to fix

EIGHTEEN MONTHS is much too long for a vital federal agency like the Pension Benefit Guaranty Corp. to be without a permanent director.

Recognizing that, President Barack Obama last week named Joshua Gotbaum in a recess appointment to fill the top PBGC position that had been vacant since January 2009.

The president and the Senate share blame for the delay. The president waited 10 months after taking office to nominate Mr. Gotbaum, who has years of private-sector and governmental financial experience.

The Senate Health, Education, Labor & Pensions Committee didn't vote on Mr. Gotbaum's November 2009 nomination until May. Sen. Sherrod Brown, D-Ohio, then held up a vote on the nomination by the full Senate as part of a dispute with the PBGC over the termination of pension plans sponsored by auto parts manufacturer Delphi Corp.

> *Without question, the PBGC needs a leader. Its financial position is precarious.*

President Obama's recess appointment is a correct strategy, in this case, to get around the hold that Sen. Brown put on the nomination.

Without question, the PBGC needs a leader. Its financial position is precarious. It has been battered by huge losses as companies in grave financial difficulty or going out of business have jettisoned massively underfunded plans, shifting the plans' liabilities to the PBGC.

At the same time, a key source of revenue—premiums that employers with defined benefit plans pay the PBGC—is eroding as more employers freeze those plans.

How the PBGC, which is responsible for paying benefits to nearly 1.5 million current and future retirees in plans it has taken over, can be put on a more stable financial footing is no small issue. Having a director who can analyze its problems and recommend remedies is at least one step in the right direction.

Don't let emotions get in way of liability law

IT'S EASY TO UNDERSTAND and sympathize with angry public and political reaction to the Deepwater Horizon tragedy and the massive oil spill that continues to foul the Gulf of Mexico.

But while anger is understandable, lawmakers and the public they serve should not allow anger to lead to legal overreach. That's what we fear could happen if the Securing Protections for the Injured from Limitations on Liability Act becomes law in its current form.

The act, which the House has approved, would retroactively change maritime law to allow the families of workers killed in the disaster to seek noneconomic compensation that was not allowed when the tragedy occurred. Even though the families of the dead workers present very sympathetic claimants, creating a special right after the fact doesn't strike us as very good law.

After all, law is supposed to provide justice and certainty. Even the least sympathetic defendant deserves both. To apply retroactive liability provides neither, and it could lead some employers to wonder whether they could expect justice and certainty in the future as well.

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THIS WEEK'S RESULTS

Q Will financial services reform legislation win Senate approval?

REUTERS/LANDOV

Sen. Chris Dodd, D-Conn., drafted the financial services regulatory reform bill.

Likely 86%

Unlikely 13%

NEXT WEEK'S QUESTION

Q: Does your employer use social media to communicate information on benefits?

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BPA WORLDWIDE
AMERICAN BUSINESS MEDIA

Cogent risk management lessons for a 'crazy' world

By John J. Hampton

In June 2009, Nassim Taleb, author of "The Black Swan," spoke at a meeting sponsored by the Long Now Foundation. Called "The Future Has Always Been Crazier Than We Thought," Mr. Taleb described two worlds: Mediocristan, a world with few high-impact successes or failures, and Extremistan, a totally different place with rare occurrences that create widespread impacts. Without using the term "enterprise risk management" in an 88-minute presentation, Mr. Taleb added significant concepts to ERM.

To help us understand the two worlds, he gave an example from each. He described a health care agency that weighs 1,000 people and determines that the average weight loss with a diet plan was 34 pounds. In an effort to show greater success, the agency adds five individuals whose weight loss averaged 100 pounds. The result is quite boring. Originally, 34,000 pounds were lost. The revised loss is 34,500 pounds. The average loss rose to a mere 34.3 pounds. This is Mediocristan.

By contrast, a labor agency surveys 1,000 people and determines that the average annual income was $34,000. In an effort to show a higher standard of living, the labor agency adds an individual who earned a bonus of $100 million. Now the original $34 million income becomes $134 million and the average income soars to $134,000. This is Extremistan.

Unprepared for extreme events

The concept applies nicely to ERM. In March 2009, *Business Insurance* described the new value of risk mathematics. Under the 95% bell-shaped curve, we have "normal" times, or Mediocristan. But Extremistan, the 5% outside the curve, is the world of great exposure and great opportunity.

On one side, we find BP P.L.C. and an oil spill in the Gulf of Mexico. On the other are Google Inc. and Facebook Inc.

Do organizations really recognize Mr. Taleb's distinction when they deal with risk? When accepting risk in the 95% zone, an exception to expectation has little impact. When mitigating risk or pursuing opportunity in the 2.5% zones, an exception has large impact. Mr. Taleb claims decisionmakers often do not get the distinction between the two worlds. They fool themselves into believing they can predict the future. Thus, they live in the 95% world and are not ready for extreme events. Of perhaps even more impact, they do not pursue Extremistan opportunities that could change the likelihood for success and survival.

Mr. Taleb illustrates his message with a story from book publishing. He starts on a personal note with "The Black Swan." His book sold 1.5 million copies, was translated into 27 languages and spent 17 weeks on the New York Times' best-seller list. The editor explained its success. It was successful partly or largely because it had an animal and color on the cover. Alternatively, people in Mediocristan might tell you to write a good book and people will buy it. Get a good literary agent, and promotion of the book will create a best-seller. Really?

He moves on to book publishing as an activity that involves both worlds. He cites an estimate that 200,000 books are published in the United States each year. Sales are in the range of 600 million copies or downloads. Harry Potter books averaged 60 million copies for each of the series. They accounted for 10% of sales in a release year. The top 500 best-sellers probably account for half of all sales.

The odds of making the list are 400-1.

Recognize opportunity

What does this tell us? If you follow conventional wisdom, you are in Mediocristan and you have little chance for impact. How can you increase the odds of having a best-selling book? Move into Extremistan. It does not really matter how well you write the book or who represents you if you can get on Oprah's Book Club list.

Mr. Taleb believes we cannot predict the future, but sometimes we can try to find great opportunity. Why did Apple stock rise from $36 to more than $270 a share in the past five years? It was a 600% jump when the S&P 500 was flat. The answer is innovation in Extremistan. Apple CEO Steve Jobs was not seeking small increases in quarterly earnings. Every announcement—Apple TV, iTunes, iPhone, iPod, iPad—pursued new worlds in new ways.

It can even work for companies that lack the culture to break out.

Samsung Group, recognizing it was a laggard to Sony Corp. in new product concepts, created a design center far away from the rest of the company. The result was a surge in new products, design awards and profits. Young innovators in blue jeans and T-shirts worked all hours of the day and night, judged only on their creativity.

Walt Disney Co., at the time a $34 billion conglomerate with movies, consumer products, theme parks, resorts and media services, acquired Pixar Animation Studios in 2006 after an acrimonious relationship between the companies for many years. As part of the acquisition, Disney agreed to allow Pixar to operate independently in Extremistan, or at least in Emeryville, Calif., 360 miles from Disney headquarters in Burbank. The result? The movie "Up" grossed $730 million in 2009. "Toy Story 3" did $227 million in its first two weeks. The average movie, made in Mediocristan in the period 2005 to 2009, grossed $20.6 million.

What is our conclusion? Nassim Taleb is right. The future is crazier than we think, and Mr. Taleb provides a cogent set of lessons for enterprise risk management.

Emerging Risk STRATEGIES

John J. Hampton is the KPMG Professor of Business and Dean of the School of Professional and Continuing Studies and Graduate Business Programs at St. Peter's College in New Jersey. To read Mr. Hampton's columns and interviews, visit www.BusinessInsurance.com/ERM.

Novel retirement plan lets employees choose

By ROBERT STEYER

SANTA ANA, Calif.—Orange County, Calif., has adopted a novel retirement plan in which new union employees can choose between participating only in the $4.7 billion defined benefit plan, or participating in both the DB and a new defined contribution plan.

Those choosing the combination pay a lower contribution to the defined benefit plan, but also get reduced benefits. On the DC side, they get a small employer match.

The Orange County Employees Retirement System in Santa Ana, Calif., administers the plan, but the new approach was developed by executives of the union—the Orange County Employees Assn.—and management.

Officials from both sides say the new design will reduce the county's defined benefit plan expenses.

William Campbell, vice chairman of the Orange County Board of Supervisors in Santa Ana, said an actuary hired by the county calculated the new plan could cut annual costs by about 2% over time, assuming half of new employees choose the combination of a DB and a DC plan.

Keith Brainard, research director for the National Assn. of State Retirement Administrators in Baton Rouge, La., noted that plans with a defined contribution component "present lower long-term liabilities for the employer." The problem, however, is usage. Mr. Brainard said he believes most new employees select traditional DB plans over other types.

The new plan is unique to California, and required passage of legislation last year to authorize it. The county and the union agreed to the plan in June 2009; enrollment began last month.

Neither Mr. Campbell nor Lisa Major, assistant general manager for the union, could recall who made the first move toward proposing the new approach when union and county negotiators starting discussing a new contract in the spring of 2009.

"It seemed like we came to it at about the same time," Ms. Major said.

"It was both of us," said Mr. Campbell. "We wanted to reduce the (DB) plan for new employees. The union wanted to give new employees a choice."

The defined contribution portion was developed and will be administered by New York-based TIAA-CREF.

The DC component "works in tandem with, rather than supplements," the defined benefit plan, said Richard Hiller, vp for government and religious markets at TIAA-CREF. "The overall pension plan is structured to help employees replace 70% or more of their income in retirement. The DB (formula) doesn't accomplish that on its own, so the DC plan is layered on to help achieve the necessary income in retirement."

The standard employer match is 50% on up to 2% of pay contributed by an employee. In the plan's first year of operation, however, the match is 100% on up to 2% of the employee contribution.

On the defined benefit side, those choosing to enroll in the DC plan will make a smaller contribution to the DB plan. In exchange, the benefit payment will be less. In addition, they must work until age 65 to get their full benefit payment. Those sticking with the original DB-only approach may retire with full benefits at 55.

Mr. Campbell said that change also benefits the county because "the county can retain employees 10 years longer and thereby reduce costs associated with training and recruitment."

Costs could be reduced further if existing employees are given the same choices that new employees get, something both the county and the union support. So far, however, that move has been blocked by the Internal Revenue Service.

'We wanted to reduce the (DB) plan for new employees. The union wanted to give new employees a choice.'

William Campbell,
Orange County Board of Supervisors

"Mandatory employee contributions to public employee retirement plans are considered 'picked up' employer contributions for federal income tax purposes," said Mr. Campbell. "The employee is not taxed when the contributions are made, but is taxed on the benefits when (they) are received."

The IRS is questioning if allowing current employees a one-time chance to switch to the new plan "will cause their contributions to lose their pretax status and whether this loss will apply to all...current employees...including those who do not elect the lower formula," he said.

Mr. Campbell said the county has been discussing this issue with the IRS since September 2009. He hopes for a ruling later this year.

The new structure reflects employees' evolving attitudes about work and retirement, Ms. Major said. "If I'm 25, I don't know if I'll be working in the same place until I'm 55," she said. "People move around a lot more. A defined benefit plan is the most reliable (retirement investment), but some people want more control over their money" through a defined contribution plan.

Robert Steyer is a reporter at Pensions & Investments, a sister publication of Business Insurance.

Products & Services

Chartis expands real estate program

NEW YORK—Chartis Inc. has introduced commercial umbrella coverage enhancements geared toward exposures faced by the real estate industry.

XSEnhanced: Real Estate is the third coverage within the XSEnhanced suite of industry-specific commercial umbrella coverages, the New York-based unit of American International Group Inc. said in a statement.

The program offers enhancements such as coverage of bodily injury or property damage resulting from services performed by the insured, expanded definitions to provide third-party discrimination coverage, and a stand-alone pollution endorsement for additional named perils, including pesticides, vandalism and carbon monoxide.

The program also offers additional risk assessment, claims support and professional assistance services in the event of a crisis, Chartis said.

For additional information, contact Christopher Kopser, president of excess casualty, at 212-458-1674 or *christopher.kopser@chartisinsurance.com.*

Zurich ups capacity for specialty E&O

SCHAUMBURG, Ill.—Zurich North America Commercial has increased its capacity for specialty errors and omissions business to reach a broader range of companies.

Zurich has increased its capacity from $10 million to $25 million and removed revenue restrictions in which the insurer previously had an internal maximum revenue threshold for its E&O business, the Schaumburg, Ill.-based unit of Zurich Financial Services Group said in a statement.

Without the restrictions, Zurich can look at various E&O accounts regardless of revenue size and extend its reach to nonlicensed professionals.

Lori Bailey, head of professional liability for Zurich, will lead the E&O team's expansion.

"We have combined the units that write this business to offer our customers continuity of service across all revenue segments." Ms. Bailey said. "This, in addition to our increased capacity and broader appetite, will enable us to serve many more customers than in the past."

For more information, contact Ms. Bailey at 617-570-8847 or *lori.bailey@zurichna.com.*

Hartford accelerates death benefit payments

HARTFORD, Conn.—Hartford Financial Services Group Inc. has launched a program that accelerates death benefit payments to beneficiaries of group life insurance policies.

Life Conversations Express Pay delivers death benefits payments within 48 hours of the date of death and is available to those with Hartford's group life insurance plans through their employers, the Hartford, Conn.-based insurer said in a statement.

The program is offered through a partnership with Houston-based funeral planning and concierge service firm Everest Funeral Package L.L.C. and includes end-of-life resources such as funeral planning; will preparation; and emotional, financial and legal support services to beneficiaries.

According to Hartford's recent national survey, two-thirds of U.S. residents said paying for an unexpected funeral would be a financial hardship and 46% anticipate using life insurance to cover the expense.

Hartford will accept a certificate of death from the funeral home rather than wait for a government-issued certificate, which speeds the payment process by several weeks, the insurer said. Expedited death benefits payments occur in instances of natural death where an investigation is not warranted.

For more information, contact Kelly Carter, media relations, at 860-843-9420 or *kelly.carter@hartfordlife.com*

Unum makes form available in Spanish

CHATTANOOGA, Tenn.—Unum Group is offering a Spanish version of its evidence-of-insurability form.

The Spanish version of the form, which is widely used in the insurance industry to determine eligibility for additional medical or life insurance coverage, aims to address the growing Hispanic workforce and ease the benefits process for Spanish-speaking customers, the Chattanooga, Tenn.-based insurer said in a statement.

According to a February 2008 Pew Research Center study, the Hispanic population is the fastest-growing ethnic group in the United States and its share of the workforce may double to 31% within two decades, Unum said.

"Beginning the benefits process with a form in their preferred language adds an extra layer of comfort, relief and awareness for these customers," Bilda Acuña, assistant vp of Hispanic markets for Unum, said in a statement.

The form has 12 versions in accordance with varying state requirements and is available in 46 states.

For more information, contact Ms. Acuña at 423-294-8511 or *bacuna@unum.com.*

TO SUBMIT ITEMS

BI's Products & Services column reports on new product offerings. Please send Product & Services news to Mike Tsikoudakis, 360 N. Michigan Ave., Chicago, Ill. or e-mail *mtsikoudakis@businessinsurance.com.*

Public pension plans slash benefits due to economy

Decreased funding levels, increased costs hurt plans

By RANDY DIAMOND

At least 24 public pension funds have cut benefits this year as fallout from the financial crisis continues to affect the plans' stability.

The plans have been plagued by decreased funding levels due to asset drops at the same time costs are increasing because of factors such as retirees living longer, said Keith Brainard, research director of the National Assn. of State Retirement Administrators.

"They simply couldn't invest out of it," he said. "Something else has to change: lower benefits or higher contributions." The association conducted a survey in May of changes made by public retirement plans this year.

In some states, like Colorado, the impetus for change came from the pension fund itself. Officials of the $35.4 billion Public Employees' Retirement Assn. in Denver launched an 18-month town-meetings program to convince employees and retirees that their benefits must be cut.

In other cases, politicians were behind the changes. Illinois lawmakers pushed through a bill reducing benefits for new participants in the state's five pension plans as rating agencies threatened to reduce Illinois' bond rating over concerns of unfunded liabilities. The bill moved through both houses of the Legislature in just 12 hours. Several weeks later, Gov. Pat Quinn signed the bill into law.

"The changes were driven by the governor and the Legislature," said William Atwood, executive director of the $13.1 billion Illinois State Board of Investment in Chicago, which has fiduciary responsibility for managing the pension assets of the General Assembly Retirement System, the Judges' Retirement System of Illinois and the State Employees' Retirement System of Illinois.

In California, the controversy over benefit cuts still is playing out. Gov. Arnold Schwarzenegger has vowed not to approve the state budget without pension benefit reform.

But the nation's largest defined benefit plan—the $201.9 billion California Public Employees' Retirement System in Sacramento—used its own authority on June 16 to increase contributions from the state by $600 million.

CalPERS officials set up a Facebook account where it denounced several studies saying the fund will be insolvent in two decades.

On another website—CalPERS Responds (*www.calpersresponds.com*) —CalPERS officials focus on what's right with the pension system. Featured are articles such as a study showing that public employees earn significantly less than private-sector workers and a list of what fund officials call myths, including "public pension benefits are excessive and a drain on the public."

Patricia K. Macht, director of external affairs, said CalPERS officials are committed to bringing together stakeholders to deal with funding and benefits issues. Fund officials held two day-long discussions as well as webinars with more than 300 participating employers and featuring the chief actuary and chief investment officer.

Officials at the $132.1 billion California State Teachers' Retirement System in West Sacramento, the nation's second-largest defined benefit plan, are planning to launch their own campaign next year to convince state lawmakers to introduce legislation to raise contributions, according to board documents.

CalSTRS spokesman Patrick Hill said fund officials want the Legislature to increase the 8.25% of employee payroll that school districts and community colleges now pay CalSTRS. Mr. Hill said raising employee contributions is not on the table. CalSTRS has not yet said what increase it would seek, but officials said that for its defined benefit program to be fully funded in 30 years, an employer contribution rate of more than 22% would be required.

'Many pension plans remain critically underfunded. This issue isn't going away.'

Girard Miller, pension plan consultant

Without an increase, officials say, the fund will run out of money by 2045.

Most changes implemented by public pension plans this year apply only to new hires, which has critics charging that severe plan underfunding has not been addressed.

"Many pension plans remain critically underfunded," said pension plan consultant Girard Miller. "This issue isn't going away."

Mr. Miller, a senior strategist and consultant at the PFM Group in Philadelphia, testified last month before a California commission studying the state's pension funds. He called for changes to the state constitution to allow benefits cuts for state and municipal workers.

The survey conducted last month by NASRA shows that public pension systems in Colorado, Minnesota and South Dakota were the only ones that reduced benefits for retirees as part of their fund overhauls.

Meredith Williams, executive director of Colorado PERA, said the system's funded status dropped to 52% at the end of 2008—when the fund began to feel the effects of the financial crisis—from 76% a year earlier.

He and board members then conducted an eight-city listening tour to explain PERA's fiscal difficulties and to hear the concerns of state employees and retirees. The message to employees was urgent: If nothing is done, the system could be out of money in a little more than two decades.

"Anyone who planned to live beyond 2030 was in trouble," Mr. Williams said.

The result of the meetings: Changes should affect employees on a "fair and equitable" basis and should have a meaningful impact on the system's finances. "I didn't want to use baling wire or duct tape or bubble gum to create a short-term politically expedient fix," he said.

A second tour was organized in fall 2009 to explain the proposal to cut benefits. A bill reducing benefits was approved in February 2010, but not before Mr. Williams said he spent at least 15 hours testifying before the Colorado Legislature.

The bill cut the automatic 3.5% yearly cost-of-living increase to a maximum of 2%. It also required new retirees to wait for at least a year before receiving their first cost-of-living increase. Other changes decreased the benefit workers would receive if they retired early and required employees cashing out their benefits to work at least five years to get an employer match.

In Minnesota, the three statewide retirement systems—the Minnesota State Retirement System, the Minnesota Public Employees Retirement System and the Minnesota Teachers Retirement Assn.—all cut benefits for retirees. The systems have combined assets of $48 billion.

The Minnesota State Retirement System in St. Paul also reduced cost-of-living adjustments for retirees to 2% from 2.5% this year. David Bergstrom, executive director, said the system got various constituent groups to support the plan through frank discussion about the severe hit the plan's funding status took from the financial crisis.

"Most of them saw the need to make changes now so they had a solid pension going forward." he said.

The cuts were more severe for participants in the Public Employees Retirees Assn. and the Teachers Retirement Assn. PERA retirees had their COLAs cut to 1%, from 2.5%. Teachers had COLAs suspended for two years, followed by a permanent reduction of 2% annually from 2.5%.

South Dakota introduced cuts for retirees that vary depending on the plan's funding level. For 2011, cost-of-living increases fell to 2.1%, from 3.1%.

Whether other states try to cut benefits could hinge, in part, on the outcome of lawsuits filed by retirees in Colorado, Minnesota and South Dakota who maintain the changes violated state laws.

William Payne, a Pittsburgh lawyer with Stember Feinstein Doyle Payne & Cordes L.L.C., which filed the suits, said the impact on retirees is severe. He said a Colorado retiree who received an annual pension of $33,374 in 2009 could lose more than $165,000 in benefits over 20 years.

"People earned their pension benefits, but the pension systems aren't holding up their end of the bargain," he said.

Illinois' changes are among the most extensive. They include cutting COLAs to half of increases in the U.S. Consumer Price Index.

The changes came after a joint legislative pension reform committee studied the dire financial state of Illinois' pensions plans, followed by months of negotiations among stakeholders that went nowhere, said Dan Long, executive director of the Illinois Legislature's Commission on Government Forecasting and Accountability in Springfield.

"The parties involved just couldn't come to an agreement and everyone realized something had to be done," he said.

Mr. Long said the legislation will lower the projected $551.7 billion pension liability to $295.3 billion by 2045. But critics said it does little to address severe underfunding.

"It's a step in the right direction, but it does not address the over $70 billion in unfunded pension liability," said Laurence Msall, president of The Civic Federation, a Chicago-based nonpartisan government watchdog group.

In California, Gov. Schwarzenegger scored a victory on June 16 when four labor unions agreed to increase employee payments to 10% from 5% of pay as well as to reduce benefits for new employees. But the unions represent only around 23,000 of the 170,000 state employees.

The governor had said he won't approve the state budget without a new second-tier pension system for new hires. But the state Senate Public Employment and Retirement Committee killed a bill this month that would have required new hires to contribute more and work longer to receive benefits.

Randy Diamond is a reporter at Pensions & Investments, a sister publication of Business Insurance.

Isle of Man: Looking to capitalize on captive trends

CONTINUED FROM PAGE 3

Captive owners will consider issues such as whether to locate within the European Union, treaties in place to avoid double taxation, fronting regulations, the regulatory regime and others, Mr. Kelly said.

Some of the impetus for moving benefits to captives is coming from the top of the organization and concerns about funding, said Paul A. Kiernan, managing director at Willis Management (Isle of Man) Ltd. in Douglas.

"CEOs are looking at it now" and asking risk managers to determine whether benefits should be funded by captives, Mr. Kiernan said. "CEOs are looking to consolidate those arrangements on a global basis rather than on an ad hoc country-by-country basis."

"Traditionally, it's been almost impossible to write a single policy for things like death and health care benefits" because local regulations governing benefits differ around the world, he said.

A popular solution has been to fund international benefits through pooling arrangements that have agreements with local insurers in many parts of the world. Such an approach "has worked well," but it does not give multinationals complete control over their plan operations, Mr. Kelly said.

'There is a very strong trend in Europe and the U.S. to bring captive insurance companies into play.'

Paul Kelly, Towers Watson & Co.

"There is a very strong trend in Europe and the U.S. to bring captive insurance companies into play," Mr. Kelly said. In fact, some large European and U.S. companies already are funding nonpension international benefits through captives, he said.

The move to fund pensions through captives, however, "is at an earlier stage," Mr. Kelly said.

Increasingly, though, multinationals are consolidating their pension assets from different countries and reinsuring through a fronting insurer and into a captive, Mr. Kelly said.

There are disadvantages to the captive approach, however, and not all risk managers are looking to their captives as the complete solution to fund benefits.

Marco Terzago, risk manager at SKF Industrie S.p.A. in Airasca, Italy, said his company's Sweden-based captive is top-heavy with benefits for the employer's global operations and SKF is considering moving some of the business to a pooling arrangement.

SKF funds portions of its personal accident and executive life insurance benefits in the captive and works with local insurers that handle some of benefits, Mr. Terzago said. The company, a bearings manufacturer is concerned about aggregating its exposures in the captive and is looking into pooling arrangements that could take some of the strain off the captive, he said.

(From left) Marianne McManus, Benefit Manager of the Year, discusses IBM Corp.'s benefits strategy as Knoxville, Tenn.'s Gary Eastes and North Shore-LIJ Health Care System's Joseph Molloy, both Benefit Management Honor Roll winners, listen at *Business Insurance*'s 2010 Benefit Manager of the Year Forum moderated by *BI*'s Joanne Wojcik.

MICHAEL MARCOTTE

Benefit strategies promote healthy workers

By REGIS COCCIA

NEW YORK—Raising consciousness is key to helping benefit plan members adopt healthy lifestyles, which is a major challenge for employers, a panel of leading benefit managers said.

Speaking during the 2010 Benefit Manager of the Year Forum in New York last month, the panelists discussed challenges facing their organizations and offered solutions.

The forum is a new annual event hosted by *Business Insurance* to help benefit professionals network with peers and share ideas to solve benefit-related problems. More than 70 people attended the forum, which also featured a luncheon at which *BI* presented the Benefit Manager of the Year award and inducted two members into the inaugural Benefit Management Honor Roll (*BI*, June 28).

One of the health initiatives at Armonk, N.Y.-based IBM Corp. that has won "very good engagement" with employees is a Healthy Living Rebates program, which offers reimbursements to enrollees for making healthier lifestyle choices, said Marianne McManus, director of health benefits strategy and design in Somers, N.Y.

Combating childhood obesity is important to IBM and the rebate program has begun to address that problem, said Ms. McManus, the 2010 Benefit Manager of the Year. "The Healthy Living Rebates program recognizes the family as an entity that needs to model healthy behaviors, especially to attack childhood obesity," she said.

Elements of IBM's program promote family-centered activities, from eating meals together to taking walks or engaging in other exercises.

IBM plan members have access to a health management center portal, developed by IBM with outside partners including WebMD, that enables users to research health conditions, sign up for health care alerts and reminders to obtain screenings, and track their progress toward achieving rebates, she explained.

MICHAEL MARCOTTE

Winners of the Benefit Manager of the Year and Benefit Management Honor Roll honors discussed their winning strategies at *BI*'s 2010 Benefit Manager of the Year Forum in New York.

"Ultimately, what we're trying to do is manage risk," Ms. McManus said. "Improve people's health and you will improve lives and costs."

The city of Knoxville, Tenn., has used financial incentives to help its benefit plan members with chronic diseases embrace better managing their conditions, but the city's risk and benefit manager, Gary Eastes, said he would like to shift members toward habits that make such incentives unnecessary.

"I don't want to keep incentives for chronic disease self-care. Most employees realize that their premiums go up if somebody isn't doing something about their health," said Mr. Eastes, a member of the 2010 Benefit Management Honor Roll.

"We're taking steps toward a goal I don't think we'll ever totally reach," he said. "That's getting employees to understand they have to take control of their own health."

A particular challenge for the government entity was communicating that "health care premiums are all our money. It's never been true that premiums are just an insurance company's money," he said.

One necessary change in the health care system, he said, is educating doctors that they need to change how they manage patients' health. "Changing a lifestyle is a huge leap for doctors," Mr. Eastes said. "The medical community has done a tremendous job of keeping unhealthy people alive longer, but it has been terrible at keeping us healthy. Health care reform has to boil down to keeping people healthy."

An employer's culture "supports or undermines choices" that employees make, said Joseph Molloy, corporate director of benefits at North Shore-LIJ Health System in Lake Success, N.Y. Mr. Molloy, a member of the 2010 Benefit Management Honor Roll, suggested that "workplaces need to support managers in promoting wellness and in employees adopting wellness lifestyles."

Four lifestyle choices promote chronic disease, he said: lack of exercise, smoking, poor food choices and uncontrolled stress.

Klein: Health care costs will increase

CONTINUED FROM PAGE 4

employers and consumers in the form of higher charges, he said.

On the other hand, the demand for COBRA health care continuation coverage by former employees and other beneficiaries is likely to plummet as other provisions in the reform law kick in, Mr. Klein said.

When state insurance exchanges start operating in 2014, beneficiaries may not only be able to get coverage that costs much less than COBRA, they also may be eligible for federal premium subsidies for coverage purchased through the exchanges, he said.

One issue that employers have begun to examine is whether it would be more cost-effective to drop coverage, pay the required $2,000 per employee penalty and boost employees' salaries to help them purchase coverage through insurance exchanges.

While that option might cost less than continuing to offer coverage, the decision "is not as simple as it appears," Mr. Klein said.

The American Benefits Council's James Klein said health care reform could reduce employer-paid coverage.

Employers that drop coverage could be at a disadvantage if their competitors don't, he noted. In addition, Congress might increase the penalty if employers drop coverage in large numbers, he said.

"If the penalty goes up to $3,000 or $5,000," it might be better to spend $10,000 and "get some employee relations value" rather than paying a $5,000 penalty that employers cannot deduct on their taxes, he said.

Although the law will impose a compliance burden, employers shouldn't forget that business community lobbying led to positive changes compared with previous versions of the legislation, he said. For example, the original House bill included a public plan option that would have crowded out private plans, Mr. Klein said.

Under the final bill that passed, employers still retained a fair amount of flexibility in their ability to design their health care plans, he said.

AP PHOTO

Construction is under way at the Olympic Stadium in London last week. Many of the venues slated for use at the games will be "stress tested" before the 2012 Games, said Jonathan Clark, technical director at Cunningham Lindsey U.K.

Olympics: Risk management vital to safety

CONTINUED FROM PAGE 4

ered is that of employers liability, he said.

There will be many workers involved in staging the games, many of them volunteers, he said. The staff needs adequate training to minimize the risks and potential liability exposures to employers.

The games' organizers also must analyze potential risks to participants and different attitudes that athletes may have about risks, Mr. Clark said. For example, if a cyclist fell off, would he or she be more likely to get back on and continue riding or to sue the designer of the track?

There needs to be a balanced approach to risk, he said. For example, an overly safe course likely would not make for an interesting equestrian competition, he said.

One area that carries huge potential risks is visitors, Mr. Clark said.

There will be a vast number of people coming to London, many of whom do not speak English as their first language, he said. Safety advice given to visitors, therefore, must be very clear, he said.

In addition, those involved in organizing the games need to be aware of visitors' differing cultural expectations, Mr. Clark said. Organizers should examine various scenarios based on different jurisdictions and their potential for litigation to have a better idea of what to expect, he said.

There are potential liabilities associated with the large-scale catering needed for the Olympics, such as the risk of food poisoning, Mr. Clark said.

Despite potential risks associated with staging the Olympic Games, there is little likelihood that the event will be postponed or canceled, even if there is a fairly large-scale event, said Paul Maynard, chief placement officer for Willis U.K. & Ireland Ltd., a unit of Willis Group Holdings P.L.C.

AP PHOTO

Security officials investigate at the scene of a bombing at the Atlanta Olympics in 1996. There is little likelihood the 2012 Games will be postponed or canceled due to terrorism, said Paul Maynard of Willis U.K. & Ireland Ltd.

"There will be a huge drive to make sure the Olympics goes ahead," he said, pointing out that the Olympic Games in Munich in 1972 and Atlanta in 1996 continued despite terrorist events.

Clearly, there is a history of Olympic Games being targets of terrorist activity, said Steve Atkins, chief executive of Pool Reinsurance Co. Ltd., the United Kingdom's privately run, government-backed terrorism reinsurance pool. "Obviously, any major event is attractive to terrorists."

But the Olympic organizers and government authorities will view the risk in the wider context, he said. Large events take place in the United Kingdom all the time and authorities have succeeded in thwarting many planned attacks, he said.

Terrorism is a difficult risk for underwriters to forecast as it is a low-frequency but high-severity risk, Mr. Atkins said.

This is why government-backed insurance and reinsurance arrangements have become more prevalent in recent years, he said.

Graham Newman, European product marketing manager at FINEOS Corp. Ltd., also took part in the seminar, which was chaired by Adrian Ballardie, chairman of the CII's London Market Faculty.

UP CLOSE
Comings & Goings

SARAH GAVLICK

NEW JOB TITLE: Red Bank, N.J.-based executive vp of the Northeast region for Markel Corp.

PREVIOUS POSITION: Red Bank-based director of underwriting and production of the Northeast region for Markel.

GOALS FOR NEW POSITION: We have a pretty good footprint in the Northeast already, so what I am focusing on is trying to expand our current relationships and also trying to grow some additional relationships in the area. Markel has a lot of new products; so between the new offerings and expanding into areas where we are already seeing success, we are just looking to grow. There is a lot of business out there that we think we can tap into due to market changes. We're focusing on taking advantage of new opportunities for growth.

INDUSTRY OUTLOOK: I think it's looking better. We are seeing some changes that would lead me to believe that the market is correcting itself. We are starting to see improvements in the economy here and there. We are slowly starting to see some construction. We are starting to see people dip their toes into new business ventures. I think things are starting to pick up, which means good things for our industry.

ADVICE: I would say ask questions. If you don't know something, ask. Try to get all the information you can to understand the industry or an account or the company. The more you know, the more you can leverage. Be patient. We are in a very tough industry and economy. I think if people are patient and using this time to learn and grow, it will benefit them in the long run.

WHAT YOU WANTED TO BE WHEN YOU GREW UP: I wanted to be a travel agent. I traveled a lot when I was younger and within the insurance industry. I wanted to be a travel agent so I could go to all these places for free.

MOST PASSIONATE ABOUT: I am a mom; I have two children. My days right now revolve around my children. We love going to the beach, going on vacation. I love doing anything with my children.

Comings & Goings ONLINE

VISIT ***www.businessinsurance.com/ComingsandGoings*** for a full list of this week's personnel moves and promotions. Check our Web site daily for additional postings and sign up for the weekly e-mail.

TO SUBMIT ITEMS

Business Insurance would like to report on senior-level changes at commercial insurance companies and service providers. Please send news and photos of recently promoted, hired or appointed senior-level executives to:

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Business Insurance
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Chicago, Ill. 60601-3806
mtsikoudakis@businessinsurance.com

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LEGAL NOTICE

STATE OF RHODE ISLAND SUPERIOR COURT
PROVIDENCE, SC
IN RE: GTE REINSURANCE COMPANY LIMITED.
C.A. NO.: PB 10-3777

NOTICE OF HEARING ON PETITION FOR LEAVE TO CONVENE A MEETING OF CREDITORS

TO ALL CREDITORS OF GTE REINSURANCE COMPANY LIMITED ("GTE RE"), INCLUDING REINSURANCE CEDENTS, BROKERS WHO PLACED BUSINESS WITH GTE RE AND ANY OTHER INTERESTED PARTIES:

PLEASE TAKE NOTICE THAT GTE RE proposes to enter into a Commutation Plan with its Commutation Plan Creditors, pursuant to Rhode Island Statute 27-14.5, and has filed a Petition for Implementation of a Commutation Plan in the Superior Court in and for the State of Rhode Island.

PLEASE TAKE FURTHER NOTICE THAT the hearing on **GTE RE's application for leave to convene the Meeting of Creditors to vote on the Commutation Plan (the "Application") is scheduled to take place on July 21, 2010 at 11:00 AM Eastern before Mr. Justice Silverstein in the Superior Court for Providence County, 250 Benefit Street, Providence, Rhode Island.**

Attendance at the hearing is permitted, but not mandatory. Commutation Plan Creditors who wish to raise any issues in relation to the Meeting of Creditors that GTE RE proposes to convene, or which may affect the conduct of that Meeting of Creditors, should either file a written objection with the Court (with a copy to GTE RE and its attorneys) prior to the date of hearing, or the objecting Commutation Plan Creditor or its attorney should appear at the hearing to present any objection. To the extent that GTE RE receives notice of any issues regarding the constitution of the Meeting of Creditors or which may affect the conduct of the Meeting of Creditors, it will draw the issues raised to the attention of the Court at the hearing of the Application should the Commutation Plan Creditor choose not to appear before the Court.

PLEASE TAKE FURTHER NOTICE THAT any questions regarding the Commutation Plan or the hearing on the Application should be directed to the Commutation Plan Advisor:

Andrew Rothseid RunOff Re.Solve LLC
50 Monument Road, Suite 300
Bala Cynwyd, Pennsylvania 19004
+1 610-680-5938
+1 610-500-5071 (facsimile)
andrew.rothseid@runoffresolve.com

or to GTE RE's counsel:

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+1 401-521-7000
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New York, New York 10112
+1 212-408-5100/+1 202-974-5600
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REQUEST FOR PROPOSAL

NEW YORK CITY HOUSING AUTHORITY

INVITATION FOR BIDS PROPERTY INSURANCE

The New York City Housing Authority ("NYCHA") requests quotations from qualified **INSURANCE CARRIERS** for Primary/Excess Property Insurance coverage. **Coverage is to become effective October 30, 2010.**

Proposals must be made in the format and within the timeline(s) included in the Invitation for Bids package containing instructions, specifications and detailed submission requirements. Packets may be obtained by calling NYCHA's Property Insurance Broker: **Towers Watson, One Stamford Plaza, 263 Tresser Boulevard, Stamford, CT 06901-3226 at (203) 363-1957.** In order to be eligible, completed bids **must be received by 3:00 P.M. EST on August 13, 2010.**

All inquiries for additional information regarding the Invitation for Bids are to be directed, in writing, to: **Visnja Marcic, Towers Watson, at the aforementioned address, telephone or e-mail to: Visnja.Marcic@towerswatson.com.**

NYCHA IS NOT SOLICITING QUOTES FROM BROKERS

NEW YORK CITY HOUSING AUTHORITY

Michael R. Bloomberg
Mayor, New York City

John B. Rhea
Chairman, NYCHA

REQUEST FOR PROPOSALS

DELAWARE RIVER PORT AUTHORITY of Pennsylvania & New Jersey

The Delaware River Port Authority (DRPA) is requesting Proposals for Health & Welfare Benefits Broker/Consultant Services.

Interested parties can find the Request for Proposal documents by going to the DRPA web site **www.drpa.org**, clicking on the "Working with DRPA" link, and then clicking on "Bids and Contracts."

REQUEST FOR PROPOSALS

DELAWARE RIVER PORT AUTHORITY of Pennsylvania & New Jersey

The Delaware River Port Authority (DRPA) is requesting Proposals for Broker/Consultant Services for the Authority's Pollution Legal Liability Policy.

Interested parties can find the Request for Proposal documents by going to the DRPA web site **www.drpa.org**, clicking on the "Working with DRPA" link, and then clicking on "Bids and Contracts."

LEGAL NOTICE

NEW YORK LIQUIDATION BUREAU
123 WILLIAM STREET
NEW YORK, NEW YORK 10038-3889
(212) 341-6755

To all persons or entities interested in the affairs of

ADIRONDACK INSURANCE COMPANY OF NEW YORK, BENSON & JAMES INSURANCE COMPANY INC., DENALI CASUALTY COMPANY, DENALI NATIONAL SURETY COMPANY, E TITLE INSURANCE, INC., OLD TOWER INSURANCE COMPANY, PMI MORTGAGE INSURANCE CO. OF NY and WESTMINSTER NATIONAL INSURANCE CORPORTION.

Notice is Hereby Given:

I. James J. Wrynn, Superintendent of Insurance of the State of New York, has been appointed by an order of the Supreme Court of the State of New York, New York County, filed on June 10, 2010 ("Liquidation Order"), as the liquidator ("Liquidator") of Adirondack Insurance Company of New York, Benson & James Insurance Company Inc., Denali Casualty Company, Denali National Surety Company, E Title Insurance, Inc., Old Tower Insurance Company, PMI Mortgage Insurance Co. of NY and Westminster National Insurance Corporation (collectively, the "Companies") and, as such, has been (i) vested with title to the Companies' properties, contracts, rights of action and all their books and records; and (ii) directed to liquidate the Companies' business and affairs, pursuant to New York Insurance Law ("Insurance Law") Article 74. The Liquidator has, pursuant to Insurance Law Article 74, appointed Dennis J. Hayes, Special Deputy Superintendent of Insurance ("Special Deputy") as his agent to liquidate the business of the Companies. The Special Deputy carries out his duties through the New York Liquidation Bureau, 123 William Street, New York, New York 10038-3889.

II. In accordance with Insurance Law Section 7432(b), all claims against the Companies must be presented to the Liquidator by October 11, 2010. Claims presented after October 11, 2010, will not share in the distribution of assets until all allowed claims that were filed on or before October 11, 2010 have been paid in full with interest. All policyholders or claimants who appear on the Companies' books and records as of the date of entry of the Liquidation Order are deemed to have duly filed proofs of claim prior to October 11, 2010.

III. In accordance with Insurance Law Section 7405, all contracts and agreements, including all leases, tax sharing agreements and employment contracts of the Companies, however described, shall terminate and all liability thereunder shall cease and be fixed as of the date of entry of the Liquidation Order, unless expressly ratified in writing by the Liquidator.

IV. The Liquidator is authorized, permitted and allowed to sell, assign or transfer any and all real or personal properties, stocks, bonds or securities of the Companies at market price or better, or if there is no market price, at the best price obtainable at private sale at such times and upon such terms and conditions as, in his discretion, he deems is in the best interest of the creditors of the Companies, and he is further authorized to take such steps and to make and execute such agreements and other papers as may be necessary to effect and carry out such sales, assignments and transfers.

V. The Companies, their officers, directors, shareholders, members, depositories, policyholders, trustees, agents, servants, employees, attorneys, managers and affiliates, and all firms, corporations, associations, and other persons or entities: (i) having any property, records, books or papers belonging to the Companies, wherever located, including but not limited to insurance policies, claims files, legal files, software programs, bank records, or any tangible or intangible items of value, shall preserve such property and are directed to promptly assign, transfer, turn over and deliver such to the Liquidator; and (ii) having any property, records, books or papers relating to the Companies, wherever located, shall preserve such property and are directed, upon the Liquidator's request, to promptly submit such to the Liquidator for examination and copying.

VI. Any persons or entities providing claims processing services, data processing services, electronic records retention services or other information technology services to the Companies shall maintain and preserve all information in their possession ("Information") relating to the Companies, wherever located, including but not limited to all documents, data, electronic files, and records; computer equipment (i.e., servers and printers), software programs and software licenses owned by the Companies, and are directed, upon the Liquidator's request, to promptly submit all such information to the Liquidator for examination and copying.

VII. Any bank, savings and loan association, other financial institution or any other entity or person, which has on deposit or in its possession, custody or control any of the Companies' funds, accounts or assets shall immediately, upon the Liquidator's request and direction, (i) turn over custody and control of such funds, accounts or assets to the Liquidator; (ii) transfer title of such funds, accounts or assets to the Liquidator; and (iii) change the name of such accounts to the name of the Liquidator; (iv) transfer funds from such bank, savings and loan association or other financial institution; or (v) take any other action necessary for the proper conduct of the liquidation proceeding.

VIII. Any distribution of assets shall be in accordance with the priorities set forth in Insurance Law Article 74.

IX. The officers, directors, shareholders, members, depositories, trustees, policyholders, agents, servants, employees, attorneys, managers and affiliates of the Companies and all other persons are permanently enjoined and restrained from: (i) transacting the Companies' business; (ii) wasting or disposing of, or permitting to be done any act or thing that might waste or dispose of, the Companies' properties; and (iii) interfering with the Liquidator in the possession, control or management of the Companies' properties or in the discharge of his duties.

X. All persons are permanently enjoined and restrained from commencing or prosecuting any actions or proceedings against the Companies, the Liquidator or the New York Liquidation Bureau, its employees, attorneys and/or agents, with respect to any claims against the Companies.

XI. All persons are permanently enjoined and restrained from obtaining preferences, judgments, attachments or other liens, or making any levy against the Companies' assets or any part thereof.

XII. All communications relating to the Companies and to the liquidation thereof should be addressed to:

New York Liquidation Bureau
123 William Street
New York, New York 10038-3889
(212) 341-6218

JAMES J. WRYNN, Superintendent of Insurance of the State of New York as Liquidator of Adirondack Insurance Company of New York, Benson & James Insurance Company Inc., Denali Casualty Company, Denali National Surety Company, E Title Insurance, Inc., Old Tower Insurance Company, PMI Mortgage Insurance Co. of NY and Westminster National Insurance Corporation

DENNIS J. HAYES, Special Deputy Superintendent of Insurance and Agent for the Superintendent as Liquidator of the Adirondack Insurance Company of New York, Benson & James Insurance Company Inc., Denali Casualty Company, Denali National Surety Company, E Title Insurance, Inc., Old Tower Insurance Company, PMI Mortgage Insurance Co. of NY and Westminster National Insurance Corporation

Offshore: SPILL Act raises liability worries

CONTINUED FROM PAGE 3

measure and quickly praised the House's action.

"The House's quick passage of this bill shows how current maritime laws desperately need to be updated if the negligent corporations responsible for the tragedy are to be held accountable," AAJ President Anthony Tarricone said in a statement. "The families of workers who died aboard the Deepwater Horizon, as well as those affected by other maritime disasters, are now one large step closer to receiving justice."

Tort reform supporters, however, are concerned that attempts to expand liability in maritime cases could expand to other liabilities.

"We are very much concerned about this being a stalking horse for a number of anti-tort reform" moves, said Matt Webb, senior vp-legal reform policy at the U.S. Chamber Institute for Legal Reform in Washington. He noted that the original SPILL Act contained a "very broad" exception to the Class Action Fairness Act.

"We're very much concerned about the other side using the adage of not letting any crisis go unused and trying to use this as a catalyst to get any number of lawsuit-expanding provisions passed," Mr. Webb said. Changes to the Death on the High Seas Act and the Jones Act have the potential of "having significant impact on asbestos-related litigation in the maritime world."

The success of proponents of expanded liability "was limited to admiralty and Jones Act cases," said Victor Schwartz, general counsel for the American Tort Reform Assn. in Washington. "But the vote could be taken as a disapproval of any legislative limits on liability," he said.

"The expansion of wrongful death to include loss of companionship at the very time that liability limits are lifted totally from cases against the industries involved could be a death knell by lawsuits for smaller companies that may have been involved," Mr. Schwartz said.

"It is anathema to the rule of law to change the rules of the game retroactively after a specific incident," said James Copland, director of the Center for Legal Policy at the New York-based Manhattan Institute. "You don't want to do that with civil law," he said. Imposing laws retroactively strips businesses of confidence in the legal system, he said.

Mr. Copland said he believes that the looming midterm congressional elections are motivating proponents of expanding liability in civil cases.

"Unambiguously, I would agree that the trial bar is trying vigorously to get some of its preferred agenda items through the Congress as soon as it can, because I think it fears the window of opportunity may be closing after November with a new Congress," he said.

> 'It is anathema to the rule of law to change the rules of the game retroactively after a specific incident. You don't want to do that with civil law.'
>
> James Copland,
> Center for Legal Policy

AP PHOTO

Sen. Patrick Leahy, D-Vt., spoke last month with Maria and Bill Anderson, the parents of Jason Anderson, who died in the Deepwater Horizon explosion.

ADVERTISER INDEX

Issue of July 12

Analysis of investments avoids 'richness of embarrassments'

Captive conference touts matching assets to liabilities

By RODD ZOLKOS

SOUTHAMPTON, Bermuda—"Stress testing" a captive's investment portfolio regularly can help prevent unfortunate surprises, according to a group of investment experts.

Speaking at the annual Bermuda Captive Conference last month, Joseph LoPorto, vp and relationship manager at Brown Bros. Harriman Insurance Asset Management in New York, said, "Stress testing is really a bit more art than science."

"The objective is really to test the robustness of our strategy," he said.

Mr. LoPorto said that when Brown Bros. Harriman does stress testing on behalf of clients, the emphasis is on determining the robustness of the client's investment strategy.

In the fixed-income portion of portfolios, there are two primary sources of investment risk associated with bond investments, he noted: interest rates and credit defaults.

"We would tend to think of interest-rate risk as the primary risk when investing in bonds," Mr. LoPorto said. "So the question is really, 'How risky are bonds?' and the answer—particularly in the case of captives—is, 'How risky do you want them to be?'"

A captive's portfolio should be structured around the business purpose of the captive and focus on matching appropriate assets to the captive's liabilities, Mr. LoPorto said.

"That strategy of immunizing surplus against interest-rate risk is critical," he said, adding that it's essential to consider whether expected returns are reasonable relative to the captive's business strategy.

From the standpoint of equity investments, "I think what we're really talking about is volatility testing," said David Burns, CEO of Schroders (Bermuda) Ltd. and another member of the panel.

Jeff Johnson, senior investment analyst at Valley Forge, Pa.-based Vanguard Group Inc., stressed the value of portfolio diversity, with actively and passively managed assets.

"From the standpoint of a mutual fund, stress testing is as much a qualitative exercise as it is a quantitative one," Mr. Johnson said.

'Deregulated capital markets have fostered seemingly arbitrary gyrations in asset prices.'

Kevin Gardiner, Barclays Wealth

He said Vanguard believes keys to investment funds' success include selecting talented investment managers and providing rigorous oversight.

Speaking with regard to the cash portion of investment portfolios, Kevin Gardiner, head of global investment strategy at Barclays Wealth, a unit of Barclays Bank P.L.C., in London said, "The stress test to end them all…was living through 2008 and 2009."

In many cases, investors for the first time found themselves forced to worry about counterparty risks in the cash portion of their portfolios, as well as risks such as deflation and illiquidity, Mr. Gardiner said.

"Our view going forward is that these sorts of risks very, very slowly are going to be moving into the rearview mirror," he said.

Looking forward, stresses facing money market assets are relatively modest, so captive investors should be able to find high-quality, low-duration alternatives to cash, Mr. Gardiner said.

In another presentation later in the conference, Mr. Gardiner discussed the condition of the capital markets "after a tumultuous decade."

While many describe good times as an embarrassment of riches, Mr. Gardiner said, "I think for deregulated capital markets, what we've had this past decade is a richness of embarrassments."

"Deregulated capital markets have fostered seemingly arbitrary gyrations in asset prices," he said. "I don't think accountants and regulators will get off scot-free in the history books."

"The regulatory and accounting framework didn't always help in the way it was intended to," he said.

Going forward, savings products will get simpler and there will be a greater emphasis on liquidity, Mr. Gardiner said.

In addition, he said there's no reason not to expect global business growth.

"We know that there are obvious risks out there," though Mr. Gardiner said he doesn't expect calamities such as the collapse of the euro or the global geopolitical situation to blow up.

In his short-term tactical investment view, "Equities are preferred to bonds and bonds to cash," Mr. Gardiner said, adding that companies look more attractive than governments. "We actually prefer the developed markets to the emerging world," he added.

While preferring company to government investments, Mr. Gardiner stressed that he doesn't expect the "eurozone" to come apart, despite the economic stresses faced recently by some of its participating countries.

"If you're skeptical about the eurozone, by all means, sell the euro." But, Mr. Gardiner said, it's important to recognize that the forces holding the eurozone together are political rather than economic.

"The single currency's existence isn't in doubt, but its value is," Mr. Gardiner said. "It's not our favorite currency" and he said he expects the euro to trend lower.

Bermuda Captive Conference draws 500 to Southhampton

SOUTHAMPTON, Bermuda—The Bermuda Captive Conference drew more than 500 attendees to the Fairmont Southampton resort June 27-30.

Sessions at this year's conference covered such topics as Solvency II, using captives to fund employee benefits, captive investments, collateral issues, loss prevention, captive tax and business developments, and risk and corporate governance.

The annual gathering also included a keynote address from Alison Levine, a polar adventurer and team captain of the first U.S. women's Mount Everest expedition, who linked perspectives gained from her various expeditions to business experiences.

Next year's Bermuda Captive Conference is scheduled for June 5-8, 2011, at the Fairmont Southampton.

For more information, visit *www.bermudacaptive.bm*.

—By Rodd Zolkos

Solvency: Bermuda works to achieve equivalence with European rules

CONTINUED FROM PAGE 4

"It's not our intention to duplicate the Solvency II criteria line by line."

Instead, Bermuda regulators are trying to achieve equivalence with Solvency II in a way that is consistent with the nature of the Bermuda market, which Mr. Weldon noted largely consists of two distinct groups of companies: captives and global reinsurers.

"The foundation of the approach is risk-based," he said, an approach consistent with the regulatory philosophy behind Solvency II.

"Solvency I made no distinctions around the type of risks that were written," said another panelist, Jonathan Groves, a senior vp with Marsh Ltd. in London. "It based all distinctions on premium income."

Mr. Groves noted that Solvency II regulation is based on three "pillars": quantitative requirements and capital adequacy, qualitative governance requirements, and transparency and disclosure. "Overlying all of this is the concept of group supervision," he said.

The new regulatory regime is scheduled to come into effect Oct. 31, 2012, but is unofficially expected to come online at the end of 2012, Mr. Groves said. With the effective date approaching, though, he said he expects to see European insurers and reinsurers beginning to move to comply with Solvency II next year. Insurers and reinsurers, including captives, have been invited to take part in the fifth quantitative impact study. The commission will use the results to help shape Solvency II rules.

Among issues for captives, those involved in fronting programs with European-based insurers will see changes in the way those insurers operate, Mr. Groves said. More directly, "Solvency II does make some special provisions for captive owners to make the whole thing a little bit easier," he said. "But (given) the way they have defined captives in the directive, about 80% of captives in Europe would not be defined as a captive."

For most European captives, "you are undoubtedly going to see an increase in your minimum capital requirements," Mr. Groves said. "Obviously there's a significant amount of extra work around the risk management requirements of Pillar II," or the corporate governance part of the directive.

There also will be increased operational costs and issues surrounding the required disclosure of information that might be considered proprietary by some companies, he said.

A third panelist, Vladimir Uhmylenko, a director at Standard & Poor's Corp. in New York, said the rating agency thinks Solvency II will have huge implications for the insurers and reinsurers that work with many captives.

Pillar I might lead to higher capital requirements, while Pillars II and III, which covers disclosure, "essentially might mean a higher burden organizationally for captives," he said.

As of now, few captives are ready for Solvency II, said Mr. Uhmylenko, who added that the regulatory approach will require integrated management of risks and capital. "You have to show your ability to analyze the solvency needs outside of the standard capital formula," he said.

But Mr. Weldon said the two overriding principles behind Solvency II—policyholder protection and improving the quality of regulation worldwide—have long been embedded in Bermuda regulation and are enshrined in its legislation.

The regulator said he thinks Bermuda's regulatory regime already is consistent with international standards. Adding that he thinks Bermuda regulation is appropriate for Bermuda-based companies, Mr. Weldon said that while Bermuda is striving for Solvency II equivalence, he doesn't anticipate any significant regulatory changes at this time.

Meanwhile, the BMA is closely monitoring and participating in international regulatory developments. "We have been very hard at work over the last two years at enhancing our regime," he said. "A lot of that work was geared to our commercial sector."

Bermuda captives' premiums down in '09

By RODD ZOLKOS

SOUTHAMPTON, Bermuda—Bermuda captives' gross written premiums declined slightly in 2009 to the lowest level since 2004, according to preliminary results of the 2009 Captive Market Survey conducted by the Bermuda Monetary Authority in conjunction with the Bermuda Insurance Management Assn.

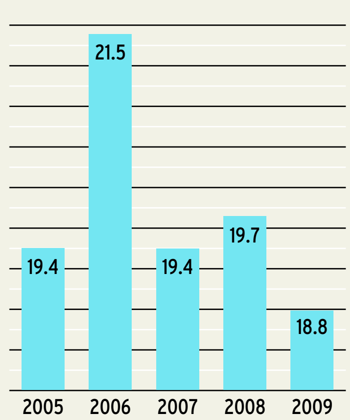
According to provisional results, Bermuda captives wrote $18.8 billion in gross premiums last year, down 4.6% from the $19.7 billion they wrote in 2008.

The results, the fourth annual survey administered by the two organizations, have data on more than half the Bermuda captive insurance market, said Traver Alexander, research officer at the BMA, who presented the preliminary findings at the Bermuda Captive Conference in June.

Survey findings include data from 2003 to 2009. Bermuda captives wrote $19.4 billion in gross premium in 2007, $21.5 billion in 2006, $19.4 billion in 2005, $16.7 billion in 2004 and $15.2 billion in 2003.

ON THE DECLINE

Bermuda captives' gross written premiums, in billions of U.S. dollars



Source: Bermuda Monetary Authority

North American risks represent the lion's share of Bermuda captives' premiums—71.6%. Global exposures were responsible for 13.9% of gross written premium, according to this year's survey. European risks represented 7%, and exposures in South America and the Caribbean were responsible for 4.2%. The remainder included risks in Asia, 1.6%; risks in Africa and the Middle East, 1.4%; and exposures in Australia and New Zealand, 0.3%.

The survey showed a rapid rate of premium growth associated with risks in South America and the Caribbean—107%—since 2003. During the same period, premiums in Bermuda-domiciled captives for North American risks grew 26%; for global risks, 23%; and for European risks, 3%.

Bermuda captive premiums for Asian risks dropped 7% since 2003, premiums associated with Australian and New Zealand risks dropped 10%, and those for risks in Africa and the Middle East declined 25%, according to the survey.

For the first time, the BMA this year collected information on the industries of Bermuda captives' parent companies. Sectors most widely represented among Bermuda captives were health care at 12%; manufacturing at 9%; financial institutions at 9%; and energy, business services and retail, each at 6%.

Other industry sectors represented among Bermuda captives included transportation, construction and automotive, at 5% each. Mining, metals and forestry, real estate, aviation and aerospace, and chemicals represented 3% each; while technology and telecom companies are parents to 2% of Bermuda captives. Power companies and utilities, hospitality and gaming, sciences and public-sector institutions each represented 1% of Bermuda captives, with all other sectors making up the remaining 19%.

Among new captives formed in Bermuda between 2005 and 2009, the survey found that 12% of startups were formed by construction companies, 12% by energy companies, 12% by financial institutions, 10% by the health care industry, and 6% each by automotive industry and real estate companies.

Manufacturing, technology and telecom and transportation companies each accounted for 4% of Bermuda captive startups during the period; with aviation and aerospace, business services, power and utilities, retail and sciences responsible for 2% each. All other sectors accounted for the remaining 22% of Bermuda captive startups from 2005 to 2009.

In terms of premium share, captives of energy industry parents represented 22% of Bermuda captives' total premiums in 2009; technology and telecom represented 10%; and retail, health care and transportation companies' captives each represented 7%. Captives owned by manufacturing companies represented 6% of Bermuda captive premiums last year.

Aviation and aerospace, financial institutions, construction and business services each represented a 4% share of Bermuda captive premiums in 2009, while automotive accounted for 3%. Hospitality and gaming represented 1%, as did mining, metals and forestry, chemicals and real estate. Power and utilities, sciences and public-sector institutions each accounted for less than 1% of Bermuda captives' total premiums last year, with all other sectors making up the remaining 18%.

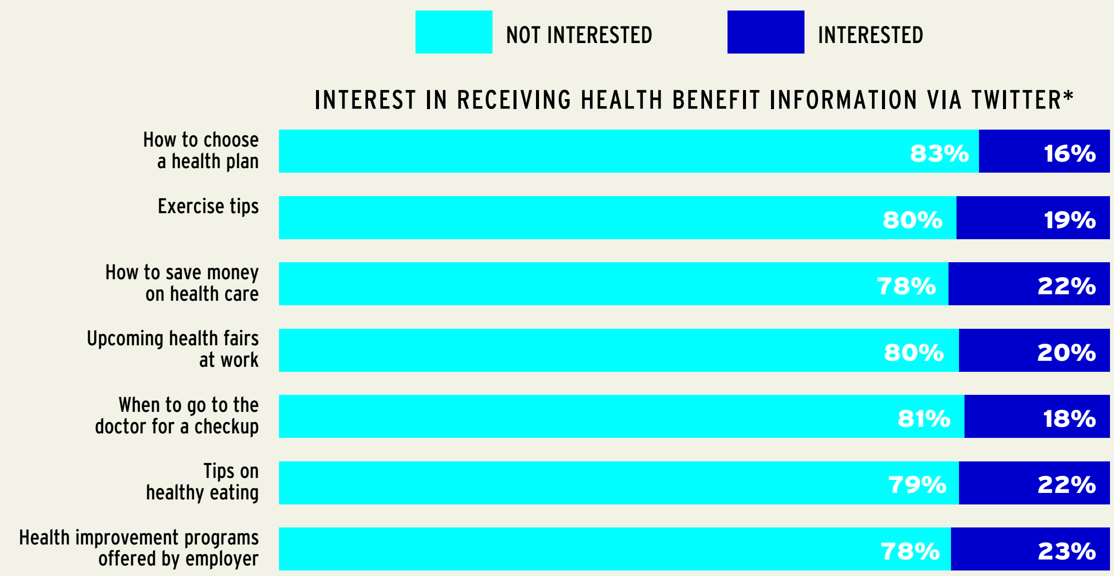
The survey showed property lines of business represented roughly 36% of Bermuda captives' premiums in 2009, with casualty lines representing approximately 63%, Mr. Alexander said.

Bermuda captives had $90.2 billion in assets in 2009, according to the survey, up nearly 2.2% from $88.3 billion in 2008.

Full results and analysis of the annual captive market survey will be published at *www.bma.bm* by late summer, Mr. Alexander said.

SOCIAL MEDIA INTEREST

When it comes to receiving health benefit information via social networking websites, few participants are interested in that approach.



*Source: National Business Group on Health *Total percentage may not add up to 100 due to rounding*

Social media: Integrate for benefits news

CONTINUED FROM PAGE 1

youngest employees prefer receiving communications the old-fashioned way."

In fact, fewer than 20% of employees younger than 34 said they would like to receive information such as how to choose a health plan or diet and exercise tips via Facebook, according to the survey, which was conducted in March and included responses from some 1,500 employees between ages 22 and 64.

Based on the survey, Ms. Darling recommended that employers test the use of social media before adopting it for their entire employee populations. She also warned against abandoning traditional methods of benefit communications, including print and e-mail correspondence.

Benefit communications specialists, however, said the survey's findings may not accurately reflect employees' attitudes toward the use of social media to deliver benefits information simply because they are not used to getting such information that way. Only recently have employers begun using social networking tools, and most of the communications thus far have been focused on external marketing and recruiting.

"I think a lot of people have less experience with these new channels in the context of getting benefits information. It would be like asking people if they wanted to get their news via television when television just came out. They'd probably say no; they prefer reading the newspaper," said Jim Hoff, a principal and solutions and innovations leader at Hewitt Associates Inc. in Lincolnshire, Ill. But "as new generations come into the workforce, who are more comfortable with those tools, we are likely to see greater acceptance."

Jennifer Benz, CEO and founder of San Francisco-based Benz Communications L.L.C., said the findings demonstrate that social media should not be used to supplant other forms of benefits communications.

"It reinforces that social media is not a strategy in itself. You cannot replace other forms of communication with social media. It's a new tool to communicate more frequently in a way that is cost-effective. So it supplements other communications activities," Ms. Benz said.

For example, some of her clients have been using Twitter to link to their corporate intranet that houses their benefits information.

"So much of this has to be 'multi-channel,'" Mr. Hoff agreed. "If you ask employees do you want to get something by Twitter or Facebook, they may say no, as opposed to if you ask if they would like it to be one of the channels in a broader communications campaign."

Mr. Hoff suggested that employers continue to publish complicated information, such as summary plan descriptions or annual enrollment packages, in print or on a corporate intranet, but that they consider conveying brief, less complicated, messages, such as reminders that the enrollment deadline is approaching, via Twitter with a link to the corporate site.

Some employers, such as Armonk, N.Y.-based IBM Corp. and Minneapolis-based Best Buy Co. Inc., have been using enterprise software products similar to Facebook and Twitter to communicate benefits and other business-related information on their corporate intranets. For example, Yammer functions very much like Twitter, while Jive acts like a corporate Facebook, allowing employees to create user profiles.

By using internal tools that mirror external tools, employers can take advantage of employees' familiarity with them while still keeping the information private, Mr. Hoff said.

"It's closed and within their firewalls," he said.

It also enables employees to communicate with their co-workers without having to go to the Internet, access to which some companies have blocked to prevent distractions, he added.

Further interpreting the survey's findings, Lisa O'Driscoll, senior communications consultant at Towers Watson & Co. in San Francisco, suggested that some employees may have an aversion to the use of social media for benefit communications because they want to keep their work and personal lives separate.

"There is a difference between what an individual does on their own time and what they do while at work," Ms. O'Driscoll said. "If you're stressed and you don't feel you have work-life balance, do you really want to wake up in the morning and get a reminder from your employer to eat oatmeal for breakfast?"

'I think a lot of people have less experience with these new channels in the context of getting benefits information. It would be like asking people if they wanted to get their news via television when television just came out. They'd probably say no; they prefer reading the newspaper.'

Jim Hoff, Hewitt Associates Inc.

UPS: Safety over the long haul

CONTINUED FROM PAGE 1

Safety is very much part of the culture at UPS. With more than 100,000 drivers traveling more than 3.3 billion miles a year to move about 7% of the U.S. gross domestic product, it has to be.

Each year, 84 UPS management-level employees are hand-picked by their supervisors within their area or hub to attend this rigorous three-week training program. The program at UPS' South Holland facility is more intense and comprehensive than that for drivers of its signature brown trucks.

It is at this location that these employees learn to drive trucks that haul double trailers and how to train future feeder truck drivers for UPS. Feeder trucks are part of the lifeblood of UPS; they typically haul packages from one hub to another before they are handed off to delivery trucks.

At the forefront of all of this is Tom Brokop, coordinator of UPS' Driver Trainer School. A former police officer and UPS driver, Mr. Brokop preaches the importance of what it means for UPS drivers to be safe on the road.

"It's all about being safe in everything you do with that vehicle and on the road," Mr. Brokop said. "The mindset has to be about safety."

So far this year, UPS has invested $26 million on safety training. In 2009, the package-handling company spent $52 million, which they said helped improve their crash rate by more than 44% since 2004.

JEFF CASALE

Safety is a major part of the culture at UPS. The company's more than 100,000 drivers travel more than 3.3 billion miles a year, moving about 7% of the U.S. gross domestic product.

Training for potential feeder truck driver trainers begins well before they step foot into Mr. Brokop's classroom. They go through a comprehensive screening process that includes interviews with instructors. While most go on to become driver trainers, an average of 5% a year don't make it.

Excuses for why a task wasn't executed or a guideline wasn't followed aren't tolerated by Mr. Brokop and his fellow instructors. At the UPS Driver Training School, being a good driver sometimes isn't good enough—you have to be the best and the safest.

"This training is designed to help prepare people for the next level," Mr. Brokop said. "We should train people to take the next level because that is what is going to keep this company strong."

In the classroom, prospective driver trainers go through several modules ranging from making turns and identifying intersections to federal regulations. In the field, they'll have to master a pre- and post-trip checklist that contains more than 1,000 tasks, as well as a 10-point commentary checklist and going through a "drill drive." They will log 80 hours of classroom and on-the-road training before qualifying to be a certified feeder driver trainer.

"The most important thing we learn here is safety," said Arturo Martinez, a Los Angeles-based dispatch supervisor and who is training to be a feeder driver instructor. "All the money we (try to) save in operations costs goes out the window with one accident."

Aiming high

Driving a semi pulling two trailers isn't exactly an easy thing to do, especially when trying to explain what you're doing while you're doing it. One of the hardest parts of UPS' driver training, Mr. Brokop said, is teaching future trainers how to explain what they're doing and why they're doing it.

A drill drive is a good example of this. During a drill drive, truck drivers explain to their instructors each movement they're making and why. This includes rattling off following-distance time, announcing "dirty" vs. "clean" intersections and mirrors—meaning vehicles or pedestrians are visible—picking a target in the "drive scene" to aim for, which helps the driver assess the big picture while driving and allows them to make decisions about traffic situations.

"Aim high and you'll always get by," Mr. Brokop said recently, as he steered a rig down the sometimes narrow streets of South Holland. "Aim low and you'll never know."

The idea, he said, is to keep drivers from staring as they drive. If they scan the road and get the big picture, they are less likely to develop tunnel vision and barrel down the road.

Moreover, it allows them to recognize changes in the traffic pattern and conditions around them, which Mr. Brokop said is key to other habits UPS drivers must form, including leaving themselves an out should problems arise on the road, and making sure they see other motorists or pedestrians and that others see the UPS truck.

As he drives along, Mr. Brokop states his following distance from the vehicle in front of him, glances right to left and then left to right while identifying vehicles at intersections or in the lanes next to him. He honks the horn if there is a pedestrian he thinks might be a hazard or a driver he senses may not see him as they enter the roadway.

It's defensive driving at its highest level, which focuses on the hazards UPS drivers face and teaches them how not to become a hazard themselves. Following the UPS training methods, which include drivers always leaving space to escape a hazard and surveying the big picture, helps the effort, Mr. Brokop said.

"People are always going to want to get around the big, slow-moving truck," Mr. Brokop said as a car zipped around his rig, passing on the left and changing lanes in front of him. "It's important to drive safe and drive smart. It's important to teach our drivers how to avoid becoming a safety hazard themselves."

Rigorous training process makes safer driver trainers at UPS

By JEFF CASALE

SOUTH HOLLAND, Ill.—Beads of sweat fall from Arturo Martinez's face on a humid afternoon in this suburb south of Chicago while he shouts each movement as he whirls around a Mack semitrailer rig.

He's checking air pressure valves, brakes, tires, fuel levels, lights, gauges—a checklist with hundreds of tasks to be completed before his rig and double trailers are ready to go out on the road.

Mr. Martinez, 28, of Los Angeles, is one of 12 United Parcel Service Inc. employees learning to be a feeder truck driver trainer for the package delivery company. Though much of his 10-year career with UPS has been as a dispatch supervisor, he is learning the ropes of becoming a driver trainer, and part of that means he must complete this inspection in less than 45 minutes with no disqualifications.

The management employees chosen to undergo this rigorous three-week training, which includes hours in the classroom and on the road, are ones that UPS holds to some of its highest safety standards, said Tom Brokop, South Holland, Ill.-based Driver Training School coordinator. The employees—who come from different backgrounds within the company—have to be safe drivers on the road, and must be able to hold and likely raise the bar for future truck drivers at UPS.

"This whole (training program) is all about safety," said Mr. Brokop, who has been running UPS' feeder truck Driver Training School since 2005. UPS began training its managers to train drivers in the 1960s. "This training protects us from putting the driver and company in an accident situation."

Each day, students head to the classroom to go over modules on UPS safety standards as well as federal regulations and guidelines. They also review their pre- and post-trip and drill drive performance from the previous day with their trainers, which highlights areas in which they are excelling and those they need to improve to qualify as a driver trainer.

"It's definitely a major challenge," said Gary Sherman, 60, a supervising dispatcher at a UPS hub in Lexington, Ky. "With the amount of things going on around a driver and the safety standards we have…you have to be aware of everything. We're basically being trained to be solid trainers."

KATHY BARNES

UPS employee Arturo Martinez, left, reviews a pre-trip checklist with Tom Brokop, UPS Driver Training School coordinator.

Mr. Sherman shadows Mr. Martinez with a clipboard and stopwatch as he continues through his pre- and post-trip inspections. Meanwhile, Mr. Martinez ticks off steps on the list with a quick cadence about what he's doing while he's doing it before moving on to the next step.

All seems to be going well until he has to connect one of the two trailers to the rig. As he backs the rig to line it to the trailer, the rig's tires skip a bit and he takes an improper angle.

Mr. Brokop, standing well over 6 feet tall and sporting traditional UPS "browns" and aviator sunglasses, chuckles a bit.

"Nerves," he said, which may have been frayed given the presence of an extra set of eyes watching him closely. "He normally does this in one shot."

After Mr. Martinez lines up the first trailer and attaches it to the rig, he must secure the second—a move called coupling. He struggles a bit in his first attempt to line up the rig and first trailer with the dolly of the second trailer, but he soon takes the proper angle to fasten the 3,000-pound dolly to couple the trailers.

This is just the beginning as he prepares to head out for a drill drive in which he will take the truck and double trailers through a 22-mile course of city driving to practice spacing, visibility and turning.

"They really put us to the test out here," Mr. Martinez said. "We have to apply what we're learning on a daily basis until it becomes second nature. It's beneficial training because it makes us safer drivers, which will then make us better trainers."

News In Brief

CONTINUED FROM PAGE 1

D.C.'s effort to regulate PBMs ruled invalid

A 2004 District of Columbia law that would have made pharmacy benefit managers "fiduciaries" was ruled invalid Friday by a three-judge panel of a federal appeals court. The ruling by the U.S. Court of Appeals for the District of Columbia upheld a 2009 lower court ruling that states and municipalities cannot impose such requirements on PBMs. Both courts found that because PBMs provide claims administration services for self-insured employers, they are governed by the Employee Retirement Income Security Act, which pre-empts state and municipal laws affecting employee benefit plans.

P/C insurance rates fall again: Analysis

Commercial U.S. property/casualty insurance rates fell an average of 3% in June compared with a year ago, according to MarketScout. CEO Richard Kerr noted that the two largest market segments tracked by MarketScout—commercial property and general liability—registered 4% decreases.

Insurer QBE acquires specialist reinsurer Secura

Australian insurer QBE Insurance Group Ltd. has acquired Belgian specialist reinsurer Secura N.V. for €267 million ($335.1 million). Brussels-based Secura writes property, auto and specialist classes of reinsurance throughout Europe, QBE said in a statement. Completion of the deal, which needs regulatory approval, is slated for Aug. 31. Once complete, Secura will be part of QBE's European reinsurance operations that are based in London.

Record first-half cat losses: Munich Re

Natural catastrophes caused record worldwide insured losses of $22 billion for the first half of the year, more than double the average for the period since 2000, Munich Reinsurance Co. said. There were 440 catastrophic events through June, the second-highest number since 2000, Munich Re said. Total natural catastrophe losses of $70 billion for the period exceed the amount for all of 2009 and are well above the 10-year average for the period.

Solvency II impact study specifications released

The European Commission has published its specifications for the fifth quantitative impact study on Solvency II, the forthcoming risk-based capital regulatory model for insurers in Europe. Insurers and reinsurers, including captive insurers, have been invited to take part in the QIS 5 exercise. The commission will use the results to help shape Solvency II rules, which are to go into effect at the end of 2012. QIS 5 will examine information on alternative ways to approach factors that include illiquidity premium, which relates to a discount rate applied to future payments on long-term insurance contracts, risk margin, and expected future premiums and profits.

San Francisco utility to pay in wrongful death

Utility Pacific Gas & Electric Co. has agreed to pay $5 million to settle a wrongful death suit resulting from a diabetic PG&E driver who blacked out after he failed to test his blood sugar and crashed into a pickup truck. Mary Bernstein and boyfriend Robert Conway were killed in the 2003 accident. A PG&E Corp. spokesman said the $5 million will be paid out of the utility's general revenue fund.

Lloyd's will not cover Iran petroleum shipments

Lloyd's of London will not insure or reinsure petroleum shipments into Iran in recognition of sanctions aimed at deterring Iran from building or acquiring a nuclear weapon. President Barack Obama on July 1 signed into law the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010, applying economic sanctions to firms doing business with companies that help Iran import petroleum.

USI Holdings names regional CEO

USI Holdings Inc. said James W. Dunn has been named CEO of the Southeast region. Based in Tampa, Fla., Mr. Dunn leads the employee benefits and property/casualty operations for midsize enterprises across four offices in Florida and Tennessee, USI said in a statement. Prior to joining USI Holdings, Mr. Dunn was Southeast regional partner for Willis North America.

Marsh: Bid-rigging convictions overturned

CONTINUED FROM PAGE 1

Robert Cleary, a partner with Proskauer Rose L.L.P. in New York and Mr. Gilman's attorney. "There was a massive amount of evidence withheld and the judge concluded that, had that evidence been turned over, there would have been a different outcome," he said.

"We are very pleased with the judge's decision," said Scott D. Devereaux, a partner with Cooley Godward Kronish L.L.P. in Palo Alto, Calif., and Mr. McNenney's attorney.

A spokesman for New York Attorney General Andrew Cuomo's office said "we are reviewing the decision and contemplating an appeal."

However, experts say an appeal by the attorney general is unlikely.

In January, the men's attorneys asked Judge Yates to vacate the convictions, alleging prosecutorial misconduct. In what is called a 440 motion, the attorneys accused prosecutors of withholding thousands of documents, including multiple forms of exculpatory and impeachment evidence. The evidence was disclosed only during a later trial against three other Marsh executives, all of whom were acquitted, the attorneys said.

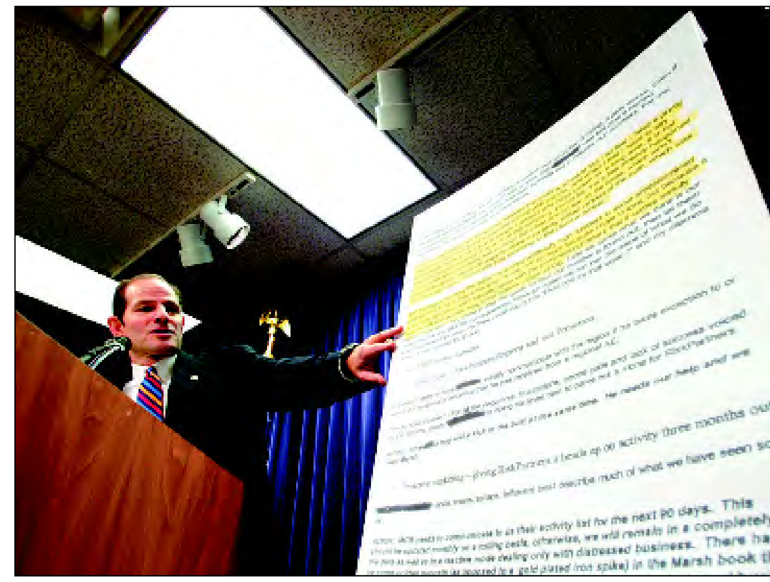
The material—including 700,000 pages of documents from Liberty International Insurance—challenges the prosecution's theory that Liberty Mutual and other insurers joined a conspiracy to fix prices, rig bids and allocate customers, according to the ruling.

"It's pretty clear that Judge Yates was never particularly comfortable enforcing the antitrust claim from the beginning," said James M. Burns, a partner and chair of the antitrust group at Williams Mullen in Washington. "When the additional information became known, it was weighing on his mind whether he came to the right decision," said Mr. Burns, who was not involved in the case.

"Vacating a conviction is highly unusual," said James Carbin, a partner with Duane Morris L.L.P. in New York, who also was not involved in the case. "But I think it speaks volumes about the nature of the investigation. It's a very damning indictment of the prosecution."

The decision was the latest loss in the state's six-year probe of anti-competitive practices in the insurance industry. The case—brought by former New York Attorney General Eliot Spitzer—was tried under his successor, Mr. Cuomo.

Last October, Judge Yates acquitted three former Marsh executives of all charges in the case after a nearly 11-month trial. In November, the judge dismissed charges against three other defendants before their trial began.



AP PHOTO

Then-New York Attorney General Eliot Spitzer at the October 2004 news conference where he announced charges in a probe of the insurance industry.

'It's pretty clear that Judge Yates was never particularly comfortable enforcing the antitrust claim from the beginning. When the additional information became known, it was weighing on his mind whether he came to the right decision.'

James M. Burns, Williams Mullen

Overturning the convictions of Messrs. McNenney and Gilman, in addition to Judge Yates' decision earlier this year to reduce or dismiss charges against more than a dozen executives who pleaded guilty in the case, means that none of the convictions or guilty pleas has been upheld.

"It's an ending to a very sad story. The entire episode has been very difficult on the insurance industry," said Ken A. Crerar, Washington-based president of the Council of Insurance Agents & Brokers.

"Spitzer came after the industry with a very wide net, but at the end of the day, it appears that there was more smoke than fire," said Tim Cunningham, a principal at OPTIS Partners L.L.C. in Chicago.

"The case was, from the outset, a circumstantial case, with no direct proof of insurance company collaboration" in a conspiracy, Judge Yates wrote in his opinion. The convictions of Messrs. Gilman and McNenney rested on testimony of several key witnesses who had "very favorable cooperation agreements." Yet, each at various times also gave sworn testimony "discrediting, even contradicting, their trial testimony," Judge Yates wrote.

Marsh itself did not face any criminal charges in the case, but it did pay $850 million in January 2005 to end officials' bid-rigging and fraud probes.

While the results have left prosecutors reeling, several observers said the investigation was not entirely a failure.

"This has been a watershed in terms of the way insurers view antitrust laws. Compliance with antitrust laws is taken very seriously, and that's a direct result of Mr. Spitzer," Mr. Carbin said.

"It did bring about a fair amount of transparency (regarding contingent commissions) and a healthy debate on ethics, but it seems like an expensive way to get there," Mr. Cunningham said.

At trial, prosecutors pointed to the broker's contingent commission system that was in place at the time as motivation for the scheme.

"I do think (Mr.) Cuomo has viewed this case a little differently than (Mr.) Spitzer," and it's difficult to imagine Mr. Cuomo would appeal the ruling, Mr. Burns said.

Mr. Cuomo, a Democrat, is running for New York governor.

Business Insurance END PAGE

Contributing: Jeff Casale, Mark A. Hofmann, Sarah Veysey

COURTESY OF TV3

Pat Rippin, former property developer and reality TV star, has put his $1 million life insurance policy up for bid.

Ex-millionaire's life policy goes up for bid

Those waiting for Pat Rippin, former New Zealand property developer and one-time reality TV star, to kick the bucket can collect on his life insurance policy that's up for sale.

The bankrupt Mr. Rippin was known during the 1980s as a bit of a party thrower and starred in the reality TV series "The Family."

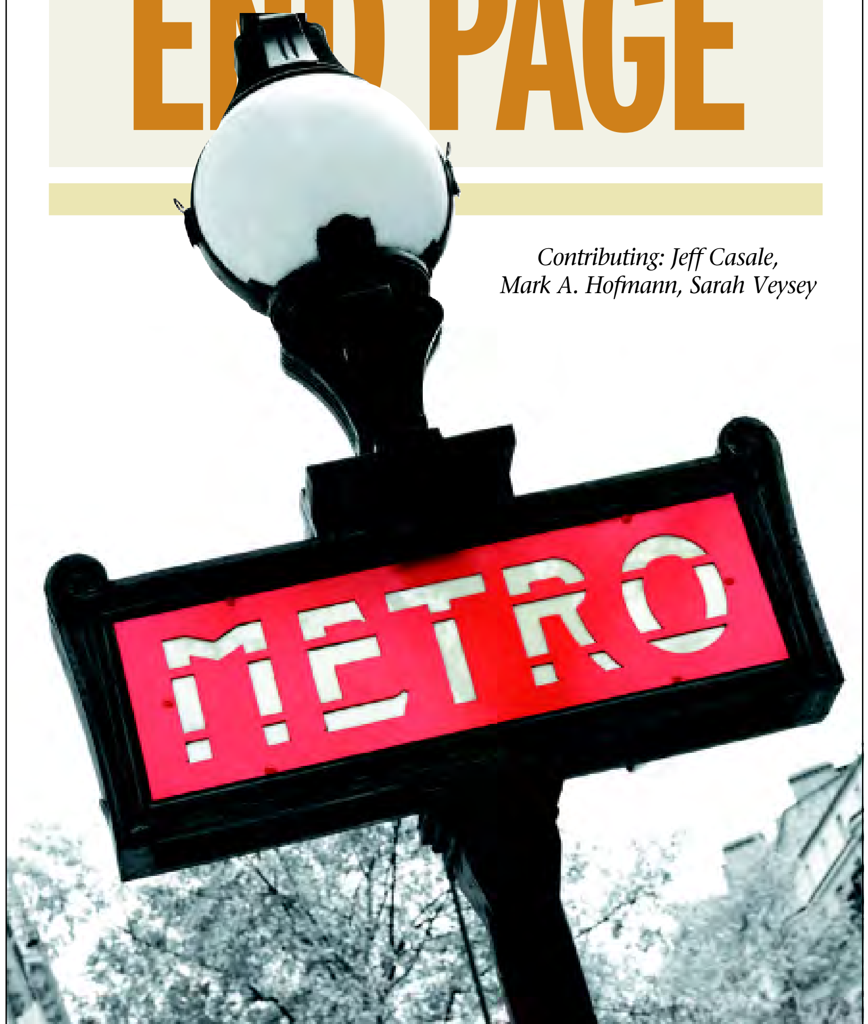
His $1 million life insurance policy is up for bid, although the buyer will have to make the premium payments that are at least $2,280 a month.

Mr. Rippin, 69, once was a multimillionaire and head of Auckland, New Zealand-based Markham Group Ltd., but went into bankruptcy in 2008 over a $250,000 debt, reports said.

He no longer could afford to pay the premium on the life insurance policy and was forced to pass it along to a business associate, who later ran into financial trouble and was forced to turn it over to liquidators, who have put it up for sale.

According to the New Zealand Herald, the liquidators hope someone will pay close to the policy's October surrender value of $315,000.

"You've just got to wait till (I) fall off the perch and then the person can get the policy money," Mr. Rippin told reporters.



Metro mutual for fare dodgers

Throughout the years, mutual companies have been set up to cover tricky risks for which buyers cannot find or afford insurance in the conventional market.

In France, a group of enterprising fare dodgers on the Paris subway system called le Métro have adapted the mutual model to ensure that they never get stung by a fine.

Fare dodgers have banded together to form mutual groups that fund fines levied on any of their members caught without a valid ticket, the Los Angeles Times reported.

The mutuals, which the newspaper said are thought to number six or seven, meet once a month. Members pay a monthly fee.

If a member is fined for failing to pay their fare on the Paris subway, he or she must attend the mutual's periodic meeting to get reimbursed.

Like any savvy insurance company, the mutuals are seeking to use the latest information to assess their risks. One idea is to compile a database of stations at which it is easiest to dodge fares and those that are more stringently patrolled.

The report said it costs about $9 billion a year to operate the public transit system in the Paris area and fare cheats costs about $100 million annually.

"It's not a question of money," one 30-year-old mutual member told the newspaper. "It's a political question."

$6 million missing from life insurance

It's not exactly the kind of thing that engenders faith in government—or risk management.

The District of Columbia recently said its office of risk management had failed to transfer to life insurance companies as much as $6 million deducted from disabled employees' paychecks.

According to the Washington Post, a district investigation indicated that failure to pay the premiums collected may stretch back seven years.

In a news conference last month, district Attorney General Peter Nickles said he didn't know where the funds had gone, and that the district's inspector general would investigate. But Mr. Nickles added that "I have no information that the money was used for untoward purposes."

The premium problem came to light during a series of public hearings. Mary Cheh, a member of the district council, told the newspaper that "initially, it looked like a couple of people were negligent," but the number of employees having similar stories was unusual. "It certainly was something looking peculiar," she said.

The district said no claims had been denied, and the only personnel action taken so far was to place Kelly Valentine, director of the district's risk management agency, on administrative leave in early July.

Meanwhile, the case of the misplaced premiums remains unsolved.

AP PHOTO

Attorney General Peter Nickles said the District of Columbia's inspector general would investigate the missing $6 million.

This pension plan not watered down

Shortfalls in pension plan funding have been a major preoccupation of U.K. employees in recent years. But staff at London-based beverage company Diageo P.L.C. have reason to say "cheers" to their pension plan sponsor.

As part of a plan to address the £862 million ($1.31 billion) funding shortfall in its defined benefit pension, Diageo—whose brands include Johnnie Walker whisky, Smirnoff vodka, Tanqueray gin, and Jose Cuervo tequila, among others—has contributed some Scotch whisky as a contingent asset to shore up its fund, *Business Insurance*'s sister publication *Pensions & Investments* reported.

The whisky will boost the £4.6 billion ($6.99 billion) fund by about £25 million ($38 million) a year for the next 15 years, according to Diageo. When it reaches maturity after three years, Diageo will replace the whisky with a younger batch.

Other companies, including British Airways P.L.C., hospitality company Whitbread P.L.C., food retailer J Sainsbury P.L.C. and retailer Marks & Spencer Group P.L.C. have put their assets into pension funds, according to the Wall Street Journal.

Diageo employees still will receive their pension in cash, not whisky, but the funding contribution provides some protection in the event of the company's insolvency.

Now that's a deal Diageo employees can drink to.

THANK YOU FOR A SUCCESSFUL BENEFIT MANAGER OF THE YEAR FORUM

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CONGRATULATIONS

TO THE 2010 BENEFIT MANAGER OF THE YEAR HONOREES


2010 Benefit Manager of the Year honoree, Marianne McManus, Director, Global Health Benefits Strategy and Design, IBM presents during the first annual Benefit Manager of the Year Forum


Gary Eastes, Risk and Benefits Manager with the City of Knoxville, TN is one of the first members inducted into the Benefit Management Honor Roll for 2010


2010 Benefit Management Honor Roll honoree, Joseph Molloy, Corporate Director of Benefits with the North Shore-LIJ Health System presents during the 2010 Benefit Manager of the Year Forum


Presentations during the first annual Benefit Manager of the Year Forum

Business Insurance

2010 BENEFIT MANAGER of the year® FORUM


Jim Klein, President of the American Benefit Council presented the keynote address during the first annual Benefit Manager of the Year Forum


Regis Coccia, Business Insurance presents the 2010 Benefit Management Honor Roll award to Joseph Molloy with the North Shore-LIJ Health System


Regis Coccia, Business Insurance and Marianne McManus, IBM during the 2010 Benefit Manager of the Year Awards Luncheon


Matt Cowan President of Cowan Benefits Services with Gary Eastes a member of the 2010 Benefit Management Honor Roll and Regis Coccia, Business Insurance

For information on the 2011 Benefit Manager Forum or to nominate someone for the Benefit Manager of the Year Award, please contact Rebecca Briggs at RBriggs@BussinessInsurance.com

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