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Bermuda party standoff leads to new premier / **3**

Sale of services unit thins Kemper's ranks / **4**

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August 4, 2003

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Hub makes bid for Near North

Proposed deal would expand Hub International's reach in the West

By SALLY ROBERTS

CHICAGO—Hub International Ltd.'s proposed acquisition of substantially all of Near North National Group's brokerage operations will further expand Hub's presence as a U.S.-based broker while bringing some stability to a struggling Near North.

Late last month, a little more than a month after Frontenac Co. L.L.C. entered into a binding agreement to purchase substantially all of Near North's brokerage operation assets, Chicago-based Near North announced it would become part of Hub International instead.

Although Chicago-based Hub has yet to sign a definitive agreement, it has signed a "proposal to purchase" substantially all of the brokerage operation assets, consisting primarily of relationships with customers and insurers.

Terms of the transaction, which is subject to further due diligence and customary regulatory approval, will be disclosed upon execution of a definitive agreement, Hub said.

Martin P. Hughes, Hub's chairman and chief executive officer, said Near North is a very attractive fit for Hub, which has grown its U.S. brokerage operations over the past several years through such acquisitions as Kaye Group Inc. in New York and Mack & Parker Inc. in Chicago.

"One of the things that was attractive to us was that Near North has always had very good employees and they've always had a very solid client base," Mr. Hughes said. "In addition, the locations they are in and some of their specialty niches are very attractive to us. And we like the fact that they are in Chicago, New York and Los Angeles because it complements our existing footprint. One of our stated goals is to expand our company into the Southwest and West Coast, so the fact that they have an office in Las Vegas…also was attractive to us," he said.

See HUB/page 30

Med mal rate hikes blamed on big losses

GAO report hailed

By MARK A. HOFMANN

WASHINGTON—Proponents of medical malpractice liability reform are pointing to a new government report as further evidence of the justness of their cause.

The report—released by the General Accounting Office last week—says that losses on medical malpractice claims appear to be the most significant cause of rising medical malpractice rates. That contention is shared by supporters of federal legislation that would, among other things, cap noneconomic damages and limit punitive damages in medical malpractice liability cases.

"This bears out our argument that the medical malpractice crisis is real, and not manufactured. In our view, it bears out the urgent need for the Senate to move past partisan differences and take up S. 11," said Neil Trautwein, director-employment policy for the National Assn. of Manufacturers in Washington.

S. 11, the Patients First Act of 2003, is a

See GAO/page 28

PHOTO: AP/TED S. WARREN

Coordination and planning are keys to ensuring that the annual gathering of as many as 500,000 Harley Davidson enthusiasts in Sturgis, S.D., runs smoothly.

South Dakota revs up for biker rally risks

By RODD ZOLKOS

STURGIS, S.D.—From across the United States and even beyond, they'll descend by the hundreds of thousands on a tiny South Dakota city this week, forming a community that cuts across class lines and income brackets.

For most of those attending the 63rd Annual Sturgis Motorcycle Rally, the common bond can be summed up in two words: Harley Davidson.

The rally, which officially begins today and runs through Sunday, is expected to bring as many as 500,000 motorcycle enthusiasts to South Dakota's Black Hills area for a week of cruising, concerts, racing and a general celebration of motorcycles and motorcycling.

To many, the notion of the Sturgis Rally conjures up images of Marlon Brando and Lee Marvin straight out of "The Wild One," with tattoos outnumbering teeth as hordes of leather-clad bikers run roughshod over the hapless village in a

See STURGIS/page 28

Late News

Senators seek changes in asbestos bill

Five Republican members of the Senate Judiciary Committee are seeking changes in an asbestos liability reform bill approved by the committee last month. The bill would replace the current litigation-based system for compensating victims of asbestos-related disease with a $108 billion trust fund. The senators called the "means chosen" to meet the goal as "susceptible to abuses." One of the possible abuses they cited is misuse of medical claim criteria to allow claimants to collect from the fund for injuries not caused by asbestos.

CIGNA examines future of retirement business

CIGNA Corp. is exploring "strategic alternatives" for its retirement and investment services business, which include divesting the business or placing it with a separate operating company with its own financial ratings. The announcement came shortly before CIGNA reported net income of $183 million for the first half of 2003, a 57.6% drop from the prior-year period. John Ward, chairman of the Ward Group, said his interpretation of the announcement is that "they intend to divest if they can get a minimally reasonable valuation on the business." Shellie Stoddard, a director at rating agency Standard & Poor's Corp., said if the proceeds from a sale are used to strengthen its remaining operations, it would enhance the company's financial flexibility.

Asbestos claims limited by arbitrator

Travelers Property Casualty Corp. has won an arbitration ruling limiting its exposure to future

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NEWSPAPER

Spotlight

CATASTROPHE MANAGEMENT

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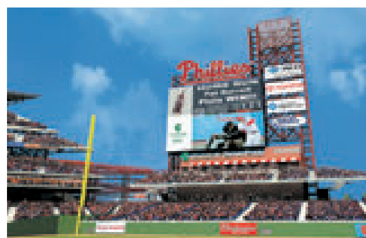

TOP PROPERTY LOSS CONTROL CONSULTANTS

Ranking on page 10

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IBM to appeal ruling of age bias in its cash balance pension plan

By MICHAEL PRINCE

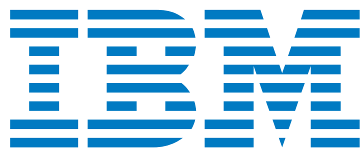
EAST ST. LOUIS, Ill.–IBM Corp. will appeal a federal court ruling that its cash balance pension plan discriminates against older employees.

Judge G. Patrick Murphy of the U.S. District Court for the Southern District of Illinois ruled on Thursday that the IBM plan was discriminatory because the credits younger plan participants earn would be more valuable than the same credits given to older workers.

"In terms of an age 65 annuity, the interest credits will always be more valuable for a younger employee as opposed to an older employee," Judge Murphy wrote.

Judge Murphy's ruling, though, flies in the face of another district court ruling—involving Onan Corp.'s cash balance plan—in which the court ruled that Onan's plan, somewhat similar in structure to IBM's, did not violate age discrimination laws (*BI*, Oct. 9, 2000).

While court rulings have been divided on the issue, benefit experts worry about the impact of the latest decision.



'The court's decision... calls into question the legality of hundreds of cash balance and pension equity pension plans that would affect millions of workers.'

Mark Ugoretz
The ERISA Industry Committee

"The court's decision...calls into question the legality of hundreds of cash balance and pension equity pension plans that would affect millions of workers," said Mark Ugoretz, president of The ERISA Industry Committee in Washington.

"This is a very significant ruling," said Eric Lofgren, global director of benefits consulting at Watson Wyatt Worldwide in Philadelphia.

The suit stems from Armonk, N.Y.-based IBM's move in 1995 to convert its traditional defined benefit pension plan to a pension equity plan. In 1999 the plan's design was changed to a cash balance plan.

That conversion came under intense criticism by IBM employees and was amended later that year. IBM employees filed a suit, later certified as a class action, claiming the new pension program discriminates against older workers.

The ruling in *Cooper, et al. vs. The IBM Personal Pension Plan and IBM Corp.* states that both of IBM's plans discriminate against older workers because they accumulate benefits at a slower rate than younger workers do. In addition, in some instances an older worker will get a reduced pension for continuing to work, the

See **IBM**/page 27

Ruling eases health plans' ability to move ERISA suits

By DAVE LENCKUS

Self-funded health plans as well as health insurers have a better chance of moving subrogation disputes out of state courts and into federal courts as a result of three federal appellate court rulings, according to some attorneys.

Two rulings, however, also raise potential concerns for self-funded plans and insurers, attorneys say.

The rulings came out of the 4th, 5th and 7th U.S. Circuit Courts of Appeals. All three courts analyzed the impact that two sections of the federal Employee Retirement Income Security Act of 1974 have on federal and state court jurisdiction over disputes between health plan participants and health insurers or self-funded plans.

Court jurisdiction is an important issue, because federal courts are more likely to interpret the federal benefits law in favor of self-funded plans and insurers, attorneys agree.

Although two of the cases involved health insurers, the rulings also aid self-funded plans, which generally have an easier time moving plan-related disputes to federal court, attorneys say.

The rulings reduce the chances that a state court will be awarded jurisdiction over a dispute involving a self-funded plan, said Nancy G. Ross, a partner with McDermott, Will & Emery in Chicago. Ms. Ross was not involved in the cases.

Thomas H. Lawrence, who represented the self-funded plan in the 7th Circuit case, agreed. Mr. Lawrence, a partner at Lawrence & Russell L.L.P in Memphis, noted that two 7th Circuit rulings in recent years have hurt self-funded plans' efforts to move subrogation disputes out of state court.

Plan member attorney David L. Trueman of New York, who was not involved in the cases, said he did not disagree with the appellate courts' decisions. But the decisions "do not necessarily mean the insurers will win" those cases in federal court, he said.

Attorney Henry Saveth of Mercer Human Resource Consulting in New York agreed.

While all three appellate courts reversed part of the rulings they re-

See **ERISA**/page 30

PHOTO: AP/DAVID SKINNER

Sir John Verica, right, the governor of Bermuda, congratulates Alex Scott after he was sworn in as Bermuda's new premier.

New premier takes office in Bermuda

Insurance market changes unlikely

By MICHAEL BRADFORD

HAMILTON, Bermuda—A change in Bermuda's leadership is not expected to affect the island's insurance marketplace.

Jennifer M. Smith stepped down as Bermuda's premier last week after losing the support of some fellow Progressive Labour Party members. In elections held late last month, Ms. Smith's constituency returned her to office by just eight votes, leading some in the party to question the support for her leadership.

After a contentious debate, the PLP selected Alex Scott, Bermuda's works minister, to replace Ms. Smith, who served as premier for seven years.

A spokesman for the PLP said the change in leadership does not mean changes for Bermuda's insurance market. "The policy that has been established by the previous administration will be continued," he said. "The economy has grown, and we have seen an enormous expansion of the reinsurance market."

Any changes to the way international companies do business in Bermuda would only come about through extensive consultation with those companies, according to the spokesman.

"I can assure you at this point," he said, that the new administration will continue "in the same direction as the previous government."

Inside Business Insurance

Marsh facing lawsuit from church group

A church risk purchasing group is suing Marsh & McLennan Cos. Inc. over a liability insurance arrangement. Page 4

Project may help manage enterprise risk

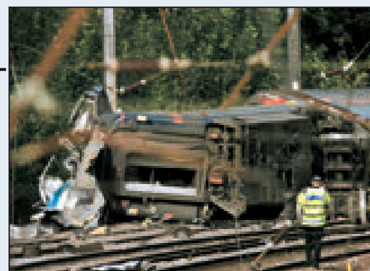
A Committee of Sponsoring Organizations project aims to advance enterprise risk. Page 4

Enterprise risk project deserves attention

Risk managers should look carefully at an enterprise risk management project, one of this week's editorials says. Page 8

London market skeptical of U.S. regulator's plan

A U.S. insurance commissioner's proposal to ease collateral rules gets a lukewarm reception. Page 25



Delays after rail crash ruled not single event

A court has ruled that disruptions causing U.K. rail losses after the Hatfield crash do not constitute a single occurrence. Page 25

Online

- The **Datebook** calendar lists upcoming industry seminars and meetings and allows you to add info on your own event.
- Searchable **Directory of Property Loss Control Consultants**, and all other listings of industry vendors found in *BI*'s Market Sourcebook.
- New **Opinion Poll** asks readers: What do you think is the main driver behind medical malpractice insurance rate increases?

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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS.

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Church risk group suing Marsh, reinsurer

Suit charges broker with fraud on parts of ministries' liability program

By DOUGLAS McLEOD

KANSAS CITY, Mo.—A 1,000-member church risk purchasing group is suing Marsh & McLennan Cos. Inc., alleging the broker misled it about aspects of its liability insurance program and wrongly induced it to post a $6.7 million letter of credit for the benefit of an excess insurer.

The suit, filed by Religious Institutions Insurance Alliance of Springfield, Mo., also names the program's excess insurer, Farmington, Conn.-based Discover Reinsurance Co.

An RIIA affiliate, the Assemblies of God Foundation, posted the LOC based on Marsh's assertion that it would be used temporarily to secure expected church premium payments for a self-insured layer of the program, the suit charges. Marsh later told the group that the LOC could, in fact, be used as "reinsurance" to cover claims exceeding the self-insured loss fund, the suit says.

Marsh and Discover have also failed to provide RIIA with any reports of premiums collected, claims paid or loss-fund balances since the current program year began last Sept. 1, according to the complaint.

In addition to damages from Marsh for alleged breach of contract and fraud, the suit seeks an injunction barring Discover from drawing down the LOC and an accounting of the program from Marsh and Discover.

A U.S. District Court judge in Kansas City, Mo., has scheduled an Aug. 28 hearing, at which the two sides are expected to discuss a possible settlement.

Randall Barton, president of the RIIA and Assemblies of God Foundation, expressed hope for a resolution to the dispute, saying he does not want to be "tied up in litigation with Marsh for two years."

Spokesmen for Marsh and Discover declined to comment on the suit.

RIIA was formed as a purchasing group for individual churches and ministries nationwide, many of them affiliated with the Assemblies of God Pentecostal denomination.

As of last year, RIIA's 1,000 members generated about $15 million in annual premiums for programs covering church property, general liability and other casualty risks, according to the complaint.

The purchasing group is now controlled by Mr. Barton and other directors drawn from the group's membership, Mr. Barton said. Until last year, though, RIIA's board consisted of insurance agents who produced business for the program, and its management included

See MARSH/page 31

Project aims to help risk managers

Framework offers guidance on ERM

By MICHAEL BRADFORD

Risk managers may soon have some guidance in establishing enterprise risk management programs as a years-long project nears completion.

The Committee of Sponsoring Organizations has released a draft of its Enterprise Risk Management Framework, a project begun in January 2001 with the aim of helping organizations build programs to better manage risk on an enterprisewide basis. The project attempts to define all the aspects of an enterprise risk management program that should be present and how those elements should be coordinated.

The framework is available for public comment until Oct. 15; the final version is expected to be released in early 2004.

COSO is an organization created by the National Commission on Fraudulent Financial Reporting, also known as the Treadway Commission. The National Commission is sponsored by five major financial associations and it originally charged COSO with studying the causes of fraudulent financial reporting and developing recommendations to control it. After developing a set of internal reporting controls for public companies, COSO turned its focus to enterprise risk management.

COSO's recent work has focused on pinning down the definition of enterprise risk management and showing organizations how they can implement and benefit from such programs, according to Miles Everson, a partner with PricewaterhouseCoopers L.L.P. in New York, the firm hired to lead the project.

"Everybody talks about enterprise risk management," Mr. Everson said. "But nobody really knows what it is."

> **The COSO project has focused its recent efforts on pinning down a definition. 'Everybody talks about enterprise risk management. But nobody really knows what it is.'**
>
> *Miles Everson*
> *PricewaterhouseCoopers L.L.P.*

The framework aims to provide some answers, and observers say COSO's work is a notable effort that highlights the importance of protecting corporate assets by managing risk holistically.

"It's an important first step in encouraging professionals that this is an important part of what they should be viewing," said Robert E. Hoyt, professor of risk management and insurance in the Terry College of Business at the University of Georgia in Athens.

While "the jury's still out" on the framework's eventual impact on the enterprise risk management movement, Mr. Hoyt said, the COSO effort at least underscores the industry's concern for effectively managing risk. "This is a trend that business cares a

See COSO/page 29

Claims specialist retains key execs, staff

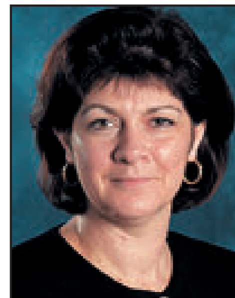
New parent for Kemper Services

By ROBERTO CENICEROS

LONG GROVE, Ill.—Despite months of financial difficulties that led Kemper Insurance Cos. to shut down or sell off much of its commercial insurance operations, a buyout firm sees plenty of value left in the insurer's services unit.

Kemper announced July 22 that it had sold the unit, Kemper Services, to Los Angeles-based Platinum Equity L.L.C. for an undisclosed sum. Illinois regulators have signed off on the deal, the proceeds of which will help meet claims and other corporate obligations.

Kemper Services provides a variety of risk management and administration services for workers compensation, commercial auto and general liability claims. It also provides an array of disability, Family Medical Leave Act, and absence management services as well as integrated return to work programs. In addition, it is managing the runoff of Kemper Insurance Cos.' commercial insurance operations. Kemper Services had 2002 revenues of about $374 million.



> **'I'm absolutely delighted that we will retain the talent base we worked so hard to build.'**
>
> *Patricia A. Drago*
> *Kemper Services*

Kemper Services will eventually receive a new name with a branding initiative likely to occur before year's end, said Patricia A. Drago, president and chief executive of the company, a role she will continue to hold under the new ownership.

But the service provider will remain focused on helping customers prevent and mitigate losses stemming from casualty claims and employers' occupational and nonoccupational disability exposures, Ms. Drago said.

Many of the senior managers that worked under Ms. Drago at Kemper have joined the new endeavor. Additionally, 3,300 Kemper employees recently received offers from Platinum to join the new company.

The acceptance rate is "sky high" and "I'm absolutely delighted that we will retain the talent base we worked so hard to build," Ms. Drago said.

See KEMPER/page 29

IRS addresses uncertainties on reporting, benefit eligibility

By JERRY GEISEL

WASHINGTON—What employer would file a benefit plan report with the government when the report is no longer required?

Apparently, many employers would—and did—according to the Internal Revenue Service. Last year, the IRS said employers with flexible benefit plans, adoption assistance plans and tuition reimbursement plans no longer would have to file an IRS form known as Schedule F.

Schedule F, among other things, required employers to report the total number of people eligible to participate in a plan and the cost of the plan, which, in the case of flexible benefit plans, was the amount employees contributed through salary reduction.

Even though the announcement on the elimination of the Schedule F was widely publicized (*BI*, April 8, 2002), the IRS nonetheless received almost 70,000 unnecessary Schedule F returns this year. That represents, the IRS estimates, more than 100,000 hours of unnecessary work on the part of employers and plan sponsors.

As a result, the IRS is again reminding employers that a Schedule F filing no longer is required.

"Based on past experience, the IRS is concerned that some employers may try to adapt prior-year forms and schedules…because they mistakenly believe the filing requirement still exists," the service said.

Eligibility clarification

Meanwhile, the IRS, in a new revenue ruling, is providing a uniform method of determining when a child reaches a certain age to determine eligibility for certain employee benefit-related tax breaks.

For example, under Section 129 of the Internal Revenue Code, an

See IRS/page 6

Errors & omissions

- Because it did not report all eligible income, Brown & Brown Inc.'s 2002 brokerage revenues were incorrect in the July 21 ranking of the world's largest insurance brokers. Brown & Brown did not include $2,945,000 in interest income on funds held in a fiduciary capacity in its brokerage revenues, as all were asked to do. When included, making its figures comparable with other top 10 brokers, Brown & Brown's 2002 brokerage revenues—the basis for the top 10 ranking—are $455,234,348. Based on this corrected amount, Brown & Brown ranks as the world's eighth-largest broker. As a consequence, Alexander Forbes Ltd. is ranked No. 9, with $453,084,000 in brokerage revenues, and Hilb, Rogal & Hamilton Co. ranks as No. 10, with $452,513,822 in brokerage revenues.
A new ranking of the world's 10 largest brokers appears on page 28. The change does not alter the ranking of the 100 largest brokers of U.S. business.

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IRS: Clarifies uncertainties

Continued from page 4

employee can reduce his or her salary up to $5,000 a year to pay for dependent care expenses for a child under age 13.

In addition, under Section 137, employers can reimburse, on a tax-free basis, employees for up to $10,160 in adoption assistance-related costs for a child under 18 years old.

Apparently, benefit consultants say, there has been confusion in certain situations as to the exact date a child reached a certain age and, as a result, the tax break no longer would apply.

This would be especially true, said Kyle Brown, an attorney with Watson Wyatt Worldwide in Washington, in situations in which a child was born on the first or last day of the year.

Benefit consultants speculate that the IRS received questions from employers about whether, for example, an individual born on Dec. 31 actually didn't attain a higher age until Jan. 1, which could have the effect of increasing by one year his or her eligibility for the benefit tax breaks.

In Revenue Ruling 2003-72, the IRS set out to resolve whatever confusion may have existed. It says that, for the code sections cited in the ruling, which include the dependent care assistance and adoption assistance programs, a "child attains a given age on the anniversary of the date that the child was born."

For example, the IRS said, a child born on Jan. 1, 1987, attains the age of 17 on Jan. 1, 2004.

The revenue ruling, said Tami Simon, an attorney with Mercer Human Resource Consulting in Washington, "gives individual taxpayers and employers something to point to in the event there is a question."

It's no surprise that Sheila Small—*Business Insurance's* 2003 Risk Manager of the Year—holds the Chartered Property Casualty Underwriter (CPCU®) and Associate in Risk Management (ARM) designations.

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Paul Winston

House floats plan to cut flood losses

Flood me once, shame on you; flood me four times, shame on me.

That is essentially the philosophy behind new federal legislation that would begin to actuarially adjust (i.e., raise steeply) rates for policyholders who have filed four claims for flood losses and would deny federal disaster assistance to policyholders who refuse to mitigate their risk after filing three previous flood claims on the same property.

The bill, H.R. 253, was passed July 23 by the House Financial Services Committee and sent to the full House for consideration. The measure carries the colorful title "Two Floods and You are Out of the Taxpayers' Pocket Act of 2003," but at the last minute, a plea from Rep. Richard Baker, R-La., to increase the threshold to four from two flood claims was adopted. As one of the states most likely to see payments curtailed if the bill becomes law, I can certainly understand Rep. Baker's concern.

However, it makes no sense to continue to charge a flat rate for policyholders who sustain the same sort of loss over and over. In technical underwriting jargon, they would be a "lousy risk."

Paul Winston

After the second or third claim, folks should generally have obtained a clue that there was a water problem

Nor does it make sense to continue to bail out policyholders who refuse to take loss prevention measures after repeatedly suffering the same peril. They, too, are a lousy risk, and one that is made worse by their refusal to try to minimize or avoid losses. The fact that the mitigation efforts are largely funded by the Federal Emergency Management Agency, which administers the National Flood Insurance Program, makes it seem even more sensible to cut benefits to these people.

It is true that flooding is not always an obvious or predictable peril. But we're not talking about lowering the boom on people who have suffered a 1-in-1,000 year event, or who were drenched by rainfall accompanying a hurricane. Rather, these are folks who live in chronic flood zones. After the second or third claim, they should generally have obtained a clue that there was a water problem.

As a taxpayer, it is unexpected and refreshing to see the government display good sense. The promise of a government payment in the event of floods has arguably helped weaken incentives for individuals to do more to manage the risk. This legislation, one hopes, will change that.

My only question is: What took so long?

From 1993 to 2002, the NFIP paid out losses in excess of $7.5 billion. In four out of those 10 years—1993, 1995, 1996 and 2001—flood losses were in excess of $1 billion. In an average year, the premiums collected cover its losses, but in heavy years the NFIP must borrow from the Treasury. Taking steps to make rating more loss-sensitive and to get tougher with policyholders who reject loss prevention measures sounds like an overdue approach.

Can you see private insurance companies taking so long to respond to a whiff of adverse claims experience? (OK, there was the decade of the 1990s, but let's ignore that for now.)

I'm trying to imagine the concept of four strikes and you're out of the insurer's pocket for other types of claims.

CEOs could drive publicly held companies into the ground time and again without fear of directors and officers liability coverage growing more costly. Financial statements could be restated with abandon, and shareholder class actions could proliferate without fear of D&O rate hikes.

Individuals could file claims for up to four appendectomies before your health insurance plan would start asking questions.

Doctors could ineptly remove up to four incorrect limbs or organs before their medical malpractice rates would be actuarially adjusted.

Your car could be stolen and replaced four times before the insurer wised up that maybe you were leaving the keys in the ignition too often. Heck, let's keep it simple: You could file four small auto claims of any kind, none of which was your fault, before incurring higher rates and outright coverage cancellation.

When viewed in terms of how private underwriters would respond, the approach that the NFIP currently takes with regard to unrepentant flood claimants seems all the more absurd.

It's high time the government flood plan made clear to policyholders that they can't have their cake and leave it out in the rain, too.

Paul Winston can be reached at pwinston@crain.com.

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Editorial

COSO enterprise risk tool welcomed

RECENT EFFORTS TO BRING some clarity to the phrase "enterprise risk management" should be welcomed.

As we report on page 3, the Committee of Sponsoring Organizations has released a draft framework to help risk managers build enterprise risk management programs in their organizations.

The concept of expanding the scope of risk management to be substantially broader than insurance buying and conventional loss control is something that could be useful for many companies but has often generated more talk than action over the past several years.

There are good reasons for this, of course, not the least being that in a hard market, organizations and their risk managers have enough trouble coping with traditional risk transfer programs rather than instituting radical changes to their risk management process.

But other roadblocks to the implementation of ERM programs have also included a lack of understanding of exactly what an ERM program is and how it can be effectively implemented.

Given the increased interest and legislative action concerning corporate governance and the ongoing need to manage all corporate risks as efficiently and effectively as possible, ERM programs should, at a minimum, be an option for more risk mangers to consider.

Inevitably, such complex programs will vary greatly from organization to organization, but the broad-based tool that COSO is developing could give risk managers and their organizations an effective starting point from which to build or reject an ERM strategy.

GAO report shows need for reform

SOMETIMES, WHAT'S LEFT UNSAID in a report can be as important as the report's stated findings.

We think that's the case with the General Accounting Office's recent report on medical malpractice insurance costs. As we report on Page 1, the report found that losses incurred by insurers on medical malpractice claims appear to be the most important of several factors driving up medical malpractice liability insurance rates. In keeping with the GAO's usual approach, the report makes no specific policy recommendations beyond suggesting that Congress ask state insurance regulators to identify and gather more information to evaluate the state of the medical malpractice insurance market.

Yet, while it doesn't recommend that the medical malpractice liability system be reformed, the report underscores the need for doing so. If losses are a more significant factor behind rate increases than either reduced investment income or the exodus of underwriters from the market, that tells us something: Steps must be taken to curb those losses.

We think that a key step would be enactment of federal medical malpractice liability reform legislation. The House has already passed such a bill, but a similar measure fell victim to a Senate filibuster last month. Both measures contained such loss-limiting provisions as caps on noneconomic damage awards and limits on punitive damage awards while not in any way diminishing awards for economic damages.

We would have preferred that the bills also encouraged reform of another key element of losses: getting incompetent doctors out of operating rooms and offices. But, as drafted, the measures are at least a start in the right direction.

The GAO report does not support or oppose such legislation. But its factual findings provide more proof that a legislative solution to the problem of rising medical malpractice insurance rates may be just what the doctor ordered.

Letters to the Editor

Survey could determine risk managers' practices

To the editor: I was interested in reading your editorial in the July 21 issue of *Business Insurance*, "Grow by Giving High-Quality Service," dealing with broker quality.

I really wish I could believe that risk managers would change their broker for quality.

If the Risk & Insurance Management Society is so inclined and if they think their approach to quality is a good one, how about *BI* maintaining a list of risk managers that change brokers for quality?

Just have risk managers send an e-mail to you showing the broker they left, the broker they went to, and an approximate value of the business moved. And a statement that the move was made for quality (as opposed to price).

I think the results would be very interesting.

Henry Goode
Director of Insurance and Travel
Rohm & Haas Co.
Philadelphia

Editor's note: Mr. Goode is a former president of the Quality Insurance Congress. BI would be glad to conduct such a survey. Send an e-mail with the information above to pwinston@crain.com and we will periodically report on responses.

Have analysts study med mal situation

To the editor: By all means, revive medical malpractice liability reform as you advocate in your July 14 editorial, "Revive Med Mal Reform."

First, though, what reform is appropriate? As in Rashomon, everyone sees the matter differently. Greedy trial lawyers? Incompetent doctors? Insurers incapable of long-term investing? Everyone blames someone else.

Why not have a group of competent analysts study the matter objectively? That will give us information on how we can realistically develop a sound solution.

Nathaniel B. Taft
Counselor-at-law
White Plains, N.Y.

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Catastrophe Management

Spotlight Editor: Mark A. Hofmann

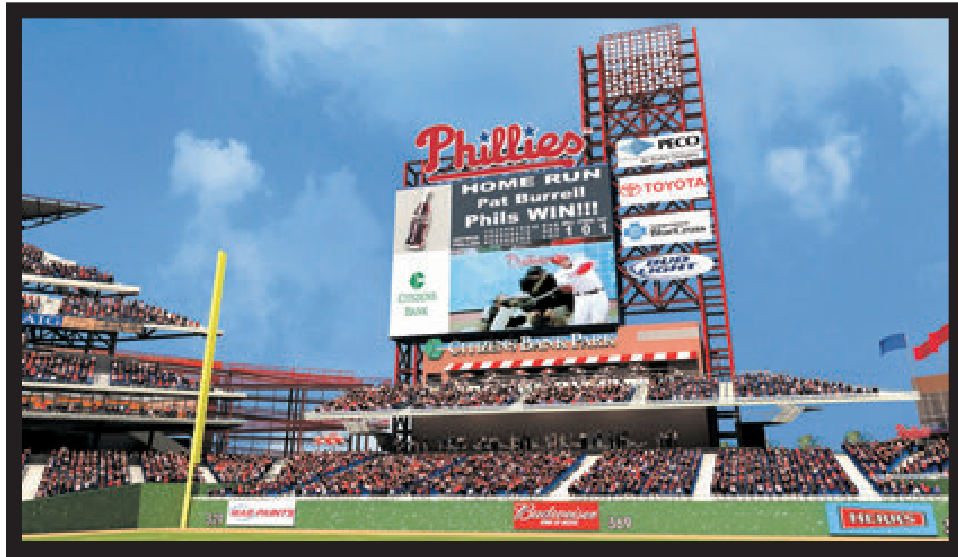

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PHOTO: ZUMA

Public venues, from stadiums to casinos to shopping malls, present unique property loss control challenges for risk managers and underwriters.

Unique public facilities require more creative loss control efforts

By MARK A. HOFMANN

Big buildings mean big catastrophe management challenges.

That's particularly true if the big buildings in question happen to be public venues. For stadiums, shopping malls, casinos and other places where many strangers gather, effective catastrophe management is the connection between property loss control and life safety. Further complicating the matter is the fact that the structures themselves are often unique, demanding one-of-a-kind catastrophe management approaches, particularly regarding fire prevention and suppression.

While fire is probably the greatest exposure facing large public structures, it's far from the only headache. The complex systems needed to maintain a stadium or the like carry inherent exposures of their own—even loss protection tools such as backup power systems can turn into loss drivers.

And a public structure's very nature adds the wildest of all wild cards—the public itself. Those responsible for safety and property protection of large public places can never forget that the public can present an exposure that's extremely hard to mitigate.

> **'There's not an arena or stadium building code. You've got to look at the codes for high rises and assembly buildings and work with code officials to identify prudent applications.'**
>
> *John Stranix, Citizens Bank Park*

Building codes can guide those responsible for protecting life and property in large public places, but they don't do the whole job, said Jeffrey LaSalle, president of SAFE Consultants, a Philadelphia-based fire safety and security consultant. SAFE is a consultant on Citizens Bank Park, where the Philadelphia Phillies baseball team is scheduled to begin playing next year.

"The biggest challenge is that the building codes are very limited in terms of applications to such a unique facility," said Mr. LaSalle. He said he had to work with city officials and others to "provide the framework of how we were going to comply with the intent of the code."

"One of the more-specific design-related factors was an area of the building that we call the club lounge," said Mr. LaSalle. The club lounge area—which includes bars and special seating spaces—has to be maintained as a smoke-protected environment so people could exit through it during an emergency, he said. SAFE was able to meet this requirement through a combination of integrated systems that rely on fire protection, smoke detection, dedicated smoke exhaust fans and a makeup air system to create a free and clear environment, he said.

Makeup air, Mr. LaSalle explained, is air brought from outside the building or from other sources to fill the space created by removing smoke-filled air. "If you don't have makeup air, you can have problems opening doors" because of air pressure differential, he said.

"There's not an arena or stadium building code. You've got to look at the codes for high rises and assembly buildings and work with code officials to identify prudent applications," said John Stranix, project manager for the Citizens Bank Park. Mr. Stranix said that some building

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Keeping risks from breaking organizations' supply chains

Complex exposure

By MICHAEL BRADFORD

Risk managers must do more to protect their supply chain exposures than just make sure business partners have insurance coverage.

With the prevalence of just-in-time inventory, uncertainties posed by the risks of terrorism and expensive contingent business interruption insurance, keeping open the pipeline of critical supplies is a big concern for organizations. Protecting that critical pipeline means risk managers have to make sure that both they and their suppliers are prepared for problems that could cripple productivity.

> **'The risk manager has to understand the supplier's business and 'the hazards that affect the supply chain.'**
>
> *Martin Fessey, FM Global*

"One of the things the risk manager brings to this is to understand the issues," said Martin Fessey, London-based director of European business development for Factory Mutual Insurance Co., which does business as FM Global. The risk manager has to understand the supplier's business and "the hazards that affect the supply chain. Once you understand those two areas, you understand the risk," he said.

"It's not a case of saying, 'We want to see your contingency plan,'" agreed Anne Parkin, a consultant with Aon Corp. in Southfield, Mich. Instead, risk managers should work with their clients to make sure suppliers' plans are in place, she said.

Ms. Parkin said many risk managers haven't worked with suppliers to prepare for interruptions because advice from others in the risk managers' organizations has led them to believe the loss of a supplier could be worked out if it were to occur. When they are advised of the hazards of ignoring contingency plans,

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Ranking of the Largest Property Loss Control Consultants Page 10

Flooding risk management varies between U.S., Europe page 20

Training and education crucial to effective disaster response page 22

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COMMON CONSULTING SERVICES

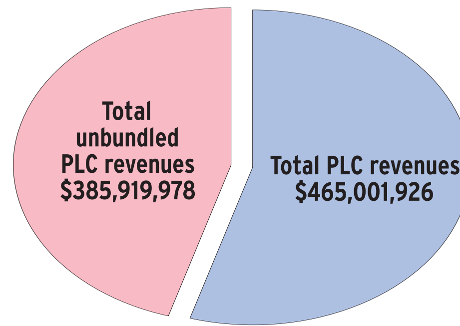
Most common services by property loss consultants

Services	Percentage of companies
General onsite plan loss prevention inspections	94.2%
Hazard identification	91.4%
Client training	88.6%
Fire prevention inspections	88.6%
Risk and hazard analysis	88.6%

Source: *BI* survey

BUNDLED VS. UNBUNDLED

Total property loss control revenues vs. total unbundled property loss control revenues



Source: *BI* survey

LARGEST PROFESSIONAL STAFF

By number of professional property loss control staff

Company	Professional staff
ABS Consulting Inc.	664
Overland Solutions Inc. [1]	450
GE Global Asset Protection Services	188
Regional Reporting Inc.	160
Global Risk Consultants Corp.	154
Schirmer Engineering Corp.	140
Zurich Services Corp.	112
Gallagher Bassett Services Inc.	54
Gage-Babcock & Associates	50
HSB Professional Loss Control	42

1 Formerly CP Commercial Specialists
Source: *BI* survey

Largest property loss control specialists

Ranked by gross revenues from unbundled property loss control consulting*

Rank	Company/Parent/Address	Phone/Fax/Web site	Unbundled property loss control revenues	% of total property loss control revenues	Total staff	Professional property loss control staff	Branch offices	Unbundled clients	Top executive
1	ABS Consulting Inc. ABS Group of Cos. Inc. 16855 Northchase Drive Houston, Texas 77060	281-877-6000 Fax: 281-877-6701 *www.absconsulting.com*	$118,100,000	100	968	664	20	1,620	Frank Iarossi, chairman/CEO
2	GE Global Asset Protection Services General Electric Co. 20 Security Drive Avon, Conn. 06001	860-507-1400 Fax: 860-507-1313 *www.gegapservices.com*	$35,100,000	100	235	188	17	377	Dan R. Eudy, president
3	Global Risk Consultants Corp. GRC Merlin Holdings Inc. 100 Walnut Ave., Fifth Floor Clark, N.J. 07066	732-827-4400 Fax: 732-827-4490 *www.globalrisk-consultants.com*	$32,556,627	100	242	154	28	646	William F. Ramonas, chairman/CEO
4	Schirmer Engineering Corp. Aon Corp. 707 Lake Cook Road Deerfield, Ill. 60015	847-272-8340 Fax: 847-272-2639 *www.schirmereng.com*	$22,000,000 [1]	100	200	140	18	600	Carl F. Baldassarra, president
5	Regional Reporting Inc. 40 Fulton St. New York, N.Y. 10038	212-964-5973 Fax: 212-608-5074 www.regionalreporting.com	$9,060,000	60	265	160	8	221 [1]	Martin Myers, CEO
6	ACE USA Property Engineering ACE Ltd. 1601 Chestnut St., TL30M Philadelphia, Pa. 19103	800-447-5677 Fax: 215-640-4090 *www.acelimited.com*	$6,500,000	100	38	38	5	80	Michael Schmidt, vp
7	Gage-Babcock & Associates 5175 Parkstone Drive Chantilly, Va. 20151	703-263-7110 Fax: 703-263-1549 *www.gagebabcock.com*	$6,000,000	100	70	50	7	500	Tom Jaeger, president
8	HSB Professional Loss Control HSB Global Standards 1 State St. Hartford, Conn. 06103	860-722-5621 Fax: 860-722-5705 *www.hsbplc.com*	$5,000,000	100	60	42	3	6	Michael E. Mowrer, executive vp
9	Matrix Risk Consultants Inc. 3130 S. Tech Blvd. Miamisburg, Ohio 45342	937-886-0000 Fax: 937-432-2099 *www.matrixrc.com*	$3,500,000	100	21	15	2	23	Walter P. Luker, president
10	ISI Insurance Services P.O. Box 458 Chalk Hill, Pa. 15421	724-434-1555 Fax: 724-434-2555 *www.ageorgeinc.com*	$1,200,000	100	50	25	–	20	Alan George, CEO
10	Risk Logic Inc. 93 Apple Ridge Woodcliff Lake, N.J. 07677	201-930-0700 Fax: 201-930-8795 *www.risklogic.com*	$1,200,000	100	6	5	3	48	John Durante, president

* Only those companies that derive a majority of their total revenues from unbundled property loss control consulting are ranked. 1 Estimated
Source: *BI* survey

The full directory of Property Loss Control Consultants is available online, in the directories area of *www.businessinsurance.com.* The searchable directory allows users to locate property loss control consultants by company name, number of unbundled clients, number of professional staff and services provided, among other information. The online database is free to subscribers of *Business Insurance.* PDF copies of the directory can be purchased by calling the Crain Information Center at 312-649-5476.

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Public: Unique loss controls

Continued from page 9

code requirements simply aren't effective in buildings the size of the stadium.

Sometimes the nature of the project itself creates unique loss control challenges, pointed out Dan Groff, director-inspections services for Hartford Steam Boiler Inspection & Insurance Co.'s HSB Professional Loss Control in Pittsburgh.

The Greater Pittsburgh Convention Center, scheduled to open next year, is an example of unusual construction demanding unusual loss control efforts, he said. HSB performed a third-party review of the project's fire protection, he said.

"What's unique about this project is the design of the building itself," Mr. Groff said. "You have a cable-suspended roof in the shape of a hyperbola; there's a series of steel plates that float on the cables. The whole thing is designed to move and to flex."

"Because the roof curves and goes from an elevation of 35 feet to 95 feet, they were not able to suspend sprinkler piping from the roof," he said.

"Our organization assisted in developing a performance-based fire suppression scheme," Mr. Groff said. The plan depended on a series of monitor nozzles or water cannons, he noted. HSB modified an existing application of these cannons to be activated automatically using a combination of smoke and heat detection.

"We had to simulate sprinkler systems operating by dividing the building into operating zones. The nozzles would oscillate back and forth, delivering water across the exhibit hall so that an equivalent to sprinkler density was delivered to the hazards," he said. "Test runs measured the water, set up a series of pans and collected the water in the pans and calculated how much water was delivered over a period of time."

The result was a "completely new protocol," Mr. Groff said.

Simply making sure that the proper fire protection for a given occupancy is in place isn't enough, said Dennis Anderson, vp and chief engineer for Johnston, R.I.-based Factory Mutual Insurance Co., which does business as FM Global. "The age-old problem is making sure that it's in service when you need it," Mr. Anderson said.

For example, the diligence needed to ensure that a fire protection system would work increases in an earthquake zone, he said. "Specifically, you have to have your fire protection system adequately braced. There's a marvelous device called a seismic gas shutoff valve; in an earthquake, it shuts off the gas automatically," thereby limiting the risk of combustion.

Fire isn't the only earthquake-related hazard that managers of large public places have to focus on, noted Paolo Bazzurro, manager-engineering analysis in San Francisco of AIR Worldwide Corp., a Boston-based unit of the Insurance Services Office Inc. Before joining AIR, Mr. Bazzurro worked on the seismic risk assessment for Pacific Bell Park in San Francisco. The ballpark's construction company and lender needed the information to determine the chance that a major quake could damage or destroy the stadium during construction or shortly thereafter.

'The age-old problem is making sure that (a fire protection system) is in service when you need it.'

Dennis Anderson
FM Global

Mr. Bazzurro examined drawings of the structure's foundation and superstructure and then "shook" a computer model with the simulated ground motion of quakes of various magnitudes. By looking at the consequences of the modeling, he was able, for example, "to tell them they had to reinforce the pylons that hold the lights—they were too flexible."

Mr. Bazzurro's Boston-based colleague Tom O'Brien said that computer modeling could also assess the impact of terrorist acts at a stadium or other large public structure. In such studies, he said, AIR uses its terrorism model to determine the probability of attack for a particular facility.

"Michael Stapleton Associates in New York will do a security audit, and then—based on the security in place—we will adjust the probability of certain types of attack," he said. Some of the factors examined include the effectiveness of screening of packages entering the facility and the adequacy of barriers around the structure to protect against truck bombs, he said.

Security is a major loss-control issue at the Phillies' new stadium as well, Mr. Stranix pointed out. The team's new facility will have an extensive security camera system that will allow personnel to keep an eye out for property damage and to track crowd activity, he said.

Other exposures may not be so self-evident. For example, emergency generator power requires fuel systems in standby systems, and those have to be adequately protected so that they don't create fire hazards of their own, said FM Global's Mr. Anderson. That happened in World Trade Center Building 7, which wasn't struck by planes in the Sept. 11, 2001, terrorist attacks but did catch fire, he said.

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Public: Unique loss controls

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Smoking on premises is also a concern, noted SAFE's Mr. LaSalle. "Any issue related to the control of ignition sources is always a major fire safety concern. Historical records show us that, in certain types of facilities, smoking or the careless discard of cigarettes is an issue. You can follow that by following the trash flow out of a building," he said. "Anywhere there's a huge amount of trash that's collected, just following that path of how it moves out the building allows you to address this problem."

Lance Ewing, executive director-risk management for Las Vegas-based Park Place Entertainment, notes that Park Place's properties are "open 24 hours a day, 7 days a week, 365 days a year" with huge numbers of customers.

Park Place's "exposures don't go away whether it's a slow hot August day in Las Vegas or our busiest day—which is New Year's Eve in Atlantic City," he said. But perhaps the major concern is fire, Mr. Ewing said.

"We have life safety engineers, as well as our security personnel trained to identify areas where those incidents may occur. In our Mississippi properties, we actually have no-smoking areas in certain areas, which is somewhat rare in the casino business," he said.

Bob Smith, national property risk consulting practice leader for Marsh Inc. in Chicago, noted that the public is itself an exposure. In large buildings where the public assembles, "this may be the only time they're there," he said, and so most visitors would be unfamiliar with the buildings' layouts. The challenge is, in part, designing a facility so that people can readily respond to an emergency situation and to train facility personnel to carry out effective evacuations. "They have to assume that, in the worst case, confusion will prevail," Mr. Smith said.

"Those who go to stadiums and concert halls ought to be very aware of their surroundings, get some view of where the exits are. There has to be some ownership," he said.

"When I think chokepoints, I automatically think about exiting," said SAFE's Mr. LaSalle. "If you follow a cookie-cutter building code approach, you could end up with potential weak points. We like to look at those issues and address them by redundancies and having redundancy in exits."

"There's a lot of critical factors, but the main thing is the unpredictability of human nature," said HSB's Mr. Groff. "You try to take away as many of the unknowns as possible by providing adequate emergency lighting, avoid tripping hazards on stairwells, installing panic bars on doors—you hit the bar and the door will open under any circumstances. It's not just code—code is a minimum standard agreed upon in a consensus from contractors, engineers, fire officials and other government officials. It's not always the best alternative."

Shopping centers present their own challenges, noted Mary T. Pipino, president of Gallagher Pipino, a Youngstown, Ohio-based unit of Arthur J. Gallagher & Co.

"Shopping center owners and developers dedicate a tremendous amount of resources to creating the safest environment for their business invitees, their shoppers," said Ms. Pipino.

"Catastrophe prevention includes the development and implementation of crisis management procedures, fire prevention inspections and strategic housekeeping. Catastrophe preparedness includes emergency response plans coordinated with local protection agencies, such as police and fire departments, to immediately respond to a catastrophic situation. These are focused on maintaining the shoppers' safety," Ms. Pipino said.

"The key is in the planning and preparation," said Joe Gerber, senior partner and chair of the crisis response and management practice of the Philadelphia-based law firm of Cozen O'Connor. Mall managers need to have a team write a risk management document, go through test drills and exercises, and "then you have to go back to the drawing board, because you've identified the flaws," he said.

For malls, the first issue is life safety, Mr. Gerber said. "Life safety in a mall generally translates into evacuation," he said, adding that "the biggest difference between malls and other public occupancies is you will never see a fire drill in a mall during business hours."

"When the crisis hits, it's critical that management immediately assume control and start directing human traffic to the closest safety exit route," he said. Mall management may face an additional challenge if power is out, which means they have to have their people prepared to work with emergency lighting or flashlights.

The exposures may not always be obvious, said Mr. Gerber. Fires can start in display windows, he pointed out. A relatively temporary display can go in a window with some spotlights or other appliances. The display material may be highly combustible—like crepe paper, silk flowers or absorbent cotton used to simulate snow, he noted. If the material gets shifted around and comes into contact with the heat source, the risk of fire increases.

"You've got to pay attention. Someone in the senior management of each store and also of the mall itself has to be on top of it," Mr. Gerber said. "There's no two ways about it. You have think about what you're doing."

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AGENT/BROKER TOPICS

A MONTHLY EDITORIAL SECTION SENT EXCLUSIVELY TO AGENTS, BROKERS AND CONSULTANTS

Marketing Strategies

Insurers slow to use power of branding

Brand equity can be worth billions for company

By SALLY ROBERTS

While some policyholders may have found that it pays to get MetLife, and others found themselves in good hands with Allstate, the insurance industry, in general, has not embraced the full potential of branding, some marketing consultants contend.

Part of the reason for that, they say, is that many industry companies do not see brand image as delivering any return on investment.

Stamford, Conn.-based Corporate Branding L.L.C., for one, is looking to change that perception. Using information from its proprietary database of financial, advertising spending and brand image information, the consulting firm has determined what it believes to be the amount of market capitalization attributable purely to the corporate brand of 1,000 companies in 40 different industries.

According to CoreBrand's research, which it conducts quarterly, the average brand equity as a percentage of market capitalization for the 1,000 companies in its database was 6.2% in the first quarter of 2003, which translates into $1.37 billion per company. The 20 insurers and brokers that make up its insurance industry sector, on the other hand, averaged 4.4% in the first quarter, translating into $580 million.

According to James Gregory, CoreBrand's chief executive officer, one of the reasons insurers and intermediaries are not building their brands as much as other companies is that the insurance industry is driven more by financial elements than by marketing.

"They think the financial aspects are the only thing that drives the organization," Mr. Gregory said. "Generally, they do not see a whole lot of value" to branding.

One of CoreBrand's goals is to educate senior-level executives about the value of branding and how it could be worth billions of dollars to their companies.

"Frankly, most executives don't understand that," Mr. Gregory said. "They think of spending money on (public relations) and advertising really as an expense with no return on investment. Through very careful, long-term quantitative research, we have proven otherwise."

Other marketing experts agree that the industry, in general, is not tapping into its full branding potential.

"There are forces at play that inhibit carriers' deep understanding of their brands," said Peter van Aartrijk Jr., managing director of The van Aartrijk Group L.L.C., a Springfield, Va.-based marketing communications firm. "Many company senior executives are waist-deep in insurance process, missing the big picture of what their brand is, or could be, and how to leverage it."

"With the exception of a handful of insurers, such as Progressive, MetLife and AFLAC, most insurance companies lack brand warriors—people at various levels who lead the charge internally to stay true to the promise of their brand," Mr. van Aartrijk said. "The No. 1 brand warrior must be the CEO, and, again, the industry simply lacks brand leadership there."

"A brand is a promise to customers; it's what I expect when I come to you," said Kimberly Paterson, president of Creative Insurance Marketing in Belmar, N.J. "It's like Campbell's Soup. I know what I'm going to get when I open that can. Whether I think it's 'Mmm…good' or not is questionable."

A certain amount of that brand understanding has "fallen by the wayside" in the insurance industry, Ms. Paterson said. Part of the reason is the constant change in management, shift in corporate direction and turnover of employees in the industry today. "Because of that…there are fewer and fewer companies out there…that have that deeply ingrained corporate culture," she said.

"Companies are basically interchangeable today," Ms. Paterson said. "And that's not a result of the consumer; it's a result of something that has been let go."

Jeff Scott, president of integrated account services for Campbell-Ewald, an advertising agency in Warren, Mich., has a different take on the situation.

"I think, on the P/C side, they've done a wonderful job of branding," he said. "Look at the longevity of State Farm and Allstate… Farmers…MetLife, and look at upstarts like GEICO and Progressive, and I think you see an industry that has embraced branding to

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Branding: Some insurers unsure of brand value

Continued from previous page

sometimes wonderful effects."

"We're not dealing with durable goods," Mr. Scott said. "We're not dealing with telephone service. We're dealing with branding that's really being driven by the culture of the companies and what they believe they can deliver to the marketplace from a service perspective that really differentiates them."

Experts agree that there are companies within the insurance industry that do understand the benefits of a strong branding campaign.

Columbus, Ga.-based AFLAC Inc., with its well-known television ad spots featuring a duck that squawks the company's name, is one insurer that recently has "built a brand from nothing," Mr. Gregory noted.

"Think about it—what do they sell? They sell supplemental insurance. AFLAC and supplemental insurance, those are the two things you remember about that. I can't imagine ever being interested in supplemental insurance, but I know what it is now, and if I were to ever buy it, it would be through AFLAC," Mr. Gregory said.

Furthermore, on AFLAC's Web site, people can purchase a plush AFLAC duck, with all of the proceeds going to the AFLAC Cancer Center.

"Talk about self-funding a charitable contribution," Mr. Gregory said. "It's just brilliant."

Not surprisingly, according to CoreBrand's research, AFLAC's brand equity as a percent of its market capitalization has increased to 7.0%, or $1.2 billion, in the first quarter of 2003, up from 5.9%, or $740 million, in the first quarter of 2002.

Newark, N.J.-based Prudential Financial Inc. is another recognizable insurance brand.

"We're one of a handful of American brands that has been around under the same name for well over a century," noted Michael Hines, senior vp-global marketing and communications.

While Prudential's logo, an image of the Rock of Gibraltar, still connotes strength, trust and endurance, the insurer's message has shifted over the years.

"In general, in branding, the most important thing is that you remain relevant," Mr. Hines said. "So the message has evolved over time. Today, we are growing and protecting people's wealth, which is, in essence, what Prudential attempts to do for people."

According to CoreBrand's research, Prudential's brand equity as a percent of market capitalization was 14.2%, or $2.3 billion, in the first quarter of 2003.

The Hartford Financial Services Group Inc.—with its well-known stag logo that dates back nearly 200 years—is another insurer that sees the benefits of branding.

"Nine out of 10 people nationally know the Hartford name, and when folks think of the Hartford name, they think of strength, stability and heritage," said Michael Johnson, vp-brand management and advertising with the Hartford, Conn.-based insurer. "These are some of the key strengths our distributor partners look for when looking to select insurance carriers."

"We see our brand as a very core part of what we are and what we sell," Mr. Johnson said.

"Our business units are tasked with driving profitable growth, and we think about our brand as something that contributes to our business units being able to achieve their long-term goals," added Ann Glover, group senior vp of corporate relations.

According to CoreBrand's research, The Hartford's brand represented 10.3% of its first-quarter market capitalization, or just over $1.0 billion.

Although many in the insurance industry understand how to come up with a corporate identity, logo and tag line, many stop there and have not found a way to build their brand into their business operations, said Ms. Paterson of Creative Insurance Marketing.

"It's about looking at all aspects of how you do business as a company and asking, 'How can we take every touch point with our customers and use it to reinforce the brand?' That's where the power (of branding) really lies," she said.

Until the industry understands the second piece, "we're tapping into only a fraction of what the potential is here," she said, referring to the return on investment from branding.

It is that potential that the Alexandria, Va.-based Independent Insurance Agents & Brokers of America is looking to tap into with its "Trusted Choice" branding initiative.

Spurred by member concerns that direct writers were sending a message to consumers that agents were unnecessary, the IIABA launched its Trusted Choice branding campaign at the beginning of 2000, explained Larry Acord, vp-consumer marketing for the IIABA and executive director of Trusted Choice.

Research into its brand revealed that consumers did not recognize the Big I logo, and that the three things that were particularly important to customers were customized insurance solutions; a choice in solutions; and advocacy, particularly in the areas of claims, Mr. Acord said.

"So that's where…we came up with Trusted Choice. We serve you first," he said.

A little more than 3,000 independent agencies have joined the marketing program, which ran 20 national commercials a day on top-rated cable and television programs in June, Mr. Acord said. The branding effort is funded by help from 25 insurers, in addition to membership dues.

Trusted Choice agencies sign a "Pledge of Performance," agreeing to, among other things, provide service to customers 24 hours a day, seven days a week; return telephone calls and e-mails promptly; and guide customers through the claims process for prompt, fair resolutions of claims.

Mr. Acord said, though, that, as an association, it is challenging to make sure the Trusted Choice brand permeates every individual agency's business operations and that consumers have a consistent experience with each agency.

"It's a little easier to have a McDonald's, where you say everybody is going to flip a burger the same way and the consumer is going to have a consistent experience," Mr. Acord said. "The strength of independent agents is their independence."

So the Pledge of Performance is more of a general guideline, he said. "We can't go out and say every agent must answer the phone in three rings. The agencies within their own communities want to set their own standards," he said.

Mr. Acord noted, though, that he and Mr. van Aartrijk are in the process of finishing an agency workbook on brand management, which will be available at the IIABA's upcoming national conference.

"This will be an A-to-Z instructional guide for agents to develop a brand and, hopefully, through that, they will be delivering consistent experiences to customers," he said.

IMCA/LCA Annual Meeting

Generation Y presents marketing challenges

By RODD ZOLKOS

To market effectively to Generation Y, the generation of young people now in their late teens, companies must recognize significant differences between that group and Baby Boomers and even Generation X, according to one marketing expert.

"There's an absolutely fundamental set of rules to remember about this group, because they are going to be incredibly important going forward," said Jeffrey Scott, president-integrated account services at Campbell-Ewald Co. in Warren, Mich.

"You have to understand that they are going to be exposed to your communications through their parents, and you have a tremendous opportunity to connect with them," he said.

Speaking in June at the annual meeting of the Life Communicators Assn. and the Insurance Marketing Communications Assn., Mr. Scott drew on research of Generation Y his company did for the U.S. Navy.

The group in question comprises 78 million U.S. teens aged 12 to 19, a group "larger than the baby boom," Mr. Scott said. And it's a group with significant economic clout, having spent $172 billion in 2001.

"The truth is, it's really, really easy to misunderstand what these people are like," Mr. Scott said. "Don't think you can motivate them by looking back at your own childhood."

Members of Generation Y have different cultural, political and sociological touch points than either baby boomers or Gen Xers, he said. And, until recently, their lives have been spent in the single greatest uninterrupted economic boom in U.S. history.

In fact, the generation has much in common with the so-called "Greatest Generation" of World War II, Mr. Scott said.

Campbell-Ewald has developed 10 "youth truths" related to marketing to Generation Y.

- Members of Generation Y have high ideals and want to do something important. "They want to stand for something, and they absolutely believe in the power of collective action," Mr. Scott said. "As a marketer, you have to understand this. They're looking for you to do the right thing as a company."

- Generation Y is patriotic. In fact, 68% of those surveyed in Campbell-Ewald's work for the Navy say they would be willing to make personal sacrifices for the country. As a marketer, "It's important to know that you can celebrate American culture in all of its forms," Mr. Scott said.

- The group values education. "This generation loves the notion of education, and they want the best and most education they can obtain," Mr. Scott said. A company marketing to the group can play to that characteristic by feeding them information and helping them feel smarter about the decisions they're making. "Fundamental to this, too, is the Web," Mr. Scott said.

But, he cautioned, "If you're going to begin to offer them information that helps them feel smarter, you can't lie to them, because they're adept researchers through their use of the Web."

- Members of Gen Y have a strong moral compass—they admire honesty and integrity. "Why does this matter for a marketer?…Bottom line is, these kids want total integrity."

"If you stand for something that is contrary to their moral compass, or they think is phony…they're not going to buy it," he said.

- They are incredibly optimistic. "This is a generation that believes that you can have it all, that everything is possible," Mr. Scott said. "The world is not a zero-sum game for them. It's not win or lose."

"The point for marketers is that you should proceed full tilt with optimism, not doom and gloom," he said.

- Gen Yers "are determined to get there fast," Mr. Scott said. "They're not going to wait around."

"This generation's expectations are incredibly high, and they think they're going to get there incredibly fast," he said. He cited the Navy's "Accelerate Your Life" marketing theme as one that has successfully played to this characteristic. "The implication for marketers is really to feed the need for speed," Mr. Scott said.

- Diversity rules. "This is a generation that is absolutely color blind," Mr. Scott said. "The marketing implication is, really embrace diversity, just like they do. What they want to see is their world in your advertising."

- Generation Y also is "tech savvy," Mr. Scott said. "Teens use the Web for information; they also use it to connect with people."

"It's not a miracle for them," he said. "What the 'Next Greatest Generation' doesn't get is why everybody hasn't embraced" technology, he added.

- Members of Generation Y know they're being marketed to. "You can never forget that this generation absolutely knows that they're your marketing target."

The group is "the most media-saturated generation in the history of the country," he noted, and "they want you to know that they know that you're marketing to them. And they don't mind. They're not bothered about the artifice that surrounds popular culture."

"The marketing implication here is to be transparent," Mr. Scott said. "Be honest that you're trying to sell them something." It's also important that companies marketing to the generation not pretend to be part of the group by using its jargon and attitude, he said.

- Members of Generation Y are kids, Mr. Scott said. "They're not miniature adults. So part of the game here is simply to have fun."

"The rule here is really to entertain them," Mr. Scott said. Marketers can be successful in reaching the generation by putting on events and above all, he said, "Don't be dull."

IMCA/LCA Annual Meeting

Jargon can make marketing efforts miss the mark

By RODD ZOLKOS

Insurance marketers should avoid the use of industry jargon in their materials, two communications experts said.

Jargon is exclusive, hides meaning and makes readers work harder to understand what's been written. Not only that, "If you don't have the right market or the right people who know what you're talking about, it's infuriating," said Janice M. Child, manager of field communications and event planning at Farm Bureau Insurance Group in Lansing, Mich.

Along with Karen P. Holmes, president of Corporate & Marketing Communications Inc. in Atlanta, Ms. Child discussed the advantages of avoiding jargon in marketing materials and ways of doing so at the annual conference of the Life Communicators Assn. and the Insurance Marketing Communications Assn. in June in Chicago.

"We use these words very often in meetings," Ms. Holmes said. "The real danger is, then it gets in your head and then you start using it with real people."

"A lot of times, jargon is hidden," Ms. Holmes said. "One place is the word 'product.' To a consumer, 'product' means something they can go to Target and buy off a shelf."

Words like "synergy" or "prioritize" are other common jargon culprits, she noted.

Insurance policy riders also are often full of jargon, she said, and could be improved by defining terms and providing explanations of what benefits the riders provide.

Ms. Child suggested one way to avoid jargon in marketing materials is to focus on the reader, not the product. And she suggested writing the materials in "plain English" with glossaries, graphics and analogies. "We can all do that because we use plain English in our regular lives," she said.

She also told the audience they should concentrate on the materials' readability, striving for short sentences and eliminating superfluous information and irrelevant or redundant sentences.

Reading material aloud can give the writer a sense of its readability, Ms. Child said. Another option is to have someone else read it.

"If at all possible, get somebody who doesn't love you to read your stuff," she said. "Get somebody who doesn't know anything about insurance to read your stuff."

Marketing materials also should look inviting to the reader, with short paragraphs and ample white space, Ms. Child said. "Spend some time thinking about the look of the book," she said.

And once something is written, writers should be willing to revise to make the material more precise and eliminate clutter, she said. "Just because it's on the page doesn't mean it's gold. You can still work on something."

Ms. Holmes stressed that it's important to relate to readers and anticipate their objections, speaking to those concerns in the marketing material.

Other effective strategies in improving marketing materials include using stories to illustrate points and displaying ideas graphically, she said. "A lot of time, if you're a writer, you don't think about putting it into visual terms."

It's also important to make materials clear, truthful, correct and lively, she said.

"Always think about writing in terms of the benefits," Ms. Holmes said. "And to do this, you have to get into the customer's shoes." When talking about features or benefits in marketing materials, it's important to answer the "So what?" or "Why?" she said.

Interviewing subject-matter experts also can help marketing material writers present information more effectively, said Ms. Child. And she told the audience not to worry about appearing stupid. "If I appear stupid and they answer the questions, then I appear bright when I write the material."

Dealing with compliance and legal issues can be challenging when trying to eliminate jargon from marketing materials, Ms. Holmes conceded, calling them "the nemesis of all communications people everywhere."

"I would always fight the fight to make your communications really communicate," she said. "And if this sounds too strong for you, go to (the legal department) and negotiate." It's important for marketers to clarify who has the final word in marketing materials, compliance or marketing, she added.

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Communications improvement highlighted

This year's annual conference of the Insurance Marketing Communications Assn., held jointly with the Life Communicators Assn., drew approximately 225 attendees to Chicago June 21 to 24.

The theme of this year's conference was "Make Your Communications Soar," and the program included sessions on measuring the return on communications programs, writing for the Internet and enhancing creativity.

For information on next year's conference, visit IMCA's Web site at *www.imcanet.com.*

IMCA/LCA Annual Meeting

Awards honor communications successes

By RODD ZOLKOS

The Insurance Marketing Communications Assn. presented a variety of annual awards at its 2003 conference in Chicago, held jointly with the Life Communicators Assn.

The IMCA also presented its annual Golden Torch Award at the last June gathering. The award, which honors an individual who has helped "light the way for others" within the insurance industry was presented this year to Gay Silberg, a founding principal of the Los Angeles-based Graham Silberg Sugarman Inc. advertising agency and consulting firm.

In accepting the award, Ms. Silberg said, "Good companies get to be better companies when they use communications and marketing effectively."

The IMCA's SAMMY award, the group's Special Award from Members, went this year to Farmers Insurance Group, the second straight year Farmers has received the honor.

The SAMMY, selected by the vote of company and associate members attending the IMCA's annual meeting, is presented to the one entry in the organization's Showcase Awards program deemed to make the greatest contribution toward raising the level of insurance marketing communications.

The year's IMCA Showcase Awards and their winners include:

Personal lines sales promotions to producers/agents: best of show, to Fireman's Fund Insurance Co.; awards of excellence, to MetLife Auto & Home and Foremost Insurance Co.

Personal lines sales promotion to consumers: best of show, to Fireman's Fund; awards of excellence, to Liberty Regional Agency Markets, Farmers Insurance and American Family Insurance.

Commercial lines sales promotion to producers/agents: best of show, to Harleysville Insurance Cos.; awards of excellence, to Zurich North America, S.H. Smith & Co. Inc. and The Hartford Financial Services Group Inc.

Commercial lines sales promotion to business customers: best of show, to Fireman's Fund; awards of excellence, to The St. Paul Cos. Inc., ProMutual Group and Utica Insurance Co.

Personal lines print advertising to consumers: best of show, to Fireman's Fund.

Commercial lines print advertising to business consumers: best of show, to Marsh Inc.; award of excellence, to Marsh.

Personal or commercial lines print advertising to producers/agents: best of show, to Swett & Crawford Group; awards of excellence, to Venture Programs Inc. and Foremost Insurance.

Corporate image print advertising to producers/agents or consumers: best of show, to XL Capital Ltd.; award of excellence, to Allstate Insurance Co.

Radio advertising: best of show, to Nationwide Insurance Group; award of excellence, to Allstate.

Television advertising: best of show, to Country Cos. Insurance and Financial Services; awards of excellence, to Nationwide and The St. Paul.

In-house advertising: best of show, to Accident Fund Insurance Co.; award of excellence, to Universal Underwriters Insurance Co.

Audiovisual communications: best of show, to Farmers Insurance ; awards of excellence, to Country Cos., XL Capital and ProMutual.

Total communications campaigns: best of show, to Missouri Employers Mutual Insurance; awards of excellence, to XL Capital, The Hartford and Zurich North America.

Total marketing communications campaign budget under $1 million: best of show, to The Hartford; award of excellence, Workers Compensation Fund.

Public relations: best of show, to The Hartford; award of excellence, to Foremost Insurance.

Company news publications for employees: best of show, to Harleysville Insurance; award of excellence, to Farmers Insurance.

Other employee communications: best of show, to Workers Compensation Fund; award of excellence, to Missouri Employers Mutual.

Annual reports: best of show, to Factory Mutual Insurance Co., which does business as FM Global; awards of excellence, to Harleysville Insurance, EMC Insurance Cos. and ProMutual Group.

Event communications: best of show, to Allstate; award of excellence, to Farmers Insurance.

Producer/agent publications: best of show, to The Hartford; award of excellence, to Harleysville Insurance.

Creative development under $1,000: best of show, to Workers Compensation Fund; awards of excellence, to Fireman's Fund, Liberty Regional Agency Markets and ProMutual.

Special communications campaigns, external and internal: best of show, to XL Capital; awards of excellence, to Farmers Insurance, ProMutual, Allstate and Utica Insurance.

Marketing on the Internet: best of show, to The St. Paul; award of excellence, to XL Capital.

The best idea never produced: best of show, to Allstate; awards of excellence, to Liberty Regional Agency Markets and Allstate.

Associate member media kits: best of show, to Risk & Insurance.

Associate member direct mail campaign for advertisers: best of show, to Porter & Associates.

Your best design: best of show, to Foremost Insurance.

Cause-related marketing: best of show, to Zurich North America; award of excellence, to Allstate Insurance.

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Progressive brokers must do more for their clientele

Online benefits assistance and human resources services among the offerings

By Andrew Ceccon

If there are winners in the health care cost crisis, it would appear that insurance brokers are certainly on that team.

Brokers generally are making more money than ever before, based on the commissions earned

through rapidly rising premium rates. Despite the apparent ease with which they are growing revenue, brokers also find themselves working harder than ever to justify their value to clients and promote their own business development.

Things have changed for brokers specializing in benefits. It used to be that businesses relied on brokers to demystify the dizzying array of benefit options available. Today, company presidents, chief financial officers or human resources people who typically review insurance coverage from year to year are engaged in a relatively empty exercise. Many times it is nothing more than a monitoring process. The person responsible for the company's benefits wants to be able to cover himself or herself; that is, to demonstrate that he or she did some advance preparation and research. Therefore, he or she calls in the brokers.

Despite efforts to be innovative and distinguishable, the deck of cards in the broker's vest has shrunk. Providers in the currently strained insurance industry are offering more and more homogenized products, with very little contrast in the numbers that one carrier offers over another. And, with the lure of managed care waning, there are fewer offerings than there used to be.

Competitive spirit as we know it has been severely diminished among insurers and their products. So it comes down to insurance brokers building solid, long-lasting relationships with their customers. But the strength of personal relationships and golf outings can only do so much. Many companies have come to demand a much greater level of service in consideration of placing the business with a given brokerage firm and the insurers it represents.

Perspective

Prudent insurance brokers are using the client request for more service as leverage to become entrenched in the company's operation.

Prudent insurance brokers will not wait for this demand to become a scream. They have already recognized it and will use the client request for more service as leverage to become entrenched in the company's operation.

Brokers are beginning to see that as service for a client is increased, it gives them a greater presence at that client's workplace. This becomes an advantageous springboard for brokers to sell ancillary services and features.

The potential for revenue enhancement is enormous in this relatively new arena. But how does a busy broker find time to add more services into his or her portfolio?

Online benefits assistance

Numerous options have emerged, most of which are enabled by Internet technology and/or partnering with a service provider. Employee benefit communication portals, for example, are one way in which brokers can demonstrate their expanded role.

It is no longer sufficient for a broker to coordinate a mailing of a few carrier brochures to the employees of a client. Companies want Web sites where workers—especially when they are geographically located in multiple workplaces—can get up-to-the-minute facts, forms and resources.

Strapped for discretionary cash, chief financial officers have not given the HR department the financial resources to build these portals themselves. A number of brokers have come to the rescue by providing employee benefit/HR portals. These portals satisfy two requirements: Human resources needs a centralized knowledge base to store the most current information about a benefits program, and employees need an access point to obtain the information as benefit needs arise.

These requirements are so critical to a successful employee benefits strategy that many brokers have been providing them at no charge as a standard component of their service offerings. This has proved to be an effective door-opener for brokers vying for new business.

As the HR marketplace catches on, employee communication portals could become a standard demand for brokers.

Similarly, Web technology has emerged as one of the most effective means of automating the re-

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Services: Progressive brokers must offer more

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curring and arduous task of benefit enrollment. Brokers alleviate the pressure on HR staff by offering Web-based applications for open enrollment and year-round benefit changes.

Traditionally, brokers played little to no role in facilitating the enrollment process, leaving the heavy lifting up to the employers. While online enrollment has been with us for years, it has finally evolved to a point where the solutions are flexible and affordable enough for companies of all sizes. That opens the opportunity for brokers to deliver it at a reasonable cost.

Since benefit enrollment is so intrinsic to a company's benefits strategy, the broker must play a role in bringing the appropriate solution to his or her customers, rather than letting them search for themselves in a confusing marketplace filled with scores of enrollment service providers.

Other HR services

It's not all about benefits in human resources. The "other side" of a day in the life of a broker's client is the nonbenefits tasks relating to managing human resources processes and data. Ambitious brokers looking to broaden their role with clients have begun offering HR management systems. These enable HR administrators to organize and act on the data related to record-keeping, compliance, recruiting, time-off management and reporting that otherwise consume HR's time.

Here again, brokers are turning to Internet applications to handle the volume of information. While the broker may not be involved in the daily management of the data, he or she would like to be able to take credit for ushering in the solution that does.

All of this activity feeds into the latest business trend. Senior management wants to outsource the labor-intensive benefits operations. The strongest solutions are those that place more responsibilities for decisions and maintenance of accounts on the employees themselves. The increased popularity of benefits outsourcing has cascaded from the large companies down to smaller ones.

Brokers can fill the need by taking the day-to-day busy work off an employer's hand. That includes all the facets of interfacing with employees and benefit providers: record-keeping, invoicing, COBRA and flexible spending account administration, enrollment, eligibility, etc. New service models have empowered brokers who do not have the physical wherewithal for outsourcing to play a star role in offering the services while partnering with a back-end administration company.

That entails introducing new ways of getting the job done, not a shifting of paper processes from one set of hands to another. The administration company uses a blending of Internet tools, a customer service call center, a communications portal and a database to orchestrate a total outsourcing of the former benefits processing. The outsourcing can be private-labeled for the broker to emphasize the broker's role in delivering such service.

So while there is little deviation from fewer remaining carriers or insurance products on the market, the broker can really stand tall by offering new technology, cutting-edge concepts, and the latest business formats to benefit employers and enable them to work smart. Behind us are the days when a broker would get a client to sign on the dotted line for another year and then drop out of sight until renewal time. Employers will demand more from their brokers as they witness what the progressive brokers are doing for their clientele.

Andrew Ceccon is vp of Online Benefits Inc. in Uniondale, N.Y.

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QUAD

Compensation now a marketing tool

82% of agencies offer incentive plans: Survey

By YVONNE TEEMS

In an effort to control expenses, more insurance agencies are shifting compensation for managers from fixed pay to variable pay, said Suzy Hammett, vp of the Business Management Group.

Of the 400 agencies and brokerage firms surveyed for BMG's recently released 2003-2004 Non-Producer Compensation & Benefits Survey, 82% of agencies offer incentive plans to managers. This compares to 47% offering incentive plans in 1999, said Ms. Hammett.

The survey compares compensation of managers and nonproducers by revenue ranges—which included companies with revenues between $5 million and $10 million and agencies with revenues above $10 million—and other criteria. It also includes details about 32 positions at agencies and brokerage firms.

"They're tying their rewards to how (employees) contribute to the agency's profit and growth," Ms. Hammett said.

Rewards are now tied to how well an employee contributes to the agency's profit and growth.

This plan is a win-win situation for both employees and employers, Ms. Hammett said. The results of the company's profit and growth determine the amount of money employees receive. With the fixed-cost plan, employees receive a certain salary regardless of profit and growth. With the variable pay plan, employers are not obligated to pay more to employees if no profit is made. With incentives, employees can earn more than they would under a fixed cost plan if the company's profits are strong.

If profits are higher, "more dollars are available that can be awarded based on the recognition of how they've contributed to growth," Ms. Hammett said.

According to the survey, 83% of agencies that have revenues between $5 million and $10 million offer bonus or incentive plans to managers. Of those agencies, 68% use performance criteria for the plan and 32% use discretionary criteria.

For agencies whose revenues are more than $10 million, 92% offer bonus or incentive plans to managers; 81% of those agencies use performance criteria for their plans, and 19% use discretionary criteria.

According to the survey, for agencies with revenues between $5 million and $10 million, the mean salary for the chief operating officer is $127,895; for sales managers, $121,544; for commercial lines managers, $75,137; for personal lines managers, $50,915; for personal lines customer service representatives, $33,293; and for commercial lines CSRs, $40,670.

For agencies whose revenues are more than $10 million, the mean salary for the chief operating officer is $147,016; for sales managers, $133,053; for commercial lines managers, $67,264; for personal lines managers, $59,393; for personal lines CSRs, $33,598; and for commercial lines CSRs, $40,356.

For nonmanagers, the percentage of agencies offering variable pay plans has remained steady over the years; it is at 74% this year, Ms. Hammett said.

According to the survey, 81% of agencies offer bonus or incentive plans to nonmanagers in agencies within the lower revenue range. For agencies in the higher revenue range, 72% offer bonus or incentive plans to nonmanagers.

Account executives at the smaller agencies earn a mean of $65,092. Those at larger agencies earn a mean of $70,318.

Even though many industries are suffering from unemployment due to the poor economy, agencies are growing, Ms. Hammett said. A shortage of employees for agency support and service staffs is prompting agencies to shift "their emphasis to training existing staff rather than paying outside talent high salaries," Ms. Hammett said. Hiring new, experienced employees is not the best option, she said, because few of these individuals are available for hire and those who are available request high salaries.

For all companies, the costs of employee benefits are increasing dramatically, Ms. Hammett said. The cost of health care coverage is expected to increase to 25% of wages in less than five years, so employers are now asking employees to contribute more to premiums. For agencies with revenues in the lower bracket,

See COMPENSATION/next page

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AGENT/BROKER TOPICS

Insurers credit states with 'reasonable' regulation

Most credit scoring laws now in place follow provisions of NCOIL model act

By RODD ZOLKOS

Of the 19 states that have enacted laws this year dealing with the use of credit information in underwriting, most have followed guidelines considered reasonable by the insurance industry, according to the National Assn. of Independent Insurers.

In a July report, the NAII noted 13 of the states that enacted "credit scoring" laws this year followed the provisions of a model act that the National Conference of Insurance Legislators developed. The NAII said the model act "establishes reasonable regulation for the use of such scores in underwriting and rating."

Among the key provisions of the NCOIL policy are requirements that insurers re-underwrite and re-rate policyholders whose credit reports were corrected, and that insurers notify applicants that credit information will be used in underwriting and rating.

The NCOIL model requires insurers to notify customers in the event of an adverse action based on credit information and restricts consumer reporting agencies' ability to provide or sell information submitted in conjunction with an insurance inquiry. The model also requires insurers to file their credit scoring models with state departments of insurance and have them considered trade secrets.

A model act developed by NCOIL 'establishes reasonable regulation' for insurers' use of credit scores in underwriting and rating, the National Assn. of Independent Insurers says.

With legislation related to the use of consumer credit information in insurance underwriting decisions in play in 41 states this year, many in the insurance industry promoted the NCOIL model as an approach that balanced insurers' use of credit scoring with necessary consumer protections.

States that followed the NCOIL model in enacting credit scoring laws this year were Arkansas, Florida, Georgia, Illinois, Indiana, Kansas, Louisiana, Maine, Nebraska, Nevada, North Dakota, Oklahoma and Texas, according to the Des Plaines, Ill.-based NAII.

In addition, four states—Arizona, Colorado, North Carolina and Wyoming—enacted laws that are less restrictive than the NCOIL model, the NAII reported. Only two states—Alaska and Virginia—enacted credit scoring provisions this year that are more restrictive than the NCOIL model.

The Alaska law bars insurers from using certain factors, such as credit history affected by a joint account with a former spouse and credit history obtained more than 90 days before a policy is issued, in calculating insurance scores.

In Virginia, the new law provides that credit information can be used only if it is derived within 90 days for new policies and 120 days for renewals.

Earlier this month, the California Assembly Insurance Committee voted down a bill that would have barred insurers from using credit-based insurance scores. Legislation related to credit scoring in insurance underwriting remains under consideration in four states—Michigan, Pennsylvania, Oregon and Wisconsin.

Compensation: Agencies surveyed

Continued from page 16F

employees contribute 20% of the total premium for employee medical coverage, 30% for employee dental, 52% for full family medical and 55% for full family dental. For agencies with revenues above $10 million, employees contribute 25% of the total premium for employee medical, 25% for employee dental, 48% for full family medical and 65% for full family dental.

More agencies are following the same trends in other industries, adding flex time and telecommuting to benefits packages, Ms. Hammett said. Of the smaller agencies surveyed, 31% offer telecommuting and 56% offer flex hours. In the larger agencies, 22% offer telecommuting and 61% offer flex hours.

In other benefits, 39% of the smaller agencies offer a profit sharing plan, 92% offer 401(k) plans, 31% offer other retirement or pension plans, 14% offer an employee stock ownership program and 44% offer an employee assistance program.

For agencies with revenues of $10 million or more, 33% offer a profit sharing plan, 100% offer 401(k) plans, 39% offer other retirement or pension plans, 11% offer an employee stock ownership program and 50% offer an employee assistance program.

Copies of the survey are available for $99, plus shipping, from BMG, a subsidiary of The Hartford Financial Services Group of Hartford, Conn. For more information, contact BMG at 800-772-0208 or visit www.bmgconsulting.com.

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BI News flash

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Suppliers: Keeping chain intact

PHOTO: REUTERS

Container ships stalled off the West Coast by a dock workers strike in 2002 highlighted the importance of supply-chain management.

Continued from page 9

though, risk managers generally see the light, she said.

A study completed earlier this year by FM Global indicated that more than one-third of the financial executives and risk managers surveyed don't feel they are adequately prepared for disruptions to their business. The 2003 Protecting Value Study showed 34% of respondents rated the extent of their preparation for disruption to their major source of revenue as fair or poor. When asked how any additional funds allocated to protect major revenue sources should be spent, 37% of the respondents chose business continuity and contingency planning.

John Lawlor, vp of Liberty Mutual Insurance Co.'s Liberty Mutual Property division in Weston, Mass., pointed out that experienced risk managers at larger companies tend to tackle the exposure better than do their counterparts at smaller organizations. Risk managers at smaller operations, in many cases, are not as "diligent about understanding" the supply chain risk, Mr. Lawlor said.

The supply-chain exposure has recently been highlighted by repercussions from such incidents as last year's dock workers' strike in West Coast ports, which stalled shipping goods into the United States, and the outbreak of severe acute respiratory syndrome in China, which also stopped or slowed some of the manufacture of goods exported to the United States, according to Ms. Parkin.

The slowdown of goods from China is an example of "why we recommend building plans in advance," she said. There are worries among some U.S. retailers because shipments from China have been slowed after the SARS outbreak hit the country's workforce, Ms. Parkin noted.

A retailer relying on the delivery of products for the Christmas season could, for example, have made arrangements earlier to have a plant in Mexico produce the goods that might be delayed from China, she explained. Those that waited until a supply-line disruption occurred, though, have less hope of finding a replacement manufacturer in time.

As the dock strike and SARS have focused attention on the significance of protecting supply chains, more Aon clients are showing interest in working with their suppliers to make sure that vendors have loss control programs in place, Ms. Parkin noted. Such concern "shows the client values the supplier and wants to build a long-term relationship," she said.

Mr. Lawlor pointed out that protecting supply chains has become more important as companies have moved to just-in-time inventory systems. Using such methods means companies "don't have a lot of product on hand" to tide them over if supplies were interrupted, he explained.

It is crucial, he emphasized, for companies to determine the importance of each supplier and know how they would replace the vendors if an interruption were to happen.

Automobile makers are particularly susceptible to the disruption of supplies because of their just-in-time inventory methods. Ms. Parkin said vehicle manufacturers put a lot of pressure on suppliers to make sure products are delivered.

If automakers have to stop production because products are not available, penalties to suppliers can run as high as $5,000 per minute of lost production time, she said. The fines are so heavy because "those plants cannot afford to shut down at any point in time," Mr. Parkin explained.

Some risk managers prefer to keep the pressure on a limited number of suppliers rather than deal with several vendors.

Weyerhaeuser Co. in Federal Way, Wash., has narrowed the number of its suppliers down to a few, and "we put a lot of pressure on them to do the job," said Gary A. Baxter, assistant treasurer and director of insurance at the paper

See **SUPPLIER**/page 20

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European, U.S. approaches to flood losses diverge

By NEIL HODGE
and RODD ZOLKOS

As recent years have shown in both Europe and the United States, flood losses can be catastrophic, but there are steps risk managers can take to reduce their exposures.

However, efforts to promote flood risk management in Europe are being hampered by government bailouts for flood damage in some E.U. states and complacency by businesses themselves, say insurers.

In the United States, property owners need to ask several key questions in determining how to manage flood risks, said Mike Burke, vp and manager of catastrophe exposures at Johnston, R.I.-based Factory Mutual Insurance Co. Factory Mutual, which does business as FM Global, offers commercial flood insurance, though the coverage generally is provided separately from other property coverages, Mr. Burke said.

The key flood-risk assessment questions, Mr. Burke said, include: Is the property in a flood zone? How deep is the water going to be? How fast will it get there? What is the frequency of flooding?

"The next step is really taking the scenario into a business impact" analysis, Mr. Burke said, considering possible implications on a company's products, alternative locations where production could be done and the likelihood of any impact on customers.

In the United States, it's easier to answer those questions than it is in Europe, because of information compiled by governmental bodies such as the Federal Emergency Management Agency and the Army Corps of Engineers, he said.

There are "any number of resources that, truly, you can give me an address, and in 10 minutes I can tell you whether it's in a flood zone," Mr. Burke said. "When you move outside the U.S.…you don't have that foundation resource anymore. So on the European side, step one gets pretty tough."

"When you look at flood…I think there are so many things that a company can do when they think through that scenario," Mr. Burke said. The most important aspect is timing, he said. "It isn't, 'How deep is the water going to be?'" he said; rather, it's "How much notice am I going to have?"

"Once you know you're going to have minimal warning, to me, you look at being prepared every minute," Mr. Burke said. For example, companies can take steps to move valuable equipment from basements to safer locations.

"I think the other thing is, if you know it's going to be hitting you that fast, your thoughts go to, 'How are we going to get back into service after this happens?'" Mr. Burke said. That, he said, may mean having available a "hot site," an alternative location at which the company could set up temporary operations.

"Now (with) a long-term warning, obviously you can do much, much more," Mr. Burke said. FM Global has had clients that have used the flood warning period to move essential equipment to temporary facilities, having identified the key pieces of equipment well in advance. "So that two-week warning period, none of that time was wasted," he said.

Other U.S. insurers rely more on traditional underwriting that on loss control.

"The market for flood is consistent with the market for other perils," said George Stratts, senior vp-property at Lexington Insurance Co. in Boston.

Lexington takes a broad approach to offering flood coverage, Mr. Stratts said. "We don't limit what we can or cannot do in terms of the peril," he said. "It's not a peril that we avoid," he said. Instead,

See FLOODING/page 22

Suppliers: Fewer vendors is better

Continued from page 18

company.

With only a few suppliers, administration tasks are simpler and it's easier to ensure the quality of goods those vendors are providing, Mr. Baxter explained.

Weyerhaeuser sees the value of relying on a limited number of vendors from a unique perspective, being a supplier itself. "We're the main supplier of pulp for one company," Mr. Baxter pointed out. Supplying a large customer with large amounts of a single product allows Weyerhaeuser to gain efficiencies by designating equipment to run "hour after hour" on a single job rather than stopping the machinery and resetting it for a lot of smaller jobs, he said.

Companies that decide supply line exposures are significant enough to warrant the purchase of contingent business interruption insurance will find that the coverage is not inexpensive.

"The cost has gone up a lot since 9/11," Ms. Parkin pointed out. And, she added, "people don't seem to be buying it as much as they used to."

Mr. Lawlor said that even though coverage has become more expensive, it remains readily available to U.S.-based risks.

In the United Kingdom, though, where the coverage is known as "contingent time element insurance," Mr. Fessey of FM said it is not so readily available to all risks. Companies with large exposures and little risk management information to guide underwriters will find the insurance difficult to obtain, he noted.

Conversely, for companies that have identified and controlled the exposure through business continuity planning or even investing in loss control measures at the suppliers' premises, the coverage can be bought at a reasonable cost, Mr. Fessey said.

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Flooding: European, U.S. approaches to losses diverge

Continued from page 20

Lexington looks to price the coverage consistent with the risk, Mr. Stratts said.

In its approach to flood coverage, Lexington emphasizes appropriate pricing and other underwriting tools such as deductibles or sublimits over loss control techniques, Mr. Stratts said. "In general, we look at a risk and we underwrite the risk as it is," he said. "Lexington doesn't look to engineer its way around the risk, but, rather, to price the risk commensurate with the exposure."

The German government declared after flooding in 2002 that commercial and personal property owners would be fully compensated for any physical damage caused by the floods.

In Europe, government programs that compensate property owners for flood-related damages are inhibiting both the growth of flood insurance and the use of risk management and loss control to reduce flood exposures, some insurers say.

For example, both the Dutch and French governments have compensated businesses for flood damage. And, in the United Kingdom, flood coverage has been "an integral part" of property insurance for 30 years, said a spokesman for the Assn. of British Insurers.

"If companies can rest assured that the state will compensate them for property damage, then what incentive is there for risk managers to go to the board and ask them to spend company money on setting up flood defenses?" asked one underwriter, who did not want to be identified.

Wolfgang Kron, head of hydrological risks at German reinsurer Munich Reinsurance Co., said that only about 8% to 10% of German commercial property owners purchase flood insurance, compared with around 90% for storm insurance.

He added that the number of German businesses buying flood coverage is unlikely to rise in the near future because the German government declared after 2002 flooding that commercial and personal property owners would be fully compensated for any physical damage caused by the flooding. Munich Re estimates that flooding in Germany last year cost insurers 1.8 billion euros ($1.89 billion).

"State compensation schemes can actually have an adverse effect, because they do not encourage organizations either to carry out any serious flood risk assessment or risk retention. While governments may compensate for physical damage caused by flooding, businesses may be in danger of ignoring the cost of business interruption," said Mr. Kron.

David Lanfranchi, a senior property claims consultant with broker Marsh Inc. in London, said that businesses should nominate a local manager to work with a loss adjuster and broker to decide what actions should be taken to reduce the impact of flooding on both property and business continuity.

"These are the three key people that can work together to ensure that the organization is adequately protected from financial losses incurred by flood, but so few companies actually allow or encourage discussion between them," said Mr. Lanfranchi.

Mr. Lanfranchi also said that many companies failed to learn basic lessons about how best to manage and assess flood risk. "Boards and risk managers can tend to have very short memories when it comes to flooding. For example, it is not so difficult for companies to install one-way valves in their premises that would allow the water to reflow outside without re-entering the building, but still, comparatively few companies seem to have looked at this," he said.

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Training and testing vital to success of cat response plans

By JOANNE WOJCIK

When a water main broke in one of Convergys' leased facilities early one morning last year, the facilities manager was on vacation, but the security guard at the site knew exactly what to do.

As a result of prior disaster response training, "the security guard knew there were filled sandbags onsite and he put sandbags around our telecommunications room, which is the heart of the calls coming in, and he was able to keep water out of the area because of that plan," recounted Carol Fox, director of risk management at the Cincinnati-based software company.

The training the security guard received was part of a four-year-old business continuity/disaster recovery program that Convergys had launched in response to the risks associated with Y2K computer crashes.

While it is essential that every organization has a catastrophe management program in place to ensure continued operations in the wake of disaster, it is perhaps more important that every individual participating in the plan be trained to ensure its effectiveness, business continuity experts say.

Catastrophe management training also must be updated and tested regularly to keep up with the changing nature of business, experts insist. It should be tailored to the unique needs of each individual organization, they add.

Unfortunately, not all U.S. businesses are as prepared as Convergys to handle catastrophes, according to a recent survey by Factory Mutual Insurance Co., which does business as FM Global; the Financial Executives Research Foundation; and the National Assn. of Corporate Treasurers.

Thirty-four percent of 400 financial executives and risk managers at Fortune 1000 companies surveyed earlier this year reported their companies were unprepared to recover from a major disruption to their top revenue source. In addition, 28% of companies reported that disruption to their top revenue source would threaten their business continuity.

"Every organization needs to have at least minimal business continuity or disaster planning because insurance doesn't cover their market share, their customer base or their reputation as a supplier," said Mike Morganti, customer training manager for FM Global in Norwood, Mass.

"And once they get a plan, they have to realize it's a living document. It's not just something you do once and leave it on the shelf. It's got to be kept current. As the organization changes, as the business priorities change, it's got to change as well. If they don't keep it current, it's not going to work," he said.

"Training is probably one of the most important aspects of proper implementation" of a business continuity plan, and "communication is pivotal to the training," said Lori A. Brassell-Chicchini, assistant vp in Sacramento for Philadelphia-based ESIS Inc., the risk management services division of ACE USA.

"Everyone needs to know their

Continued on next page

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Continued from previous page

roles and responsibilities, what they need to do, and because these events don't happen often—and businesses hope never—it's something that, if you don't train for, you're not going to be prepared for," Ms. Brassell-Chicchini said.

"If nobody's familiar with the plan or well versed in the operations or the steps involved, then it's really not going to work," warned Dave Gluckman, vp and property risk control executive at Willis Group Holdings Ltd. in Florham Park, N.J.

And the more involved an individual is in executing the plan, the higher the level of training, he advised.

For example, "if somebody's in charge of fire extinguishers, they should have hands-on training," he said.

> **'If nobody's familiar with the plan or well versed in the operations or the steps involved, then it's really not going to work.'**
>
> *Dave Gluckman*
> *Willis Group Holdings Ltd.*

Because certain individuals designated to fill particular roles integral to the plan may not always be present, backups should be appointed for when those first-string leaders are on vacation or traveling on business, Mr. Gluckman added.

In Convergys' case, "each of the functions within the incident command team has a backup function, and, in some sites, because of the size and the criticality, they may be three and four deep on backups," Ms. Fox said.

Depending on the type of operation and potential exposures, training and/or drills should be conducted at least annually, experts say.

"If you are an operation that changes dramatically, like some of these high-tech firms, or biotech firms, you'll probably want to practice your plan or update your plan at least on a monthly basis because you have such changing exposures within your facility," advised Victor Sordillo, global technical services manager at Chubb Inc. in Whitehouse Station, N.J. "But if you're a pretty stable operation, you might go to an annual" training program, he said.

It is "absolutely critical to repeatedly test" employees, said Tom Mawson, executive director of DRI International of Falls Church, Va., a nonprofit company that provides business continuity training.

"Every single time that people change or a policy changes or a new branch opens, it is going to affect some aspect of that business continuity plan, so it's a good idea to constantly exercise the plan. Even if you don't have a full-scale test where people go to a backup site or meet in the parking lot, if you just have a tabletop....you should constantly update the planning and make sure that everybody in the company knows," Mr. Mawson said.

In addition to regular testing, communication is an important component of an effective catastrophe management training program, experts say.

"I think everyone is familiar with 9/11 and has read the stories as to what went very well and where there were some communication errors," said Ms. Brassell-Chicchini.

"Communication sometimes is just taken for granted. We're all receiving so many e-mails and so many phone calls, and everybody's doing more with less, that it makes communication even more important," she said.

In addition to communicating the plan to existing employees, it should be outlined to new hires as part of their new employee orientation, suggested Willis' Mr. Gluckman.

Because not all organizations have the internal resources necessary to develop in-house catastrophe management training programs, insurers and loss control consultants offer these services.

At its fire lab in Warren, N.J., Chubb also provides other types of catastrophe management training, including cargo and transit security and industrial hazard identification and safety, which covers the gamut from slips and falls to industrial hygiene and chemical exposure, according to Mr. Sordillo.

Likewise, ESIS provides disaster recovery training services, according to Ms. Brassell-Chicchini.

But other organizations not directly related to the insurance industry can also be a source of valuable disaster recovery training, experts point out.

DRI International, for example, offers three levels of certification in business continuity training, and nearly 3,000 individuals have earned the certifications since the organization was founded in 1988.

The American Institute for Business Continuity Training, based in Niagara Falls, N.Y., offers a five-day intensive workshop on business continuity planning featuring instructors who all have the DRI designations.

Since the terrorist attacks of Sept. 11, 2001, numerous other disaster recovery and business continuity training programs have also been launched.

"Sept. 11 showed that you must have a solid crisis management plan and be able to evacuate an entire building quickly," said Harry Nolan, a loss control consultant at E.G. Bowman Specialty Services, a division of the New York-based insurance broker E.G. Bowman that recently introduced a crisis management training program.

Training "gives the people the confidence to handle the situation. They have a plan and know what actions to take before the event," said Convergys' Ms. Fox. "It's not enough to put a plan together. You really have to have a team practice together."

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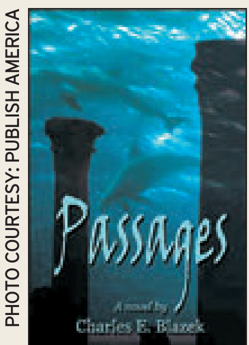


PHOTO COURTESY: PUBLISH AMERICA

Charles Blazek, vp of operations for Miami-based Global Insurance Network Inc., has published his first novel, "Passages."

Classified as "new age science fiction," the esoteric book is a radical departure from Mr. Blazek's day job as a broker specializing in placing insurance and bonds for international trade.

"I thought it was time I tried my hand at fiction. I figured, why not? Tom Clancy started out as an insurance agent, and he hasn't done too badly," Mr. Blazek said in a recent interview. "My mother always told me I was a distant cousin of Jack London. I'm hoping that some of his literary genius got passed along in the gene pool."

"Passages" can be purchased online at *www.publishamerica.com.*

A legal battle heats up

PHOTO: AFP

Companies that contribute to global warming could be in the hot seat if a new coalition is successful in its efforts to make them pay.

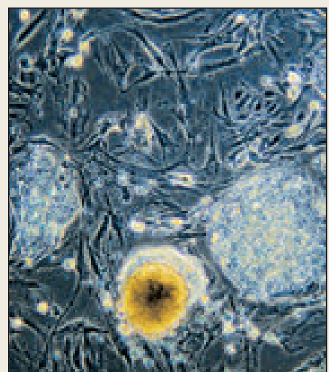
The Climate Justice Programme, an international collaboration of environmental organizations, lawyers, academics and individuals from 29 countries, plans to sue corporations, countries and others that it says are contributing to world climate change.

The coalition plans to invoke domestic and international laws, including those prohibiting human rights violations as well as barring one state from harming another state.

New type of life 'insurance'

A new service for the collection and storage of people's stem cells for their future health care needs has been introduced by NeoStem Inc., an Agoura Hills, Calif.-based firm.

Branded "True Life Insurance," the service greatly improves the chances of successfully treating a serious illness through stem cell treatment, according to the company, which is marketing the product through independent insurance agents.



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NeoStem Inc. is marketing its stem cell storage service through independent agents.

Commenting on the decision to market the service as an insurance product, the company said: "Everyone knows that life insurance is a misnomer, whether it's universal, term or whole-life coverage. Fact is, life insurance is really death insurance— with policies designed to protect surviving spouses and families."

For more information, visit *www.neostem.com.*

Those crazy, not lazy, days of summer

Employee requests for time management assistance typically peak in summer, but this year they're up 23% over 2002, reports LifeCare Inc., an employee assistance program based in Westport, Conn.

Peter G. Burki, the EAP's co-founder and chief executive officer, attributes this year's spike to the state of the economy.

"Given the slumbering economy, many employees are working harder and putting in longer hours. At the same time, they are still faced with everyday responsibilities and life events at home. Unless they receive the help they need, employees cannot give 100% in either situation," he said.

But EAPs are only one way employers can help their stressed-out workers, according to Mr. Burki.

"Paid time off, flexible work arrangements and supportive management all help employees better manage their lives so they can remain productive on the job," he said.

Tips and feedback from readers are welcomed. Please send information to jwojcik@crain.com.

Products & Services

Program organizes crisis response plans

NEW YORK—Bowman Specialty Services L.L.C. has introduced a new program that helps organizations create detailed crisis response plans.

The New York-based unit of E.G. Bowman Co. Inc. developed the crisis management program to address the risks of natural disasters, medical emergencies, terrorist attacks, chemical spills and other exposures. The service covers emergency evacuation, creation of a crisis-management team, assessment of vulnerabilities, plan development and testing.

The program is available in New York, New Jersey, Connecticut and eastern Pennsylvania.

"Sept. 11 showed that you must have a solid crisis-management plan and be able to evacuate an entire building quickly," said Harry Nolan, a loss control consultant with Bowman Specialty Services, in a statement. "And you also need plans to address events ranging from minor emergencies, like quickly controlled fires, to catastrophes that could potentially cause mass casualties."

More information about the service is available from Mr. Nolan at 212-425-8150 or at *hnolan@egbowman.com.*

Application allows quick transcription service

DEERFIELD BEACH, Fla.—WeType4u is marketing a software dictation application that can help risk managers compile loss control information and other reports.

Talknsend allows users to either dictate information or play tapes over the telephone for transcription, send tapes to be transcribed to the Deerfield Beach, Fla., company or record files onto a computer for uploading to WeType4u. The information can be transcribed and e-mailed back to the client within 24 hours.

Information is stored in MP3 files, saving space and storage expenses.

The software costs $20 and can be purchased at *www.wetype4u.com.*

Book provides analysis of N.Y. workers comp

NEW YORK—A new book provides a detailed analysis of New York workers compensation cases and law.

The book, New York Workers' Compensation, was written by Martin Minkowitz, a partner in the law firm Stroock & Stroock & Lavan in New York and former general counsel of the New York State Workers' Compensation Board.

Published by Thomson West, a division of The Thomson Corp., the book sells for $125.

Apart from analyzing New York workers comp cases and law, the book discusses federal workers comp laws and covers regulations of the New York Workers' Compensation Board, among other topics.

The book can be ordered from Thomson West at 800-328-4880.

Firm offers review of P/C coverage

RALEIGH, N.C.—Womble Carlyle Sandridge & Rice P.L.L.C. is offering a new program that analyzes an organization's property/casualty coverages.

The Raleigh, N.C.-based law firm's CoverGard Business Insurance Review Program helps clients understand their coverages and make any needed changes.

Under the program, Womble Carlyle attorneys meet with businesses to learn their risks. The attorneys review coverages, with attention to special risks, coverage gaps and policy overlap. A formal presentation with recommendations is then made. Clients are charged a flat fee for the service.

More information is available from the firm at 919-755-2100.

Directory deadline approaches

Business Insurance will publish both the online Directory of Surplus Lines Insurers and the online Directory of Insurance Wholesalers in conjunction with the Sept. 8 issue. This issue will include a Spotlight report on surplus lines and rankings of the largest surplus lines insurers, wholesale insurance brokers and MGAs/underwriting managers. The directories are published as an editorial service; there is no charge to be included.

To be listed in the directory, companies must be nonadmitted surplus lines insurers that receive at least 50% of gross premiums or a minimum of $10 million of gross premiums from policies issued on a direct, nonadmitted basis covering commercial risks.

To be listed in the Directory of Insurance Wholesalers, your company must serve retail brokers as a wholesale broker, managing general agent or underwriting manager, regardless of whether you primarily use admitted or nonadmitted markets. You must report premium volume and total gross revenues to be listed.

Completed questionnaires must be submitted by the extended deadline of Aug. 13.

If your company meets the requirements and has not received a questionnaire, please request one immediately by calling Directory Editor Kevin P. Edison at 312-649-5279. Copies of the questionnaire also can be printed from the *BI* Web site at *www.businessinsurance.com.*

The full directory and charts will be included in the 2003/2004 Market Sourcebook, which will be published in December.

Products & Services Guide

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London market skeptical of U.S. regulator's offer

By NEIL HODGE

LONDON—Insurers in London have given a lukewarm reception to a U.S. regulator's plan that would allow insurers to avoid strict U.S. collateral funding requirements.

Although London insurers say they appreciate the idea offered by District of Columbia Insurance Commissioner Lawrence Mirel, they note that, in practical terms, it would make little difference.

Addressing members of the International Underwriting Assn. in July in London, Mr. Mirel proposed that U.K. reinsurers could set up licensed subsidiaries in Washington to avoid the 100% collateral funding rules imposed on nonauthorized reinsurers operating in the United States. Most of these nonauthorized reinsurers are based outside the United States.

By "becoming a licensed U.S. domestic, foreign insurers and reinsurers are certainly not going to be treated any worse than U.S. companies, at any rate," he said.

Mr. Mirel was in London to promote the District of Columbia as an insurance center by offering fast-track licenses to non-U.S. companies. Under his plan, a London company could apply for a license in Washington if it has a license and a letter of good standing issued by the Financial Services Authority, which regulates the U.K. insurance industry. Companies would also have to agree to be bound by U.S. court decisions.

The commissioner said he believes that non-U.S. companies with Washington-domiciled subsidiaries could then benefit from any future reciprocal licensing agreement with other state regulators. Such agreements would let U.S. units do business in other jurisdictions without applying for licenses there, he said.

Funding rule

A year ago, Mr. Mirel launched a plan in the District of Columbia whereby insurers licensed in other accredited jurisdictions could receive a D.C. license. He said this could apply to other countries as well as U.S. states.

U.S. insurers say they are concerned about whether non-U.S. reinsurers would actually pay claims when they are made, which is why the funding requirement has not been waived, said Mr. Mirel.

Currently, so-called "alien" reinsurers must post collateral in the United States equal to 100% of the gross liabilities they assume from U.S. cedents. U.S. authorized reinsurers, though, may fund their liabilities on a net basis, taking into account their

See MIREL/page 27

Former Lloyd's of London Chairman Sax Riley dies

LONDON–Saxon Riley, former chairman of Lloyd's of London, died July 25 at age 64.

The cause of Mr. Riley's death was not disclosed.

He began his career with Cornhill Insurance Co. in 1955. He was named chief executive of Sedgwick Group P.L.C. in 1992, becoming chairman in 1997.

During his chairmanship of the Lloyd's market in 2001 and 2002, Mr. Riley pushed through the Chairman's Strategy Group reforms of the market. Those reforms include a move to annual accounting from a three-year system and the creation of a franchise-based regulatory system.

Mr. Riley

The historic Lutine Bell, formerly used to signal good or bad news to the market, was rung on July 28 as a mark of respect.

"All those who knew and worked with Sax will be shocked and devastated by this news. Sax was held in high regard and affection, and I considered it an honor to work with him," Nick Prettejohn, chief executive of Lloyd's, said in a statement.

"His chairmanship of Lloyd's brought historic reform and outstanding leadership through the difficult times after the tragedy of 9/11," Mr. Prettejohn said.

–By Sarah Veysey

Bahrain planning to allow captives

By NEIL HODGE

MANAMA, Bahrain—The Bahrain Monetary Agency is developing rules that would allow companies to set up captive insurers, which would make it the first Middle East captive domicile.

Anwar Al Sadah, director of financial institutions supervision at the BMA, the country's financial services regulator, said, "Bahrain offers an attractive location to regional companies looking to establish a captive close to their operations due to few restrictions on the flow of capital and low taxes."

Mr. Al Sadah added that, "if we want to have a developed and up-to-date insurance industry, part of it has to be captive."

In mid-June, before the proposals were finalized, Bahrain-based Islamic investment bank Gulf Finance House announced that it was going to set up a captive in the fledgling domicile. A spokesman for GFH was unable to say when the venture would be operational.

Mr. Al Sadah said that the BMA is hoping to attract business from the whole of the Middle East initially, with plans to secure business from the rest of the world "once the sector is up and running."

The proposed regulation—due to be released this week—would apply to all insurance firms that wholly or mainly insure the business coming from their parent company's operations. Captive parents must have sufficient levels of solvency to safeguard the interests of affected third parties, including potential claimants under liability policies in-

See BAHRAIN/page 27

PHOTO: AFP

A series of inspections and repairs following an October 2000 derailment in Hatfield, England, did not constitute one occurrence for coverage purposes, a U.K. court says.

Series of slowdowns, repairs not one occurrence

U.K. rail operator loses coverage fight

By CAROLYN ALDRED

LONDON—A systemwide series of track inspections, repairs and speed restrictions undertaken by Britain's railway companies following a October 2000 rail crash in Hatfield, England, does not qualify as a single occurrence for insurance purposes, according to a ruling by the High Court of England and Wales.

National Express Group P.L.C., which owns five rail lines, had sought business interruption coverage for £28 million ($45.4 million) in multiple losses that it incurred as a result of the extensive track safety and repair measures taken by Railtrack P.L.C. As a result of the July 17 ruling, though, sources say the company stands to collect only about £500,000 ($810,000) on its policies.

The coverage dispute stems from an Oct. 17, 2000, passenger train derailment on a curved section of track near Hatfield that killed four passengers and injured 34.

The derailment was linked to a broken rail, which had sustained gauge corner cracking, or GCC, a type of rolling contact fatigue. The existence of the cracking was known to Railtrack, the company responsible for the U.K. rail network, and it had been planning to start replacing the affected tracks six weeks later, according to court papers.

A section of the London to Leeds line on which the accident occurred was closed immediately after the derailment. Railtrack also instigated a series of track inspections and closures on other lines.

In addition, immediately after the incident, Railtrack imposed emergency speed reductions, or ESRs, on all sites across the network where GCC was known to exist and which previously had been identified for track replacement. In the months following the Hatfield crash, Railtrack imposed more ESRs, causing huge disruptions across the rail network. By May 21, 2001 a total of 1,286 ESRs had been imposed, court papers show.

Like most U.K. rail operators, the

See RAIL/page 27

World Updates

JLT posts gains in first half

Jardine Lloyd Thompson Group P.L.C. recorded revenues of £216.1 million ($356.6 million) in the first six months of 2003, an 11% increase over the prior-year period. The London-based broker said its profits grew 20%, to £47.5 million ($78.4 million). JLT also announced that on Sept. 1, Steve McGill, chief executive of JLT, will relinquish his role as chief executive of the JLT Risk Solutions division to concentrate on management of the group as a whole. Dominic Collins, currently chairman of that division, will become its chairman and CEO.

U.K. pollution fines increase in 2002

The number of prosecutions and the average size of fines levied for pollution incidents in England and Wales increased last year, while the number of serious pollution events dropped, according to the government's Environment Agency. The agency said the number of prosecutions in 2002 rose 13%, to 1,387, while the total for fines imposed on businesses was £3.6 million ($5.7 million), up 33% over 2001. The average fine imposed on companies increased 36%, to £8,744 ($13,998).

Converium profits jump for half

Converium Holding Ltd. posted net income of $84.6 million for the first half of 2003, up 167.7% over the year-earlier period. Converium, formerly known as Zurich Re, said the profit growth stemmed, in part, from strong performance from its specialty lines and property/casualty reinsurance operations. Gross premiums rose 24.7% to $2.21 billion, fueled largely by reinsurance market hardening, Zug, Switzerland-based Converium said. Nonlife premiums account for $2.09 billion of that total.

S&P downgrades Swiss Re to AA

Standard & Poor's Corp. has lowered its insurer financial strength rating of Swiss Reinsurance Co. to AA from AA+. S&P cited the Zurich-based reinsurer's "slower-than-expected" earnings recovery as one factor.

AXA revenues rise on rate increases

AXA S.A. recorded consolidated revenues of 37.5 billion euros ($43.13 billion) for the first half of 2003, up 3.5% over the comparable period last year. The Paris-based multiline insurer said that property/casualty revenues rose by 3.7%, to 9.3 billion euros ($10.70 billion), due, in part, to rate increases.

bi080403.qxd 7/31/03 2:49 PM Page 1

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Applications will be dealt with in strict confidence and interested candidates can apply in writing or via email to:

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Endurance Specialty Insurance Ltd.
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- Minimum of 10 years experience in insurance policy drafting and management experience
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SOUTHERN DISTRICT OF NEW YORK

In re:
MUNICIPAL GENERAL INSURANCE LIMITED
(Petition of Gareth Howard Hughes, Nigel James Hamilton and Jacqueline Barbara Stephenson)

Case No.: 94-41329 (CB)

PLEASE TAKE NOTICE that on July 23, 2003, the Bankruptcy Court entered an order (the "Order") continuing the Preliminary Injunction pursuant to 11 U.S.C. Sec. 105 and 304(b) originally entered in this case on March 29, 1994. The Order shall remain in effect pending a hearing scheduled for January 21, 2004 at 10:00 a.m. before the Honorable Cornelius Blackshear, in the Alexander Hamilton Custom House, One Bowling Green, New York, New York. Any person wishing to obtain a copy of the Order should contact Theresa D'Agostino at (212) 610-6300.

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Stephen Doody

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Mirel: London market skeptical

Continued from page 25

retrocessional coverage.

"It makes no sense to have so much money tied up to operate in the U.S. So long as regulators can get access to the funds and documentation—which does not mean that either needs to be physically based in the U.S.—then what's the problem?" asked Mr. Mirel.

The IUA and other groups have petitioned the National Assn. of Insurance Commissioners to reduce collateral requirements (*BI*, March 31, June 30).

Mr. Mirel said that his approach was supported by insurance regulators in Massachusetts, New Jersey and New York, and that these states were considering reciprocal agreements with the District of Columbia.

However, a spokesman for the New Jersey insurance commissioner did not explicitly endorse reciprocal agreements with alien insurers but said "New Jersey will be watching very closely as any regulations along these lines develop."

Mr. Mirel said he had only one license application under his plan, which came from a Bermuda-based company, but he rejected it because he "was unsure of whether the regulatory regime in Bermuda fulfilled his criteria."

Lukewarm response

But Mr. Mirel's invitation may not be as welcoming as first believed. While an insurance executive attending the IUA event was pleased to have "a friend in Washington," another London market practitioner believed the plan was a "pipe dream."

'Most "alien" reinsurers have set up U.S. domestics, so the invitation to set up another one in Washington is not the answer to the 100% funding requirement.'

Stephen Cane
International Underwriting Assn.

Stephen Cane, IUA chairman and chief executive officer of the Alea Group in London, said that while the IUA welcomes any attempt to reduce the collateral requirements, Mr. Mirel's proposals do not constitute a solution.

This is because while a U.S. subsidiary would not be bound by the 100% collateral funding rule, any business placed by a U.S. insurer with the reinsurer's operations outside the United States would require 100% collateral funding, he said.

"Most 'alien' reinsurers have set up U.S. domestics, so the invitation to set up another one in Washington is not the answer to the 100% funding requirement," Mr. Cane said.

According to IUA estimates, London market reinsurers, including Lloyd's syndicates, have around $20 billion in U.S. trust funds, and "this figure is growing all the time."

A Lloyd's spokeswoman said "Mr. Mirel's proposals do not offer a realistic solution as far as Lloyd's is concerned, given that we are a market and have a market structure and write most of our business from London."

"U.S. reinsurers don't face the same restrictions in Europe, and so we have been demanding a level playing field. The present 100% collateral rule is a major hurdle to all our syndicates that want to write business in the U.S.," she added.

A spokesman at the Financial Services Authority, where Mr. Mirel met with senior insurance supervisors, said "the FSA is glad to be in discussions with Mr. Mirel" but added that "we would need to be in touch with the insurance regulators of all U.S. states if this scheme is to really succeed."

Mr. Mirel's proposals are also being criticized in the United States.

John Oxendine, commissioner of insurance for the state of Georgia and chair of the NAIC's Reinsurance Task Force, said he—like many other members of the NAIC—favors some form of reciprocal agreements. But he cautioned that they "would be extremely difficult to implement" due to individual state insurance laws.

He added that Mr. Mirel's idea to issue licenses to non-U.S. reinsurers to give them the same rights as U.S. domestics "would not work except for D.C." and "would not address concerns about collateralization."

Mr. Oxendine also said the NAIC is discussing a proposal from European reinsurers in which regulators would create a list of financially stable reinsurers eligible to post less than 100% collateral. Proposed minimum funding would be no less than 50% of gross liabilities for non-U.S. reinsurers and 30% for their U.S. affiliates.

Ernst Csiszar, director of insurance for South Carolina and vpc of the NAIC, said Mr. Mirel's proposals "raised more questions than answers" and would never work "without common accounting standards, enforcement of judgment and an appropriate consideration of the effect a reduction in the collateralization limit might have on a company's rating." He added that he "didn't necessarily buy this idea that reducing the level of collateral would increase capacity."

Mr. Csiszar said that U.S. insurance regulators are still a long way from achieving standards that would enable intrastate reciprocal agreements to work. "While U.S. insurance commissioners realize that there needs to be greater cooperation between states on insurance regulation, there is also room for the present state-based system which allows one jurisdiction, such as D.C., to experiment with reciprocal agreements instead of gambling the whole ranch," he said.

Mr. Csiszar added that "Mr. Mirel's scheme is a laudable goal but a bad idea."

Mr. Mirel could not be reached late last week.

Rail: U.K. operator loses coverage fight

Continued from page 25

National Express subsidiaries—Midland Mainline Ltd.; Central Trains Ltd.; Gatwick Express Ltd.; Scotrail Railways Ltd.; and Silverlink Train Services Ltd.—found their trains, and business, severely disrupted for many months after the crash.

National Express filed for coverage of lost revenue, claiming the various measures affecting its trains were a single occurrence arising from the impact of Railtrack's response to the Hatfield crash. National Express claimed business interruption losses from the actions taken immediately after the crash and for some time afterward. While its policies had an Oct. 31, 2000, expiration date, they also carried a 36-month extended period of indemnity.

The High Court judge, Justice David Steel, found that only those events that occurred during the two-week period after the Hatfield crash until the policy's expiration date could be aggregated into a single occurrence and eligible for coverage.

However, he agreed with the insurers that each individual ESR or track closure after Oct. 31 and during the extended indemnity period was a new and separate occurrence and therefore not covered.

"Whilst there is a degree of unity of cause and intent in the form of the adoption and implementation of instructions issued in the aftermath of the derailment," Justice Steel held that "the response to Hatfield was incremental and variable. The justification for the ESRs was the discovery of individual incidents of GCC of sufficient severity to call for action under the instruction then in force, not by way of imposition of a unitary program issued on a particular day."

National Express would not comment.

"Other railway operators will have watched the case with interest," said a spokesman for Aviva P.L.C., whose subsidiaries Commercial Union Assurance Co. P.L.C. and Norwich Union Insurance Co. Ltd. both participated on National Express' business interruption coverage from Nov. 1, 1997 to Oct. 31, 2000.

Commercial Union wrote 45% of the £50 million ($81.0 million policy; Eagle Star Insurance Co. Ltd. wrote 25%; Independent Insurance P.L.C., now in liquidation, wrote 10%; Norwich Union wrote 7.5%; London & Edinburgh Insurance Co. Ltd. wrote 7.5%; and St. Paul International Insurance Co. Ltd. wrote 5%.

St. Paul also wrote 100% of a separate business interruption policy that provided £15 million ($24.3 million) per train company for loss of earnings and increased operating expenses.

But Justice Steel ruled that no claims could be brought against St. Paul's policy as a result of a special condition introduced by the insurer to its coverage after an October 1999 fatal train crash at Ladbrooke Grove. That condition excluded "restrictions placed upon the use of the infrastructure not consequent upon loss or destruction of or damage to the infrastructure."

A statement from St. Paul said it was "satisfied" with the ruling.

Eagle Star, now part of Zurich Financial Services Group, also continued to underwrite business interruption coverage for the rail companies after Oct. 31, 2000, sources say. As a result, it could face claims for some of the losses not allowed by the judge in this case.

Midland Mainline Ltd.; Central Trains Ltd.; Gatwick Express Ltd.; Scotrail Railways Ltd.; Silverlink Train Services Ltd. vs. Commercial Union Assurance Co. Ltd.; St. Paul International Insurance Co. Ltd.; Eagle Star Insurance Co. Ltd.; London & Edinburgh Insurance Co. Ltd.; Norwich Union Insurance Co. P.L.C. and St. Paul International Insurance Co. Ltd. 2003, England and Wales High Court 1771 (Commercial Court).

Bahrain: Would allow captives

Continued from page 25

sured by the captive.

The capital and solvency requirements would differ by the type of captive and the business it writes, said Mr. Al Sadah. Higher requirements would apply if there were any potential impact on any parties other than the owners, he added.

Unrelated third-party business would not be permitted, although the BMA is considering allowing captives to write related third-party business, including insuring the risk of the owners' customers and employees. The BMA is also inviting responses on whether multiowner captives should be allowed.

Mr. Al Sadah said that companies could set up direct and reinsurance captives, adding that protected-cell captives "may be considered in the future."

Bahrain would offer four types of captives:

- Single-parent captives insuring only the risks of its owners or affiliates, where none of the business is liability.
- Single-parent captives whose business includes liability of its owners or affiliates.
- Multiowner captives insuring the risks of their owners or affiliates of the owners. Applicants would have to demonstrate a "compelling rationale for a joint insurance captive and for the synergies between their businesses." They would also need to demonstrate that the arrangements would not lead to excessive risk concentration through common claims causes. The BMA hopes that applicants would come from a common industry, profession or association
- Single- or multiowner captives wholly or partly insuring related third-party business.

Stephen Cross, chief operations officer of Aon Insurance Managers in Dublin, Ireland, welcomed the developments in Bahrain. "The BMA has worked hard at promoting Bahrain as a leading financial center in the Gulf region and Middle East, and establishing a captives industry is a necessary next step in further developing the country's insurance sector," he said.

Kevin Willis, a credit analyst at ratings agency Standard & Poor's Corp.'s London office, said that "Bahrain's financial services sector is already well developed, and encouraging companies to set up captives can only benefit the region further."

IBM: Appeal of ruling expected

Continued from page 3

decision states.

Under IBM's cash balance plan, every participant accumulates a credit equal to 5% of his or her annual salary into the plan. But since the funds for younger workers receive interest credits over more years, their accounts will grow to a larger amount compared to an older worker. While Judge Murphy recognized this as a logical result, he still said it is discriminatory.

Mr. Lofgren criticized this reasoning since the younger worker also has to wait much longer to receive the money.

"How can you give every employee 5% and say you're treating them unfairly?" he asked. "Every cash balance plan in the country will fail this ruling," he added.

James Klein, president of the American Benefits Council in Washington, said the ruling could push more employers to replace their cash balance plans with a defined contribution plan.

"It penalizes employers trying to provide their workers with a pension that is funded by the employer and guaranteed by the government, as opposed to requiring workers to rely solely on employee-funded retirement alternatives," he said in a statement.

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Sturgis: Revved up for the rally

Continued from page 1

wanton hedonistic frenzy.

In fact, Sturgis police strictly enforce laws against such activities as reckless driving, disorderly conduct and open container violations and demonstrate a zero tolerance drug arrest policy, and the biggest concerns the rally poses public officials these days tend to revolve around such issues as traffic congestion and crowd control.

Of course, any sort of major gathering produces risks to be addressed, let alone one involving highways full of large, powerful motorcycles.

These days, the 6,400-resident city of Sturgis actually organizes and manages the rally, with various sponsorships helping meet costs.

"Our rally department plans for this all year," said Lisa Weyer, director of Sturgis' four-person rally department.

Because most of the rally's events are held at various privately owned sites like saloons or campgrounds, the rally doesn't create significant insurance issues for the city, Ms. Weyer said. From a risk management perspective, most of the concerns focus on crowd and traffic control, the city's rally director said. Local and state agencies are all involved in those efforts.

The South Dakota Highway Patrol brings a number of extra troopers into the Sturgis area during the rally to handle extra traffic and related concerns, said Col. Dan Mosteller, head of the highway patrol.

"From a risk management point of view, this not only reduces the risks to the troopers themselves but to the people attending the rally," he said. While South Dakota's state troopers typically ride alone, they double up during the rally. Riding in twos allows them to back up and assist one another and to respond to a greater number of incidents.

The local forces in Sturgis and nearby Deadwood and Rapid City also put extra officers on duty during the rally, "so they can provide the same response to calls and service that we're looking at," Col. Mosteller said.

In addition, the South Dakota Department of Transportation halts road construction in and around Sturgis during the rally, "because it expedites the flow of traffic when there is no construction," Col. Mosteller said. In addition to improving traffic flow, halting construction reduces construction workers' exposure to accidents and reduces risks to motorists, he said.

The transportation department takes other risk management steps as well.

"We take extra care with our mowing operations. Folks on motorcycles do not like to hit animals coming out of a ditch," said Todd Seaman, Rapid City region engineer for the South Dakota Department of Transportation. "We take extra care with our sweeping trying to keep gravel out of the road."

The department also makes a final pass along highways to repair potholes or cracks in area roads the week before the rally, Mr. Seaman said, and puts up extra road signs during the rally, giving rally-goers earlier notice of turnoffs and identifying alternative routes around congested areas.

Notices on television and radio and in local newspapers also alert motorists to details about congestion and anticipated traffic problems and alternative routes.

Additional traffic signals installed on secondary roads during the rally, "cause some delay when you get close to these towns," the highway patrol's Col. Mosteller said. "But it gets those people slowed down and gives them time to get oriented."

The transportation department has a traffic management plan involving more than two dozen employees manually running traffic signals to manage traffic at key intersections, said Dan Staton, Rapid City region traffic engineer for the state transportation department.

"There are many times during the day that the traffic stack-up is out of sight," Mr. Staton said. "It's as far as you can see down the road."

Col. Mosteller noted that state and local public safety officials also set up medical aid stations around Sturgis during the rally to treat those who are injured or suffer heat-related illness.

They also have officers patrolling on foot, bicycles and all terrain vehicles with medical kits so they can respond quickly to medical emergencies in areas where an ambulance or patrol car would have problems moving through congested streets.

There's been one major change surrounding the rally that's had a noticeable effect on traffic congestion, Mr. Seaman said.

"Up until about five years ago everybody rode to the rally," he said. "Now, a lot of people trailer their motorcycles."

Large sport utility vehicles or motorhomes pulling motorcycle trailers often have a hard time keeping up with traffic at highway speed, Mr. Seaman said, and often affect traffic flow with their larger turning radii, as well.

"I saw a T-shirt last year that said, 'I rode my motorcycle to a trailer rally,'" Mr. Seaman said.

GAO: Med mal rates studied

Continued from page 1

reform bill that was blocked by a filibuster in the Senate last month (*BI*, July 14). The House already has passed its own medical malpractice liability reform bill.

The GAO was asked to research the causes of the current medical malpractice liability insurance crisis by Democratic lawmakers opposed to White House tort reform efforts.

In its report, "Medical Malpractice Insurance: Multiple Factors Have Contributed to Increased Premium Rates," the GAO cautioned that "a lack of comprehensive data at the national and state levels on insurers' medical malpractice claims and the associated losses prevented us from fully analyzing the composition and causes of those losses." For example, the authors of the report noted that they had no way to break down losses by economic versus non-economic damages.

The study was based on an analysis of insurers' experience in seven states, including California. In addition to the cost of claims, other factors cited by the GAO for rate hikes included: lower insurer investment income, the market withdrawal or insolvency of medical malpractice insurers and high reinsurance costs.

The report also noted the growth of self-insurance and physician-owned insurers as significant changes in the medical malpractice marketplace since earlier hard markets. The report warned, though, that "while such arrangement can save money on administrative costs, hospitals and physicians insured through these arrangements assume greater financial responsibility for malpractice claims than they would under traditional insurance arrangements and thus may face a greater risk of insolvency."

The report also noted that states have made their own efforts to reduce medical malpractice insurance rates, either through premium rate controls or by attempting to reduce insurance losses on claims through such means as caps on non-economic and punitive damage awards.

The combination of all these factors, according to the report, makes "it difficult to predict how medical malpractice premiums might behave during future hard and soft markets."

In keeping with its custom, the GAO made no policy recommendations other than suggesting that Congress consider asking the National Assn. of Insurance Commissioners to gather more state data about the medical malpractice insurance market.

One of the lawmakers who commissioned the report, Rep. John Conyers, D-Mich. and ranking Democratic member of the House Judiciary Committee, issued a statement saying that the report backs his position that tort reform is not warranted.

"Today's report makes it clear that extreme, anti-victim tort reform of the type proposed by the Republicans and President Bush will not resolve the insurance crisis, but will simply serve to inflict greater harm on the victims of medical malpractice and wrongdoing by HMOs and drug companies," said Rep. Conyers on July 28.

But the head of a trade group representing physician-owned medical malpractice insurers hailed the report.

"We're generally pleased with the report; we think the GAO has done a good job in evaluating the status of the medical liability insurance industry," said Larry Smarr, president of the Rockville, Md.-based Physician Insurers Assn. of America.

"We're not surprised that there are no strong policy recommendations. We think that the report refutes the myths that have been spread by the trial lawyers regarding the root causes for the liability insurance crisis. Quite frankly, we hope that this authoritative report puts an end to a lot of the misinformation that is stopping the Senate in its tracks," said Mr. Smarr.

Other insurers concurred.

"I think it's a terrific report," said Dr. Richard Anderson, chairman of the board of governors of The Doctors Co., a Napa, Calif.-based medical malpractice insurance company. "I hope it's widely read. I think what the report says is exactly what the proponents of tort reform have been saying. No. 1, the high insurance premiums of today are caused by increasing claims losses. No. 2, the decreased investment income that insurance companies can earn today is caused by the economic environment and not by mismanagement. And No. 3, the reserving practices of insurance companies are entirely appropriate. I think it's a valuable report," he said.

"Basically, what we have is the investigative arm of Congress at the request of a number of folks in Congress who have been critical of the industry in the past has come out with an in-depth report that says what we have been saying all along, which is that losses drive rates," said David Golden, director-commercial lines for the National Assn. of Independent Insurers in Des Plaines, Ill. "In medical malpractice, lawsuits drive losses, which underscores the need for civil justice reform that restores balance to our legal system."

"We hope it adds momentum to the reform efforts already underway in Congress," said Ken Schloman, Washington counsel for the Alliance of American Insurers.

"The key element in the report is right in the summary: losses on medical malpractice claims are the primary driver of rate increases. That's what we've been saying; that's what's clear, and it's just further confirmation that we have a crisis and it needs legislative solutions at the state and national level," said a spokesman for the American Insurance Assn. in Washington.

Kate Sullivan, director of health care for the U.S. Chamber of Commerce in Washington, noted that the report did not address many issues of interest to employers, such as the effect on health care quality when physicians order unnecessary tests to avoid lawsuits.

"The bottom line for employers is that we have doctors and other providers that are unable to access liability coverage, which means there's less competition in the provider field," said Ms. Sullivan. "Some of the best doctors are leaving communities because they can't get liability coverage anymore."

The report is available at *www.gao.gov*.

Errors & omissions

- Due to the correction of inaccurate information supplied for the July 21 chart of the world's largest brokers, the ranking has been revised.

WORLD'S 10 LARGEST INSURANCE BROKERS

Ranked by 2002 brokerage revenues.

Rank	Company	2002 brokerage revenues
1	Marsh & McLennan Cos. Inc.	$8,274,000,000
2	Aon Corp.	$6,027,000,000
3	Willis Group Holdings Ltd.	$1,735,000,000
4	Arthur J. Gallagher & Co.	$1,061,033,000
5	Jardine Lloyd Thompson Group P.L.C.	$605,507,500 [1]
6	Acordia Inc.[2]	$532,078,000
7	HLF Group P.L.C.	$483,073,283 [1,3]
8	Brown & Brown Inc.	$455,234,348
9	Alexander Forbes Ltd.	$453,084,000 [4]
10	Hilb, Rogal & Hamilton Co.	$452,513,822

1 British pound=$1.5025 (2002) fiscal year ending 12/31. 2 Does not include Wells Fargo & Co. subsidiary Wells Fargo Insurance Inc. 3 Pro forma 12/31/01 to 12/31/02. 4 South African rand=$0.1020 (2002) fiscal year ending 3/31.
Source: *BI* Survey

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Kemper: Services unit sold to California company

Continued from page 4

The new headquarters remains to be determined. But she said the company, just as it did under Kemper Insurance Cos., will maintain substantial operations in Chicago's suburbs and in Plantation, Fla., where its medical management and nonoccupational disability management operations are based.

The new company also will keep about 50 nationwide branch and satellite offices formerly operated by Kemper Services, Ms. Drago said.

Platinum executives describe their firm, founded in 1995, as one that prefers to develop the entities it acquires and hold them over the long term rather than spinning them off in hopes of a quick profit.

Platinum does not have an exit strategy for its Kemper purchase and wants to develop it into a "standalone," industry leader, said David Alfonso, senior vp-portfolio operations in Weston, Fla.

Platinum operates about 20 companies and has more than 15,000 employees, a spokesman said. All its units are service-related companies, though Kemper Services is the only insurance-related entity, he added.

But Platinum eventually could buy other insurance service-related companies to help its newest acquisition grow, Mr. Alfonso said.

The sale of its services unit to Platinum is the culmination of Kemper Insurance Cos.' financial downslide, which began last December when several rating agencies downgraded the Long Grove, Ill.-based insurer's financial strength rating below A- (*BI*, Jan. 6). Kemper curtailed its underwriting operations and voluntarily entered runoff. In April, Kemper sold the renewal rights to its middle-market business to The St. Paul Cos. Inc., based in St. Paul, Minn.

On June 30, Kemper announced that its surplus had dipped to $313 million from nearly $698 million at year-end 2002.

Apart from Kemper Services, the only other ongoing operation was Seattle-based Eagle Pacific Insurance Cos., which writes high-hazard workers compensation coverage. But the unit produced only about $100 million in premiums during 2002, a Kemper spokeswoman said.

Despite the parent's difficulties during the past year, Kemper Services kept a significant number of clients, Ms. Drago said. Maintaining a client base through a tough time proved a key factor in Platinum's decision to buy the unit, she added.

But Ms. Drago declined to release the number of clients Kemper Services retained while its parent suffered financial difficulties.

"But I will tell you that we have had very good success in retaining clients through a challenging year," she said. "There is no question we had a few bumps in the road due to circumstances outside our control, which emanated from the parent company's situation. But I have to tell you, we are pretty pleased how retention has played out."

Kemper Insurance Co. also remains a major client with Kemper Services managing the runoff operations' claims. Those claims, however, only account for about one-third of its business. The rest stem from direct contracts with employers, Ms. Drago said.

One customer, Illinois Tool Works Inc. found a new insurer in May after 14 years as a Kemper general liability, workers comp and auto policyholder, said Dick Schmidt, the company's director of risk management in Glenview, Ill. He also used Kemper Services throughout that time.

He bought coverage from Zurich in May because the arrangement allowed him to continue contracting with Kemper Services. With several hundred facilities across the country, Mr. Schmidt said he did not want to disrupt the quality treatment Kemper Services has provided over the years.

COSO: Enterprise risk tools

Continued from page 4

lot about, and it has some legs underneath it."

"Having a framework in which to launch or build from is always beneficial," said Lance J. Ewing, vp-risk management at Park Place Entertainment Corp. in Las Vegas and president of the Risk & Insurance Management Society Inc. Any discussion about enterprise risk management "is a lot better than where we were 10 years ago."

COSO's framework details eight components of risk management that make up an enterprise program and stresses that such programs can be implemented by organizations of any size.

COSO defines enterprise risk management as "a process, effected by an entity's board of directors, management and other personnel, applied in strategy setting and across the enterprise, designed to identify potential events that may affect the entity, and manage risks to be within its risk appetite, to provide reasonable assurance regarding the achievement of entity objectives."

The eight components of an enterprise risk management program allow the organization to "lay down a good foundation," Mr. Everson explained, and "set objectives, then identify the events that could affect those objectives."

"Most don't think of risk that way," he said, and concentrate instead on identifying exposures and figuring out ways to cover them.

The enterprise risk management components defined in the framework are:

- Internal environment. The organization establishes its risk management philosophy, risk appetite and risk culture while integrating enterprise risk management with other business initiatives.
- Objective setting. Management identifies strategic, operational, reporting and compliance objectives that must be protected.
- Event identification. Internal and external factors that could lead to losses are identified.
- Risk assessment. The likelihood and impact of potential events are considered, along with how they might affect the organization's objectives.
- Risk response. Loss control and risk sharing methods are examined as options, with the goal of bringing the likelihood and impact of losses within the organization's tolerance for risk.
- Control activities. Policies and procedures are developed to help ensure responses are properly carried out in the organization.
- Information and communication. Methods are established for gathering and communicating information so personnel can carry out their risk management responsibilities. Such information can include historical and current data that allows a company to assess its risk at a given time or to spot warning signs of potential loss events.
- Monitoring. Through ongoing or separate evaluations, the risk management program is monitored to ensure that circumstances that could affect the organization's objectives can be dealt with quickly.

Mr. Everson pointed out that the framework brings together the strategic planning and risk processes, a linkage that can work just as well for small companies, he explained.

Mr. Ewing said the framework's value will depend on "where risk management fits into the organization." In companies where risk management is seen simply as insurance buying, "I don't see any gravitation to an enterprise risk management approach," he said.

Michael J. McAndless, director-risk management at Agricore United Ltd. in Winnipeg, Manitoba, called the framework a "very good track to run on. Each organization is going to be able to adapt it to its own business. It's general enough that it applies to everyone."

Mr. McAndless is familiar with enterprise risk management programs, having helped put together one of the first with United Grain Growers Ltd. in the mid-1990s before that company merged with Agricore. "We were one of the first organizations to not just talk about it, but do something," he recalled.

That said, Mr. McAndless said he believes the idea of enterprise risk management should be simply viewed as risk management. "There is no subset; it's the application of a process that's been around since the mid-1960s." The enterprise aspect simply means applying the process to all functions of an organization, an approach he prefers to call a "general risk management process."

More information on the framework and the public comment period is available at *www.erm.coso.org*. Mr. Everson said details will be forthcoming on the Web site as to how final copies can be obtained.

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Hub: Chicago broker makes bid to buy Near North

Continued from page 1

Hub executives specifically point to Near North's structured-settlement business, reinsurance, wholesale and association businesses as providing a good fit for Hub.

In a statement, Fred Foreman, chairman of Near North, said: "We are very positive about aligning ourselves with Hub International. Over the past few years, Hub has demonstrated tremendous expansion and an infallible strategy toward operating as a premier insurance broker."

Observers say the acquisition by Hub will bring much-needed stability to a deteriorating environment within Near North.

In June, a federal grand jury added Near North Insurance Brokerage Inc. as a defendant to its fraud case against Michael Segal, Near North National's owner (*BI*, June 16). Mr. Segal, who has denied any wrongdoing, stepped down as Near North's chairman and CEO in January 2002, after federal prosecutors charged him with illegally using up to $20 million in a Near North premium fund trust account for his own and his company's use.

After the June indictment against Near North a number of employees and clients left the firm, including a five-person real estate team and a nine-person fine arts and jewelry team that left to join Willis Group Holdings Ltd.

Willis is expected to announce this week that William Bartholomay, president of Near North National, also is joining the firm.

How much Near North business is left remains unknown. Hub executives declined to give any figures.

Near North reported $119.9 million in 2002 brokerage revenues, making it the 18th largest broker of U.S. business, according to *Business Insurance's* annual rankings (*BI*, July 21). Hub ranked as the 16th largest broker, with $127.5 million in U.S. brokerage revenues.

In a conference call with analysts last week, Mr. Hughes noted that Hub announced the deal before signing a definitive agreement as a means to help stop Near North's loss of personnel and accounts.

"It was important to let both employees and clients of Near North know that a quality buyer was committed to buying the agency," he said. "They were losing people and business in large amounts over the last two months and it was important to them and to us to provide as much comfort as we could."

He noted that regardless of the legal issues associated with Mr. Segal, "Near North has quality employees and quality clients. Anyone familiar with the business and the Near North agency would have a hard time disputing that fact," he said.

The departures, coupled with the legal issues surrounding Near North, were what many observers say unraveled the deal with Frontenac, a Chicago-based private equity firm that signed a binding agreement with Near North in June.

Neither Near North nor Frontenac would comment on the deal's demise.

Richard A. Riley, a former Aon Corp. executive who was set to serve as Near North's new CEO upon completion of the Frontenac deal, said: "I don't really want to say anything about the deal except that I hope it works out for Hub and I hope it works out for the people at Near North. Sometimes things don't work out the way you think they're going to, and that's the way it goes."

> **'It was important to let both employees and clients of Near North know that a quality buyer was committed to buying the agency.'**
>
> *Martin P. Hughes*
> *Hub International Ltd.*

The Frontenac deal was the culmination of an effort to form a new middle-market broker that Mr. Riley began last year with longtime brokerage executive Bernard H. Mizel (*BI*, July 22, 2002).

Mr. Riley said he will continue to assist Frontenac with its goal of entering the insurance business.

Mr. Hughes said he is confident that the deal between Hub and Near North will not follow the same course as the Frontenac deal.

Mr. Segal will have no role in the merged company, Mr. Hughes said, noting that the deal is an asset acquisition and Hub will only assume those liabilities associated with various loans Near North received from some insurers.

While Mr. Hughes declined to elaborate, according to the federal criminal complaint against Mr. Segal, Near North obtained $10 million in loans from New York-based American International Group Inc. and Novato, Calif.-based Fireman's Fund Insurance Co. late in 2001 to replenish the broker's delinquent premium fund trust account (*BI*, Feb. 4, 2002).

"The bottom line is, we like this deal and we're anxious to close it as soon as we can," Mr. Hughes said.

Analysts and observers for the most part like the deal as well.

"The wheels were rapidly falling off" at Near North, said John Keefe, an equity analyst with Ferris, Baker Watts Inc. in Richmond, Va. "It makes sense for Hub to come in and bail them out. We don't know what's left of Near North, but assuming that the deal goes through, it certainly will be incrementally positive for Hub," he said.

"There's not a lot of downside because Hub's paying for it on a renewal basis," said Adam Klauber, managing director of Cochran, Caronia Securities L.L.C. in Chicago, of the asset acquisition. "So if the revenues don't stick they're not paying for it. And because it was sort of a distress sale, I would guess that the price they're paying is probably—for what brokers pay these days—on the more reasonable side," he said.

"From what we know, which is limited, we think it's an excellent transaction for both parties," said Nik Fisken, an analyst with investment bank Stephens Inc. in Little Rock, Ark. "Since Near North was indicted, it's been a dwindling asset every day as employees leave and clients leave."

"For Hub, there's significant cost savings opportunities to just fold them into the business and producers who are still there into the existing Hub operations," he said.

Timothy J. Cunningham, a partner with consulting firm OPTIS Partners in Chicago, noted: "I think the big unknown is how much business is left and how much business will ultimately go to Hub."

"It will be a good deal for Hub if there is significant sustainable revenue that gets bolted on to their existing offices…and brings them into complementary or expanded business segments," he said.

ERISA: Courts rule on jurisdiction for ERISA suits

Continued from page 3

viewed, the 5th Circuit went the furthest. The full 15-judge court on July 10 unanimously threw out its own test for determining court jurisdiction. The 5th Circuit covers Louisiana, Mississippi and Texas

In the case, health insurer Ochsner Health Plan Inc. of New Orleans demanded reimbursement of the medical benefits it paid a plan participant who was injured in a traffic accident and later recovered from other insurers. Plan member Julio C. Arana argued that a Louisiana law bars such demands.

Disagreeing with a 5th Circuit panel ruling, the full court first found that Mr. Arana was trying to resolve a benefit dispute, even though Ochsner did not deny any benefits. That meant ERISA Section 502(a) "completely" pre-empted his state court claim.

In previous cases, the 5th Circuit also analyzed whether the conflicting state statute at the center of a dispute regulates insurance and therefore is "saved" from pre-emption under ERISA Section 514. In the 5th Circuit, if a state statute was "saved," then a state court had jurisdiction over the dispute.

But in reviewing rulings by the U.S. Supreme Court and another federal appellate court, the 5th Circuit determined that an ERISA Section 502(a) pre-emption alone warranted moving a plan dispute into federal court.

In the 4th Circuit, a three-judge panel on July 3 moved a subrogation dispute between a health maintenance organization and a covered member to federal court, even though ERISA Section 514 "saved" a state law at the center of the case.

> **The 5th Circuit determined that an ERISA Section 502(a) pre-emption alone warrants moving a plan dispute into federal court.**

The appellate panel unanimously ruled that ERISA Section 502(a) completely pre-empted the HMO member's claim, because the member sought to recover a benefit—the sum she reimbursed the HMO before discovering that an old Maryland law that applied to her case barred such reimbursements.

The appellate court, though, overturned a district court's ruling that dismissed the HMO member's claims altogether.

Besides Maryland, the 4th Circuit covers North Carolina, South Carolina, Virginia and West Virginia.

In ruling for a self-funded plan, a three-judge panel in the 7th Circuit on July 29 relied on a January 2002 U.S. Supreme Court decision that narrowed the circumstances in which health plans and insurers may subrogate against plan members (*BI*, Feb. 11, 2002). The 7th Circuit covers Illinois, Indiana and Wisconsin.

In the case, the attorney for a participant in Wal-Mart Stores Inc.'s self-funded plan established a reserve account to hold insurance proceeds the participant received from another insurer to cover medical bills arising from an auto accident.

After a federal court ruled that the Wal-Mart plan should be reimbursed for benefits it already had paid, the plan participant challenged the court's jurisdiction. She argued that the plan violated ERISA Section 502(a)(3)(B) by seeking a legal remedy.

But, the 7th Circuit panel ruled that the plan member's reserve account provided the plan the opportunity to obtain "equitable restitution," which ERISA does allow. Equitable restitution is available when assets that clearly belong to a plan can be "traced to particular funds or property" in a plan member's possession, the Supreme Court ruled last year.

The appellate court, however, reversed the lower court's finding that the plan member could invoke an Illinois law to reduce the plan's reimbursement by a portion of the attorney fees she incurred in recovering the additional insurance proceeds. ERISA Section 514 pre-empts that state law, the appellate court ruled.

While employer attorneys hailed all three rulings, they acknowledged that the rulings could create some problems for employers later.

Language in the 5th Circuit's ruling could expose self-funded plans to increased state law regulation if plans are not careful how they word provisions in which they choose the state where they want to resolve disputes unrelated to plan benefits, said Dana M. Muir, an associate business law professor at the University of Michigan Business School in Ann Arbor, Mich. Ms. Muir coauthored an amicus brief in the case at the court's request.

But George Pantos, counsel with the Self-Insurance Institute of America in Washington, said the likelihood of such a scenario is "remote" if a plan's documents are drafted by an ERISA attorney "worth his salt."

In refusing to reduce the Wal-Mart plan's reimbursement claim to account for the plan member's legal costs, the 7th Circuit panel suggested that the plan member would have had a stronger argument and her attorney would have had standing in the case if the attorney had not already collected his fee.

Julio C. Arana vs. Ochsner Health Plan, 5th U.S. Circuit Court of Appeals, July 10; No. 01-30922.

Sabriyana M Singh vs. Prudential Health Care Plan Inc., 4th U.S. Circuit Court of Appeals, July 3; No. 01-1102.

Administrative Committee of the Wal-Mart Stores Inc. Associates' Health and Welfare Plan vs. Clara Varco, 7th U.S. Circuit Court of Appeals, July 29; Nos. 02-3879, 02-1124 & 02-1143.

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Late News

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asbestos losses of the bankrupt ACandS Inc., a former industrial insulation contracting unit of Armstrong World Industries. The panel ruled that asbestos bodily injury claims paid by ACandS after July 31 are subject to Travelers' aggregate policy limits, which have been exhausted, the insurer reported. The decision effectively ends the insurer's liability for losses paid after that date.

Liability coverage costs still soaring: RIMS

The cost of fiduciary liability insurance and directors and officers liability insurance continues to skyrocket, according to a recent study. The RIMS Benchmark Survey, which compiled information from more than 750 companies, indicated that fiduciary liability insurance costs are up as much as 150% compared with the year earlier. The survey also showed that policyholder retentions for the exposure increased by as much as 500% over the past year. The survey also showed that D&O premiums are up more than 200% from a year ago.

COBRA coverage extended for Bethlehem workers

Thousands of Bethlehem Steel Corp. retirees and dependents will be able to extend their COBRA health care continuation coverage when the current coverage runs out at the end of September. Cleveland-based International Steel Group, which purchased the assets of the bankrupt Bethlehem, Pa.-based steelmaker, said it would indefinitely extend the COBRA coverage to current enrollees.

Pennsylvania regulators appeal Legion ruling

Pennsylvania regulators are appealing a state judge's ruling allowing certain policyholders of defunct insurers Legion Insurance Co. and Villanova Insurance Co. to recover claims directly from Legion and Villanova reinsurers. While ordering the two insurers into liquidation in June, Commonwealth Court Judge Mary Hannah Leavitt ruled that fronting policyholders may be considered third-party beneficiaries of Legion and Villanova reinsurance agreements and may seek recovery directly from the reinsurers. The Pennsylvania Insurance Department has now filed a formal notice that it will appeal the reinsurance ruling to the state's Supreme Court.

Princeton Insurance halts med mal writings

A lack of reinsurance coverage has forced Princeton Insurance Co. to stop writing new medical malpractice business. In a letter to policyholders, the Princeton, N.J.-based unit of Medical Liability Mutual Insurance Co. said the unavailability of reinsurance coverage for working-layer risks of less than $1 million will force it to halt new business as of Aug. 21. The letter said that once the insurer puts such reinsurance in place, it will resume writing new business.

ACE first-half profits more than double

ACE Ltd.'s profits more than doubled during the first half of this year after record second-quarter earnings. The insurer recorded net income of $618 million for the first six months of 2003, up 104% over the first half of 2002. ACE's second-quarter 2003 profit of $371 million was greater than its income for the entire first half of last year. ACE wrote gross premiums of $7.52 billion for the first half of the year, up 24.3% from the same period in 2002.

Second quarter gains fuel XL first-half results

XL Capital Ltd.'s profits soared during the first half of the year after a record second quarter. The Bermuda-based insurer posted net income of $607.7 million for the first

six months, with $347.7 million of those profits in the second quarter. Last year, XL posted a $91.7 million loss in the second quarter and a $2.3 million loss over the first six months, largely due to reserve boosts and investment losses.

Rate hikes boost PacifiCare earnings

PacifiCare Health Systems Inc. reported that its net income climbed to $144 million for the first six months of 2003 compared with a loss of $838 million during the same period last year. The health insurer reported revenues of $5.46 billion

for the first six months of 2003, down 3% from the same period last year. PacifiCare President and Chief Executive Officer Howard Phanstiel said in a statement that the improvement stemmed from several factors, including rate increases of 18% for employers and cost control measures.

Net income up sharply at USI

USI Insurance Holdings Corp. achieved favorable results in the first half of 2003, reporting net income of $12.9 million, compared with a net loss of $10.3 million for the same period last year. Revenues increased 7.2%, to $168.8 million, for the first half of 2003. The broker officially moved its headquarters to New York from San Francisco on Aug. 1.

Chubb Corp. posts first-half growth

Due in part to continuing rate increases, Chubb Corp. posted net income of $476.7 million for the first half, up 16.7% over the year-earlier period. The insurer's property/casualty net premiums written totaled $5.3 billion, a 23% increase over the first half of 2002. Chubb's combined ratio for the first half was 95.3% compared with 97.0% in the year-earlier period.

Briefly noted

Standard & Poor's Corp. has raised its insurer financial strength rating of **Gerling Konzern Allgemeine Versicherungs A.G.** to BBB- from BB+, following commitments Thursday by several large German companies to provide 62.5 million euros ($71.9 million) in capital to the insurer. S&P said Cologne, Germany-based Gerling's rating remains on CreditWatch, with positive implications, pending possible additional capital commitments....The **Overseas Private Investment Corp.** is offering stand-alone terrorism insurance with limits of up to $250 million to cover U.S. companies doing business in specific developing nations. The independent federal agency had previously offered terror coverage only under its broader political violence insurance program.

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Online Poll

[7/28-8/1]

Is employee participation this year in your 401(k) plan:

The same as last year 39.4%

Lower than last year 24.6%

Higher than last year 21.3%

not sure 14.7%

BI Stock Index

[7/28 - 8/1]

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

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

Index	Value	Change
BI Stock Index	1966.73	-1.43
Dow Jones	9153.97	-1.41
S&P 500	980.15	1.86

Largest gains

Company	Change
CIGNA Corp.	9.71%
Vesta Insurance Co.	9.62%
Chubb Corp.	8.79%
Harleysville Group	6.48%
WellChoice Inc.	5.65%

Largest losses

Company	Change
Trenwick Group Ltd.	-22.22%
Argonaut Group	-9.61%
Aetna Inc.	-8.07%
John Hancock	-6.90%
Gainsco Inc.	-6.90%

Weekly change by market segment

Segment	Change
Brokers	-2.03%
Insurers/Reinsurers	-1.11%
Managed Care Organizations	-0.59%

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

Marsh: Church group sues over LOC

Continued from page 4

Maarten Mobach, then a Marsh managing director, according to court filings and Mr. Barton. Mr. Mobach brought the program to Marsh in 2002 after leaving Willis Group Holdings Ltd., RIIA's former broker, the complaint says.

The RIIA program has featured a self-insured loss fund covering members' first-dollar claims, with excess and aggregate stop-loss coverage provided by Discover and other insurers above the self-insured layer, Mr. Barton said.

Marsh ran into trouble attempting to renew the liability program last year, though, because the market for religious institutions coverage had tightened in the wake of the widely publicized clergy sexual abuse scandals, the suit notes.

Marsh told RIIA that the program could be renewed only if the purchasing group or Assemblies of God Foundation posted an LOC to back the self-insured loss fund, the complaint says. A dispute has since developed over the exact purpose of the LOC, according to RIIA.

RIIA says it believed that the $6.7 million LOC was intended largely to fund the self-insured layer of the 2002/03 program for the short period it would take to collect member premiums to build the fund up.

"We looked at it as a simple bridge (financing) transaction," Mr. Barton explained.

Under an August 2002 agreement—signed by Mr. Barton on behalf of Assemblies of God Foundation and Mr. Mobach on behalf of Marsh—the foundation agreed to post the LOC using its own assets as collateral until member premiums were paid into a bank account to replace the foundation's collateral. Interest earned on member premiums paid to the account was to go to the foundation, the complaint states.

In a series of meetings in late 2002, though, Marsh executives said that Mr. Mobach had never provided them with copies of the agreement and that Marsh officials had reached a separate renewal agreement with Discover. Under that agreement, member premiums were not to be used to replace the foundation's collateral for the LOC, and the LOC itself was to be used to pay member claims that exceeded the self-insured fund held by Discover, the lawsuit says.

The suit charges Marsh with breaching the August 2002 contract and with fraudulently inducing the foundation to obtain the LOC.

Mr. Mobach has since left Marsh, according to the complaint. A Marsh spokesman declined to comment on his status, though, and Mr. Mobach could not be reached.

RIIA and the Assemblies of God Foundation have also received no financial reports from Marsh or Discover since last year, when RIIA reorganized itself and appointed a new board of directors composed of church representatives, according to the suit and Mr. Barton. The suit seeks an accounting of the program's finances and an order blocking any drawdown of the LOC.

Discover and other insurers have continued to provide RIIA members with a $1 million general liability limit since the Sept. 1, 2002, renewal, though coverage for sexual harassment was eliminated, Mr. Barton said.

RIIA is now developing a liability program that will restore the sexual harassment coverage for the 2003/04 policy year, according to Mr. Barton. Marsh will no longer be the group's broker after this year, he said.