

Business Insurance

August 10 & 17, 2009

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In Brief

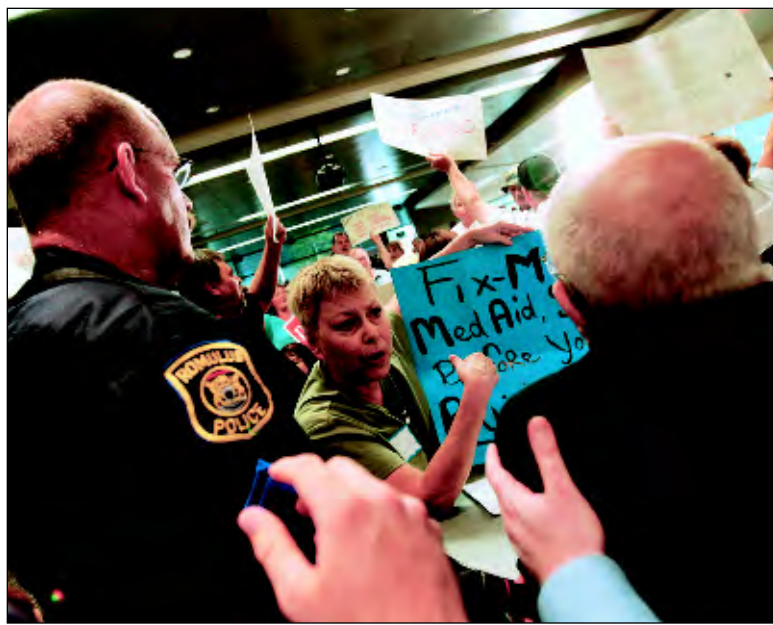
Zurich names Senn as chief executive

Zurich Financial Services Group's board of directors has appointed the company's chief investment officer, Martin Senn, to replace Chief Executive Officer James J. Schiro, who plans to retire on Dec. 31. Before joining Zurich, Mr. Senn served in senior leadership positions with Swiss Life Group, Credit Suisse and Swiss Bank Corp., now UBS, in financial, operational- and investment-related roles in Europe, Asia and North America, according to Zurich. Mr. Schiro has served as CEO since May 2002.

Most rates decrease in second quarter

Despite falling policyholder surplus, insurers continued to compete vigorously for business in the second quarter of 2009, according to the quarterly "RIMS

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DETROIT FREE PRESS

Protesters disrupt a health care town hall meeting held last week by Rep. John Dingell, D-Mich., right, who is the lead sponsor on the House measure.

Challenges mount for health reform

Key Senate panel delays release of bill; opponents get vocal

By JOANNE WOJCIK

WASHINGTON—It appeared that federal health reform had taken one step closer to passage with the Aug. 3 approval of America's Affordable Health Choices Act by a third House committee, but reactions from insurers, the public and employers could slow its momentum.

By a vote of 31-28, the House Energy and Commerce Committee approved the bill, which will be merged with the version earlier passed by the House Ways and Means and Education and Labor committees and face a full House vote after Sept. 8, when Congress returns from summer recess.

But passage of H.R. 3200 drew criticism from America's Health Insurance Plans and conservative

voters, who have been protesting at health care town hall meetings organized by members of Congress.

Meanwhile, the unveiling of the Senate Finance Committee's version of reform legislation—which health reform supporters expect to be more conservative than the House approach—was postponed until mid-September, though the six panel members are pledging to work through the recess.

"We're still waiting for the Finance Committee to take action. That really is what folks are waiting for now," said Kathryn Wilber, senior counsel, health policy, at the American Benefits Council in Washington. Committee Chairman Max Baucus, D-Mont., and Sen. Charles Grassley, R-Iowa, "are working with a small bipartisan group to try to reach a compromise."

Unlike H.R. 3200, which creates a new public program to compete against private insurers in

See **REFORM** page 26

Contingents returning for biggest brokers?

Gallagher gets OK for controversial pay; RIMS slams change

By SALLY ROBERTS

Contingent commissions appear poised to make a comeback among major brokers.

Arthur J. Gallagher & Co.'s July deal with Illinois authorities to allow it to again accept millions of dollars in contingent commissions beginning Oct. 1 likely will open the door for similarly banned brokers to do the same, observers say.

However, the Risk & Insurance Management Society Inc. opposes the move and reiterated its belief that contingent commissions pose "an inherent conflict of interest" and should be banned.

On the other hand, the largest brokers applauded what they say is Illinois' efforts to level the playing field, while risk managers' opinions were mixed (see story, page 27).

In 2005, Gallagher agreed to pay \$27 million in client restitution and cease collecting contingents to settle concerns raised by Illinois authorities that it steered business to insurers that paid the highest contingent commissions.

The move came after larger rivals Marsh & McLennan Cos. Inc., Aon Corp. and Willis Group Holdings Ltd. agreed to give up more than \$1 billion in contingent commissions and pay more than \$1 billion to settle similar allegations by New York and other authorities. Several insurers also agreed to either abandon or limit contingent commissions as part of separate settlements with various state authorities.

The rest of the industry, however, never has followed suit, and large brokers have said that puts them at a disadvantage.

J. Patrick Gallagher Jr., chairman, president and chief executive officer of the Itasca, Ill.-based broker, said during an analyst conference call

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SPOTLIGHT

CATASTROPHE MANAGEMENT

Europeans grapple with earthquake risks after April temblor in Italy; debate over climate change moot as insurers, reinsurers face rise in losses from natural



catastrophes; Washington insider assesses role of government in managing cat risks; support grows for consortium for cat cover, but details unclear. **PAGE 9**

Background of new CEO seen as key asset for AIG

By JUDY GREENWALD

NEW YORK—Robert H. Benmosche's experience in running a large, complex insurance organization will serve him well as the new president and chief executive officer of American International Group Inc., observers say.

While saying AIG's situation is unique, observers particularly cite Mr. Benmosche's trans-

formation of MetLife Inc. from a mutual to a publicly held insurer as preparing him for the challenge of scaling down AIG as it seeks to sell units and repay its federal debt. Mr. Benmosche is also considered capable of enduring expected federal scrutiny in his new role.

AIG's board of directors named Mr. Benmosche to the position last week. The board also named Harvey

See **BENMOSCHE** page 28



BUSINESS WIRE/GETTY IMAGES

ROBERT H. BENMOSCHE

EXPERIENCE: Led MetLife as president and CEO during its transition from a mutual insurer to a public company.

CHALLENGE: Steering AIG through its ongoing asset sale and effort to repay government rescue loans.

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On the Web

WOMEN TO WATCH

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employee benefits and related fields are eligible for

this annual feature, which spotlights 25 women who are doing outstanding work for their organizations. Profiles of the women will appear in the Dec. 7 issue of *BI*. To download a nomination form, go to www.BusinessInsurance.com/womentowatch.

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THIS WEEK IN BI

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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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Greenberg pays \$15M to settle SEC charges

Deal resolves probe of ex-AIG chief's role in accounting practices

By COLLEEN MCCARTHY

WASHINGTON—Maurice R. Greenberg, American International Group Inc.'s former chief executive officer, has agreed to pay \$15 million to settle civil charges related to alleged improper accounting transactions that inflated AIG's financial results, said the Securities and Exchange Commission.

In addition, ex-AIG Chief Financial Officer Howard I. Smith agreed to pay \$1.5 million to settle similar charges.

The SEC last week announced the settlements to conclude a four-year investigation. Messrs. Greenberg and Smith, both of whom left AIG in 2005 amid investigations into the New York-based insurer's accounting practices, agreed to the settlements without admitting or denying guilt.

The SEC accused them of making misstatements that helped AIG falsely report results that met or exceeded earnings and growth targets, and were liable as "control persons" for AIG's security laws violations.

For Mr. Greenberg, the settlement terms could be viewed as a small personal victory, given that it does not prevent him from serving as an officer of a public company—a fairly common provision in SEC settlements, one legal expert said.

"I think Mr. Greenberg came out on top of the deal," said Michael Cornaccia, a New York criminal defense attorney and former assistant U.S. attorney.

In addition, Mr. Cornaccia said the \$15 million settlement, while "substantial," is not "overwhelming" given that the legal fees to fight

the charges could have been as much as three times that amount.

The charges "essentially say Mr. Greenberg ran the company that committed the fraud, but did not commit fraud himself," said Peter Henning, a professor at Wayne State University Law School in Detroit.

Unlike Mr. Greenberg, Mr. Smith was charged with direct violations of securities laws, including antifraud provisions, and has been barred from acting as an officer or director of any public company for three years.

Boies, Schiller & Flexner L.L.P., which represents Mr. Greenberg, said in a statement that he was "pleased to finally put these issues behind him."

In its complaint, the SEC said the two were involved in "numerous improper accounting transactions" that inflated AIG's earnings from 2000 to 2005, including a purported deal with an offshore shell entity to conceal multimillion-dollar underwriting losses from AIG's auto warranty business and "economically senseless" round-trip transactions to report improper gains in investment income.

In addition, the complaint alleged two reinsurance transactions that AIG entered into with a foreign subsidiary of Hartford, Conn.-based General Reinsurance Corp. to falsely inflate its loss reserves and premiums written.

In 2006, AIG agreed to pay \$1.64 billion to settle fraud charges related to its practices with state and federal authorities. A spokesman for AIG declined comment.

Mr. Greenberg still is fighting civil fraud charges from the New York attorney general's office related to the accounting investigation.



REUTERS/LANDOV

Ex-AIG leader Maurice R. Greenberg "appreciates the SEC's recognition that he personally should not be charged," his attorneys said.



U.S. journalists Laura Ling (top) and Euna Lee as they returned to Burbank, Calif., last week following their release from North Korea.

REUTERS/LANDOV

Imprisonment can trigger kidnap and ransom cover

By ROBERTO CENICEROS

Kidnap and ransom coverage could pay for travel, legal help and other expenses related to efforts to win the release of imprisoned journalists, such as the two Current TV L.L.C. journalists who returned last week to the United States from North Korea.

Policies generally would exclude coverage for those lawfully imprisoned, though there are exceptions for special situations, experts say.

Even the efforts of former President Bill Clinton, who traveled to North Korea to negotiate the release of Laura Ling and Euna Lee, could be compensated under a K&R policy as the services of a "response consultant" or negotiator, said Charlie Matheson, leader of the kidnap and ransom practice at Jardine Lloyd Thompson Group P.L.C. in London.

San Francisco-based Current TV declined to comment on whether it had insurance to respond to expenses incurred in efforts to free the journalists, who were arrested earlier this year for illegally entering North Korea.

Much of the travel costs for returning the two journalists to the United States reportedly were paid by Hollywood businessman Stephen Bing.

But coverage for the expenses of a negotiator, travel, legal advice, medical care and support services necessary to free journalists under such circumstances typically would be provided under the wrongful detention element of a K&R policy, Mr. Matheson said.

"Obviously, in most cases you are not going to get someone as high-profile as Bill Clinton," Mr. Mathe-

See **K&R** page 29

FDIC signals move to collect on banks' D&O cover

By ZACK PHILLIPS

The federal agency that backstops banks may soon file lawsuits against directors and officers of financial institutions it has taken over, creating a litany of concerns for D&O liability insurers and their policyholders, observers say.

The Federal Deposit Insurance Corp. reportedly has begun sending "demand letters" instructing former executives of banks taken over by the government agency to alert their D&O liability insurers they may have claims. As of the end of July, the FDIC had taken over 69 banks this year after taking over 26 in 2008,

according to the agency's Web site. The total cost to the FDIC of the failed banks is about \$14.4 billion so far for 2009, compared with about \$17.8 billion for 2008.

"We've personally been contacted by a number of law firms that represent the FDIC who we know from other dealings indicating that the FDIC has retained them to go get the money," said Steve Shappell, managing director of Aon Financial Services Group in New York and Denver. "So this is going to happen." Attorneys, brokers and other

69

Number of banks the FDIC has taken over this year after taking over 26 in 2008.

observers expect the FDIC to file federal lawsuits against former bank directors and officers for breach of fiduciary duty, among other potential claims, which likely would trigger D&O policies. The FDIC also aggressively pushed similar lawsuits during the savings

and loan crisis in the late 1980s, the last period of widespread, systematic financial institution failures. The D&O liability insurance market has more capacity and softer prices now than during that period, although prices and terms are firming signifi-

cantly for financial institutions, brokers say. Mr. Shappell said D&O liability rates in the second quarter rose 4% over the second quarter of 2008, and rose 15% for financial institutions. A survey from London-based broker Willis Group Holdings Ltd. returned similar numbers.

The savings and loan crisis gave rise to the use of regulatory exclusions in D&O policies, which bar claims brought by regulatory agencies from coverage. Although one banking trade group estimates that half to three-quarters of banks' D&O liability policies contain such exclu-

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World Cup organizers uninsured against strike exposure

Recent labor strife increases concerns for 2010 tournament

By MICHAEL BRADFORD

JOHANNESBURG, South Africa—Organizers say they hope they have seen the last of labor strife that could delay the 2010 FIFA World Cup and leave them holding the bag for expenses that are not insured if the competition has to be postponed or relocated.

Under a \$650 million policy written to cover the 2010 World Cup that kicks off in South Africa next June as well as the 2014 World Cup in Brazil, a postponement or relocation is covered in the event of terrorism, war, natural disasters or civil unrest, Markus Kattner, deputy secretary general and director of finance for the Fédération Internationale de Football Assn., confirmed in an e-mail.

However, if matches are postponed or relocated because of a strike, such as one that halted construction of South African facilities in July, Zurich, Switzerland-based FIFA has no insurance to pay related expenses, Mr. Kattner said.

The policy does not cover cancellation of the World Cup under any circumstances, Mr. Kattner noted. FIFA chose not to cover the cancellation risk because it is extremely unlikely that the event would be called off, he said.

Construction workers laid down their tools in July in Johannesburg

and other South African cities hosting the World Cup, demanding improved wages and benefits. The weeklong strike ended with an agreement by the construction industry to increase workers' pay by 12%, improve benefits and address other concerns.

Although the pay agreement is binding for a year, it does not include a no-strike clause.

"We have a constitutional right to strike," said a spokesman for the National Union of Mineworkers in Johannesburg, which represents construction workers. But, he confirmed, there are no plans for another walkout before the World Cup facilities are completed.

FIFA restructured its insurance for

See CUP page 29



REUTERS/LANDOV

Striking construction workers protested in mid-July outside the Moses Mabhida stadium being built for the 2010 World Cup in Durban, South Africa.

Questions & Answers

Allianz S.E.'s Allianz Global Corporate & Specialty unit in North America has a new top executive and a new approach to its business. Carsten W. Scheffel, who was named president and chief executive officer of the Chicago-based unit earlier this year, spoke recently with Business Insurance Editor Regis Coccia about where Allianz Global Corporate & Specialty is going next.



Allianz changes the mix

Q: Allianz has changed its mix of business since 2005 and turned around its results. Was a change in underwriting behind that?

Allianz Global Corporate & Specialty has always been an underwriting company. Pre-2006, the focus was more the risk appetite and selection of what was written. We took a step back and asked ourselves, "Should the focus not be shifted from trying to grow the top line to getting the book right?"

In 2006, Allianz Global Corporate & Specialty also began to diversify. For example, we started from zero in April of 2006 with aviation; and today, we write well over \$200 million of aviation business with a very seasoned team. We went out and hired the best aviation team; and they're doing a great job. In 2008, we went back into writing U.S.-domiciled liability business. And we are currently writing this line of business with an extremely targeted focus.

In 2009, the Fireman's Fund began the process of transferring its marine portfolio into Allianz Global Corporate & Specialty. The reason for that is marine

insurance is one of the core businesses of Allianz Global Corporate & Specialty. Worldwide, the "Specialty" in our name represents aviation, energy and marine. We are the industrial insurer arm of Allianz globally, and marine is a global line of business. Already, Allianz Global Corporate & Specialty has benefited; and when combined together, we're one of the largest marine underwriters in the world. We're very excited about this and have so many opportunities to provide a range of solutions to our customers.

Q: What lines of business are most attractive?

Our strategy is to focus on our core lines—aviation, construction, energy, engineering, liability, marine and property, and we are going to look at expansion into other countries.

We are in the process of becoming a regional unit that will have country units reporting to it. We think locally but act globally. Mexico and Brazil will soon have Allianz Global Corpo-

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Neal bill targets non-U.S. reinsurance

By COLLEEN MCCARTHY

WASHINGTON—Rep. Richard Neal, D-Mass., has reintroduced legislation that would limit tax deductions for reinsurance that insurers cede to affiliates outside the United States, but the bill's future is unclear, observers say.

The bill, H.R. 3424, is designed to "end the practice of excessive reinsurance between related entities" by altering the U.S. Internal Revenue Code to cap the deductibility of nontaxed reinsurance premiums paid by insurers to their foreign affiliates.

Rep. Neal argues that foreign

insurers shift premiums offshore to lower their U.S. tax burden, putting U.S.-based firms at a disadvantage.

"There is no doubt that there is a legitimate role for reinsurance. However, reinsurance among affiliates can serve other purposes as well, including tax avoidance," Rep. Neal said on the House floor July 31 in introducing the bill.

The bill is backed by the Coalition for a Domestic Insurance Industry, a group of 14 U.S.-based insurers that include Greenwich, Conn.-based W.R. Berkley Corp., Warren, N.J.-based Chubb Corp. and St. Paul, Minn.-

based Travelers Cos. Inc. William R. Berkley, a coalition spokesman and chairman and chief executive officer W.R. Berkley, said the bill would "level the playing field."

Opponents, however, argue the measure would cut reinsurance capacity and drive up costs for insurers. Groups including the Assn. of Bermuda Insurers and Reinsurers, New York-based Risk & Insurance Management Society Inc. and the Washington-based Coalition for Competitive Insurance Rates all oppose the bill.

The legislation would have a "chilling effect on these entities and their willingness to serve as an

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Global issues raise worries for risk managers in Italy

By MICHAEL BRADFORD

MILAN, Italy—Risk managers already busy trying to protect their companies' assets as the world economy struggles are facing emerging risks that call for their attention, Italian risk management experts say.

Risk managers should consider a "back to basics" approach to loss control rather than using theoretical enterprise risk management approaches, the experts agreed.

The group of risk managers and an insurer participated in a roundtable discussion hosted by Business Insurance in Milan, Italy, last month.

Political instability and lapses in technology security are among the risks that increasingly are manifesting themselves, the experts said.

"Globalization is certainly bringing new risks from countries where

the political situation is uncertain," said Paolo Rubini, director of risk management at Telecom Italia S.p.A. in Milan and chairman of the Associazione Nazionale dei Risk Manager e Responsabili Assicurazioni Aziendali, or Italy's risk management association also known as ANRA.

Businesses are seeking new markets as a way to expand during lean times and often are unable to "properly evaluate the political risk and the counterparty risk" in countries they enter, Mr. Rubini said.

"Technology always has been a big risk for some companies," Mr. Rubini said. But cutbacks in some cases are leading companies to trim expensive technology security services, he said.

Even if a company spares no

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UPI PHOTO
Rep. Neal, D-Mass.



Mr. Rubini



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Winners in these categories will be announced and profiled in the Nov. 16 issue of Business Insurance and online after publication.

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Commentary

Washington forecast: Hot rhetorical weather

The dog days of summer are upon us, and that means Congress has left town until September. But when the lawmakers return, be prepared for what could be a period of feverish activity on a variety of benefits and risk management-related issues.

Health care reform ought to be taken up first, with three House committees having approved portions of the monster health care reform bill over which they had jurisdiction. But in doing so, the committees may have set the stage for the beginning of a small, but potentially bitter, civil war among Democrats.

Even though the House Energy and Commerce Committee reached a deal on a so-called public option—basically a government insurance plan that might serve as a precursor to a single-payer system—there's still bad blood between the (relatively) conservative Blue Dog Democrats, who want as little as possible to do with a public option and their colleagues on the left side of Democratic spectrum. The progressives want a "robust" public option if they can't have single payer, which they can't, and have vowed to oppose any plan that doesn't contain it. The Blue Dogs are likely to be just as adamant about the keeping the public option, if they have to have one, as restricted as possible.

Meanwhile, the Senate Finance Committee negotiators aren't even talking about a public option. They went home without reaching an agreement and, although they've now set Sept. 15 as a self-imposed deadline for doing so, don't be surprised if that date comes and goes without a deal.

Even when there are deals in both houses, negotiators from both chambers will have to work out a compromise that answers the one big question: How much is this going to cost and who's going to pay for it?

On risk management issues, expect the House Financial Services Committee to begin considering parts of the Obama administration's financial services regulatory reform package next month. There shouldn't be much controversy over the section that would create a new Office of National Insurance within the Treasury Department; but when lawmakers take up systemic risk regulation, expect some serious disagreements over who should be subject to such regulation and who should serve as the regulator.

The legislation will have to get through the Senate Banking, Housing and Urban Affairs Committee as well. A potential complication is the recent announce-



MARK A. HOFMANN

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ment of the panel's chairman, Sen. Chris Dodd, D-Conn., that he had been diagnosed with prostate cancer. While the prognosis appears to be very good, there is a possibility that the chairman—who took the role of chief Democratic proponent of health care reform because of the illness of his good friend, Sen. Edward Kennedy, D-Mass.—might be sidelined for a while.

Another piece of risk management-related legislation, a bill that would streamline the regu-

Be prepared for what could be a period of feverish activity on a variety of benefits and risk management-related issues.

lation of surplus lines insurers and give risk managers easier access to the nonadmitted marketplace, could be brought up for a quick House vote in early fall. Sen. Dodd had announced his support of an earlier version of the bill last September, but the economic meltdown kept it from the Senate agenda.

A bill that would change the tax code to cap the deductibility of reinsurance premiums paid by U.S. insurers to their foreign affiliates was introduced in the House shortly before members left for their August recess. The measure, which has split the insurance industry, hasn't gained a lot of traction in the past. But with Congress facing deficits that would have been unimaginable only a few years ago, a new source of revenue may prove to be too tempting to resist.

Add to this the fact that next year is a congressional election year, with lawmakers shifting to campaign mode ever earlier. The long, hot summer may end in a few weeks, but when Congress reassembles after Labor Day, we may find ourselves in a rhetorically heated fall—and maybe even winter—as well.

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Business Insurance OPINIONS

Buyers need right tools to regulate broker pay

RISK MANAGERS WHO PAID years of inflated premiums as a result of their brokers' abuse of the contingent commissions system must be wondering exactly what has to happen before regulators charged with protecting customers, both big and small, actually do so.

As we report on page 1, Illinois has retreated from its position of barring one of the biggest brokers in the state from collecting contingents. Many observers believe that officials in other states will follow Illinois' lead and allow all of the largest brokers to resume collecting contingents.

These, of course, are the same firms that were forced to hand over collectively more than \$1 billion in 2005 to settle charges that they rigged bids or steered business to maximize their own income, disregarding the best interests of their clients.

It would seem that the simplest solution to the problem would be to ban contingents and set up a system in which any firm that calls itself a broker is compensated by its clients and only a firm that calls itself an agent would be able to accept payments from insurers.

The very least regulators should do is...make full disclosure of compensation compulsory.

Recognizing, however, that regulators and other state authorities don't appear to have the will necessary to push through such a provision, the very least they should do is insist on transparency in insurance transactions and make full disclosure of all compensation compulsory.

Such a rule should mandate that all brokers—without being asked—give their clients a written statement outlining exactly for what they are being charged and how the broker is being paid for every transaction. In addition, there should be significant penalties for failing to comply with the rule.

If such a system were in place, risk managers would at least be in a position to effectively regulate their own dealings with their brokers. Not a perfect solution, for sure, but better than nothing.

SEC risk disclosure rule reasonable, long overdue

A PROPOSED RULE by the Securities and Exchange Commission to require businesses to increase their risk management disclosures is a positive step.

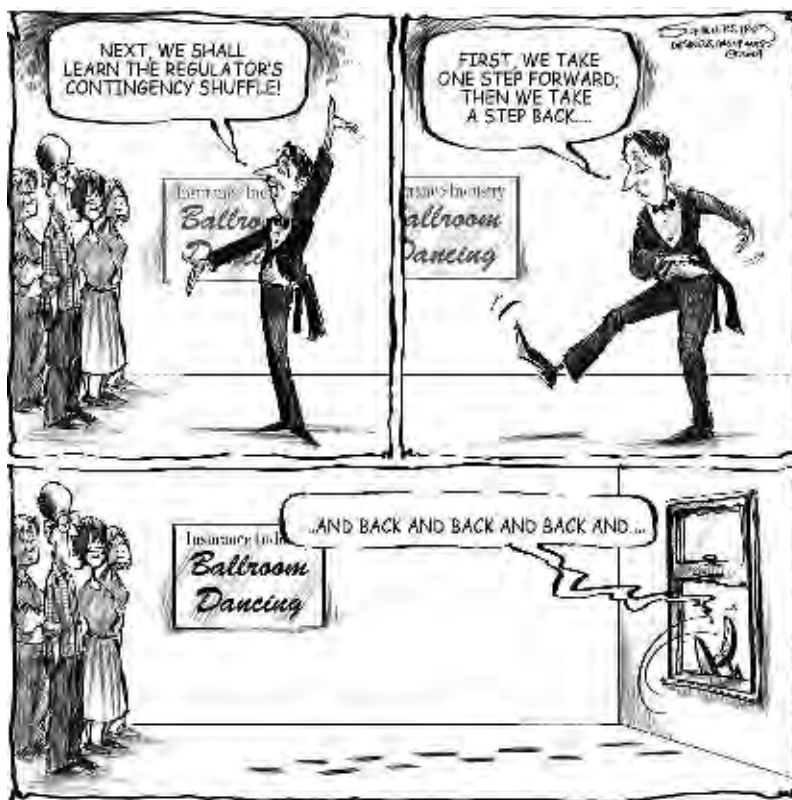
The SEC's proposed rule, No. 33-9052, would require companies to disclose the involvement of their boards in monitoring operational and financial risks (*BI*, July 20).

We think this not only is reasonable but also long overdue. If boards are not ultimately responsible for managing the exposures that could threaten an organization's survival, let alone ability to build value, who should be?

This proposed rule is not surprising, as other governmental agencies also are trying to craft policies to prevent the financial crisis from recurring. Implicit in the SEC's action is that risk oversight was weak or lacking at many organizations. Indeed, the crisis might not have occurred had boards been paying closer attention.

Observers suggest the SEC rule would present an opportunity for risk managers to expand their skill sets. We agree that the more knowledgeable a risk manager is about his or her organization and the more able to communicate risk information, the more valuable that person is to the organization.

All organizations can benefit from implementing stronger risk oversight, and we hope moves such as the SEC's encourage prompt action.



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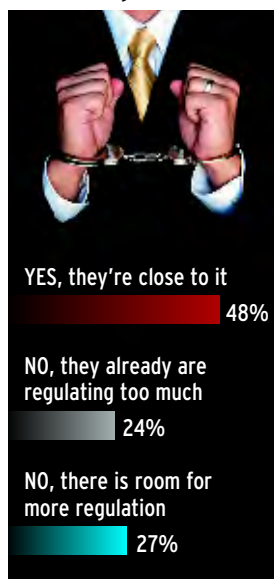
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Advance planning needed to protect against D&O suits

A public agency sends an "informal" letter asking your company to produce millions of e-mails, implicitly suggesting possible wrongdoing by directors and officers. As a risk manager of a public company, advance planning is needed and it may take a fight to collect from insurers on potential investigation costs and shareholder lawsuits, says Stephen Goldberg, a Los Angeles-based partner at Dickstein Shapiro L.L.P.

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REUTERS/LANDOV

A magnitude 6.3 earthquake struck Italy's Abruzzo region in April, killing nearly 300 and putting some 40,000 residents out of their homes. The quake caused centuries-old buildings and churches to crumble, including a painted chapel in St. Gregorio near the hard-hit town of L'Aquila.

Europeans grapple with quake risks

Insurance takeup patchy, but many large companies buy cover, retrofit buildings

By RICHARD MILLER

The destructive earthquake that hit central Italy in April shows why some European risk managers in quake-prone regions put the risk high on their list of concerns.

In Europe's top earthquake-prone nations—most notably Italy, Portugal and Greece—large corporations tend to buy earthquake extensions or, in some cases, endorsements of their property insurance and build earthquake-resistant buildings, risk managers and insurers say.

At Milan, Italy-based Pirelli & C. S.p.A., earthquake damage can rank among the top three risks, depending on the tire manufacturer's location, said Jorge Daniel Luzzi, Pirelli's director of corporate risk management. "We have a full coverage for that risk with world-class insurers," said Mr. Luzzi. Loss prevention is a key component, including quake-proof construction and regular inspection of factories in high-risk areas.

But most European companies are not as well-prepared, insurance and reinsurance experts say.

The penetration of commercial earthquake

'Generally, it can be said that in Europe, the risk is there, but how much detail people know of the particular risk I think varies considerably.'

Alan Woof, Zurich Financial Services Ltd.

insurance is higher than residential property owners in countries such as Italy—where less than 10% of homeowners have insurance—but it is by no means the majority of businesses buy coverage, said Alan Woof, London-based head of technical underwriting in Europe, general insurance, for Zurich Financial Services Ltd., in Zurich, Switzerland.

"If you look at the whole commercial spectrum, from a one-man business to something with €100 million (\$142.5 million) in turnover, it is patchy," Mr. Woof said. "Generally, it can be said that in Europe, the risk

is there, but how much detail people know of the particular risk I think varies considerably, and I think (some risk managers) are pretty general in terms of their assessment."

Martin Bertogg, head of the earthquake group at Swiss Reinsurance Co. in Zurich, said he is surprised so few companies buy earthquake cover.

"I believe that awareness is rising, but there is a gap in the number of companies that could be using the product," said Mr. Bertogg. "In some countries, the gap is larger than in others; but for all of them, it is large, so more can be done in terms of prefinancing," including buying insurance and reserving capital, he said.

As ongoing economic troubles pressure corporations' available cash flow, insurance can be an effective way to reduce needed equity reserves and prevent cash-draining losses from natural perils, Mr. Bertogg said.

Insured commercial and residential losses from the 6.3 magnitude quake near L'Aquila, Italy, were estimated between €200 million and €400 million (\$285.1 million and \$570.1

See **QUAKES** page 14

Catastrophe
Management

SPOTLIGHT

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MAKE CLIMATE CHANGE
ARGUMENT MOOT**
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Tropical Storm Hanna came ashore along the borders of North and South Carolina last September, toppling a gas station canopy in Wilmington, N.C.

REUTERS

Rising catastrophe losses make climate change argument moot

By **GEORGE SWEENEY**

Rather than debate whether climate change is happening, risk managers, brokers and insurers are taking steps to mitigate rising catastrophic losses.

Stephen Pottle, manager of risk and insurance management at Toronto's York University, cited climate change as a likely contributor

to damage he's dealt with in recent years caused by temperature fluctuations, thunderstorms, flooding and hurricanes.

The extreme weather has meant higher insurance costs, Mr. Pottle said. Because the university is covered by a reciprocal, damage incurred by a member thousands of miles away—such as Hurricane Juan's 2003 assault on Canada's east

coast—can mean higher premiums for the university.

While many are convinced climate change is a human-caused reality, others see the controversy as moot.

"Irrespective of the cause, climate change is happening," said Peter Breitstone, chief executive officer of the environmental services group at Chicago-based brokerage Aon Corp. Getting involved in the climate change debate does little to mitigate increased losses caused by recent years' extreme weather and could alienate clients, Mr. Breitstone said.

Sean Mooney, an economist for Guy Carpenter & Co. L.L.C. in New York, said the broker is reacting to climate trends, such as a rise in the frequency and severity of North Atlantic hurricanes.

The National Oceanic and Atmospheric Administration projects a near-normal 2009 hurricane season. Colorado State University forecasters project 2009 will be less active than the average season from 1950-2000. Even so, "we expect the active Atlantic hurricane era that we have been in since 1995 to continue for the next 10 to 15 years," CSU researchers said last week, citing the redevelopment of El Niño as a factor (see box, page 16).

As for why climate changes are occurring, Mr. Mooney isn't taking sides: "We're fairly agnostic about whether climate change is happening," he said.

There's science on both sides of the issue, said Al Tobin, national property practice leader for Aon Risk Services in New York. He mentioned factors ranging from the rise in frequency and severity of hurricanes to increasing salinity of the oceans.

"We're really careful not to attribute (disasters) to climate change—you can't attribute a particular event to it," said Paul Pritchard, corporate responsibility manager for London-based insurer Royal & Sun Alliance.

Nonetheless, weather-related catastrophes have sown fear in the insurance industry—regardless of the trend one believes is behind them.

"I know all insurance companies are afraid of another (Hurricane) Katrina," said Mr. Tobin, who characterized the 2005 hurricane as a paradigm shift for insurance. "In every board meeting now, it gets asked, 'What's your cat aggregate and how are you managing it?'"

Others say climate change has dire consequences for the world.

A recent report by the Geneva-based International Assn. for the Study of Insurance Economics warned, "Insufficient adaptation (to climate change) could threaten the concept of insurability itself." In the short-term, climate change will "(necessitate) risk quantification approaches that include a forward-looking view of risk...not purely



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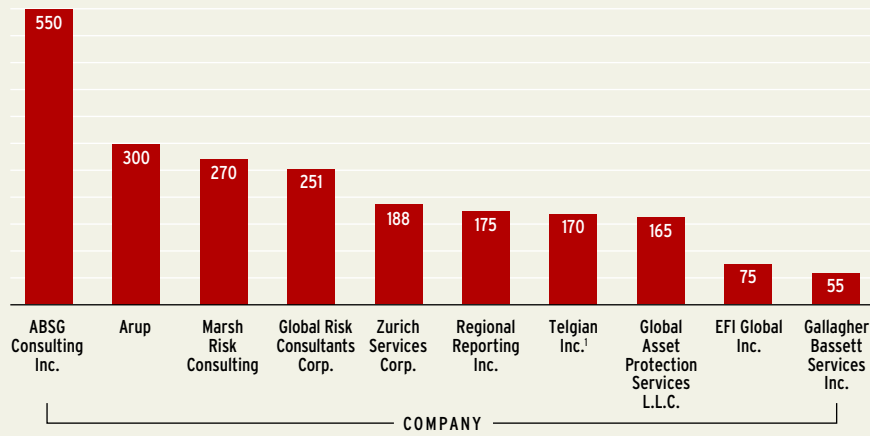
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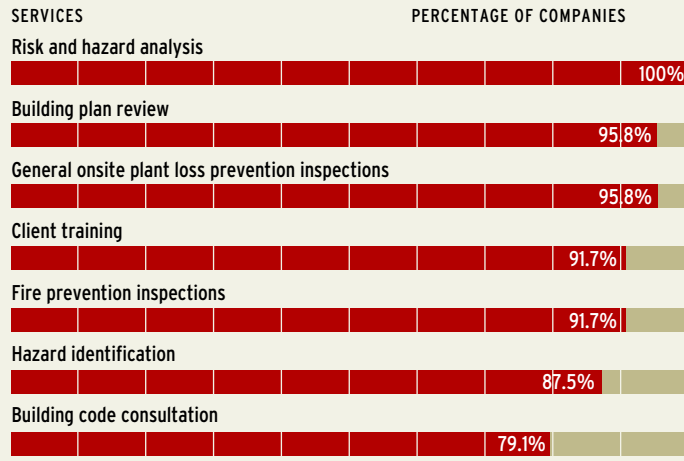
Ranked by number of professional property loss control staff



¹ Formerly TVA Fire & Life Safety Inc.
Source: BI survey

COMMON CONSULTING SERVICES

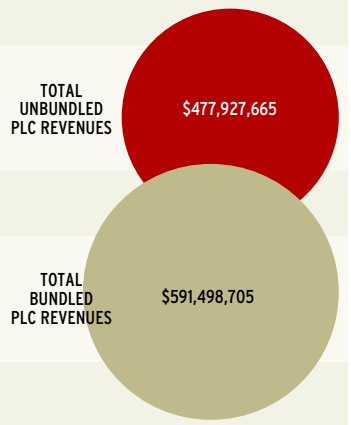
Most common services offered by property loss consultants



Source: BI survey

BUNDLED VS. UNBUNDLED

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



Source: BI survey

Largest property loss control specialists

Ranked by 2008 gross revenues from unbundled property loss control consulting*

Rank	Company/Address	Phone/Web site	Unbundled property loss control consulting revenue	% of property consulting revenue from unbundled services	Professional property loss control staff	Branch offices	Unbundled clients	Principal officer
1	ABSG Consulting Inc. 16855 Northchase Drive, Houston, Texas 77060	281-673-2800 www.absconsulting.com	\$185,000,000	100.0%	550	20	1,700	Tony Nassif, president/CEO- ABS Group
2	Global Risk Consultants Corp. 100 Walnut Ave., Suite 501, Clark, N.J. 07066-1247	732-827-4400 www.globalriskconsultants.com	\$54,240,000	100.0%	251	33	1,213	William F. Ramonas, chairman/CEO
3	Telgian Inc.¹ 2615 S. Industrial Park Ave., Tempe, Ariz. 85282	480-753-5444 www.telgian.com	\$46,885,000	65.2%	170	10	200	Russell Leavitt, CEO
4	Global Asset Protection Services L.L.C. 100 Constitution Plaza, 12th Floor, Hartford, Conn. 06103	860-293-7901 www.xlgaps.com	\$30,800,000	70.0%	165	16	225	Timothy Heinze, managing director
5	Matrix Risk Consultants Inc. 3130 S. Tech Blvd., Miamisburg, Ohio 45342	937-886-0000 www.matrixrc.com	\$5,914,950	100.0%	24	3	23	Walter P. Luker, CEO
6	Paragon Risk Engineering P.O. Box 648, Allenwood, N.J. 08720	732-785-0746 www.paragonconsults.com	\$5,190,000	100.0%	16	N/A	30	Robert McMullen, president
7	Risk Logic Inc. 93 Apple Ridge, Woodcliff Lake, N.J. 07677	201-930-0700 www.risklogic.com	\$1,750,000	100.0%	8	4	85	John Durante, president
8	Loss Control Associates Inc. 172 Middletown Blvd., Suite B-204, Langhorne, Pa. 19047	215-750-6841 www.losscontrolassociates.com	\$792,960	96.0%	7	N/A	48	Orville M. Slye Jr., president
9	Allrisk Engineering Inc. 903 E. Main, Suite 206, Auburn, Wash. 98002	253-670-0898 www.allriskengineering.com	\$750,000	100.0%	5	4	8	Jesse Wilson, president
10	Fire Protection Solutions Inc. 668 N. Coast Highway, Suite 518, Laguna Beach, Calif. 92651	866-777-3473 www.fpsolutions.org	\$684,755	100.0%	5	5	5	Steve Shabazian, president

*Only those companies that derive a majority of their total revenues from unbundled property loss control consulting are ranked. ¹ Formerly TVA Fire & Life Safety Inc. N/A=not applicable.

Source: BI survey

Researched by Karen Tucker

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REUTERS/LANDOV
The village of Onna, Italy, on the outskirts of L'Aquila was almost destroyed in an April quake that hit Italy's Abruzzo region.

Quakes: Europeans grapple with risk

CONTINUED FROM PAGE 9

million), according to Boston-based risk modeling firm AIR Worldwide Corp. That excludes business interruption losses, AIR said. Total damage in the April quake was estimated between €2 billion and €3 billion (\$2.85 billion to \$4.28 billion), a number that dwarfs insured damage due to low insurance takeup rates in the region, AIR said.

Although some international insurers have not noticed any changes in commercial buying since the quake in Italy, Manlio Lostuzzi, assistant general manager, head of retail and middle market

sales at Generali Italy, part of Trieste, Italy-based Assicurazioni Generali S.p.A., said smaller to midsize enterprises have taken notice.

"From April onwards, we have noticed a somewhat greater sensitivity for earthquake covers, especially among SMEs located in those Italian regions where the seismic risk is higher," he said in an e-mail.

The means by which earthquake risks are insured varies across Europe (see story, page 15).

While national pools can improve insurance penetration, gaps can persist. Turkey, which has a long history of major earthquakes, launched a pool in 2000 to increase

insurance penetration. Homeowners and residential buildings must have coverage, while industrial and commercial risks are insured on a voluntary basis.

Swiss Re's Mr. Bertogg is particularly concerned about Turkey's industrialized northeast that generates 40% of its gross domestic product. The quake-prone region is an important producer of European parts and goods, and several corporations across Europe and beyond depend on these suppliers, he said. "It is a hot spot and definitely it is not fully covered," he said.

Another concern is that companies, particularly small- to midsize ones, may be less aware of their exposure in regions where quakes are infrequent but potentially destructive, said Anselm Smolka, head of geological risks at Munich Reinsurance Co.'s corporate underwriting unit in Germany. Such areas include Austria; Belgium; France's Mediterranean coast, especially the Cote d'Azur; Germany's Lower Rhine region; Monaco; and southern Spain, he said.

In Slovenia and Croatia, earthquake coverage is offered, but it may not be taken up to the degree necessary, he added.

Building codes for new construction across Europe have been up to modern standards to resist earthquakes since around 2000, experts said.

Still, structures built since the codes were updated make up only 5% to 10% of all buildings, said Mr. Bertogg.

Nevertheless, the L'Aquila quake tested how well buildings constructed under more recent seismic design codes would hold up. With a couple of exceptions, they performed quite well, said Andrew Sorby, London-based model manager for Europe earthquake at Risk Management Solutions Inc., the modeling firm based in Newark, Calif.

Larger corporations tend to do more to retrofit their older structures or make sure their buildings can withstand a quake, insurance experts said.

That's the case at STMicroelectronics N.V., a semiconductor producer based in Geneva that has two facilities in Catania, Sicily.

On the island, which has earthquake and volcanic exposures, the company buys coverage on the global market with specific sublimits for earthquake risk, said Maurizio Micale, the company's Geneva-based director of risk management and insurance. Buying excess capacity to fully cover the risk would be too expensive, he noted.

Facilities where microelectronic device chips are manufactured cannot have any vibration, so the plants have been built with the most advanced earthquake-resistant materials, Mr. Micale said.

"We take the risk seriously," he said. "For this kind of exposure, it requires a mixture between prevention—depending on the quality of your construction—and insurance. Of course, from an insurance point of view, it depends on which kind of capacity you can buy at a decent price and market availability," he said.

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DISCOVER RE

Quake cover options vary by country in Europe

Across Europe, the means by which earthquake risk is insured varies from country to country.

In the United Kingdom and Ireland, earthquake coverage is a standard part of a property policy.

In Italy, Greece and Portugal, as is true in most of Europe, the risk is excluded, requiring buyers to get an optional earthquake policy extension or, in some cases, an endorsement.

For the most part, there is sufficient capacity for the cover and policy extensions generally are not prohibitively expensive, said Martin Bertogg, Zurich-based head of the earthquake group at Swiss Reinsurance Co.

"The costs of such an earthquake endorsement to a property policy are highly dependent on the distance to high-risk zones as well as industry type," Mr. Bertogg said in an e-mail. "These costs can range from some 10% of a standard fire/explosion property premium in low-hazard areas up to a small multiple of such a premium at highly exposed locations."

Often, he said, earthquake endorsements in high-risk areas have a higher deductible and/or smaller sublimit than the primary property policy. That allows buyers to "significantly reduce the premium expense, while still maintaining meaningful earthquake cover for the exposed entity."

Some countries utilize natural catastrophe pools to cover earthquakes, such as Spain's Consorcio de Compensación de Seguros and France's Catastrophes Naturelles. Other national programs are in the works.

Switzerland plans to make earthquake insurance mandatory, which will reduce premium costs for businesses and homeowners, said Mario Lampert, Swiss Re's Zurich-based head of client management for Switzerland and the Netherlands. However, the complexity in reaching a nationwide solution has delayed implementation of the requirement at least until 2011.

Europe's emerging economies also are turning to pools and other mechanisms. In Romania, a compulsory catastrophe insurance program for homeowners is to go into effect in January 2010.

Also, the World Bank is raising funds to capitalize a regional catastrophe facility for southeastern and central Europe, which will include Albania, Bosnia, Bulgaria and Serbia, said Eugene Gurenko, lead insurance and risk management specialist at the World Bank in Washington.

—By Richard Miller



QUAKES SINCE 2000

The U.S. Geological Survey estimates "several million" earthquakes occur worldwide each year, about 20,000 of which are located by its National Earthquake Information Center. As more seismographs are installed, the NEIC can locate more earthquakes. However, the number of large quakes—those magnitude 6.0 or greater—has stayed "relatively constant," the USGS says. Since 2000, NEIC has located more than 265,000 earthquakes worldwide.

Magnitude	2000	2001	2002	2003	2004	2005	2006	2007	2008*	2009*
8.0-9.9	1	1	0	1	2	1	2	4	0	0
7.0-7.9	14	15	13	14	14	10	9	14	12	7
6.0-6.9	146	121	127	140	141	140	142	178	168	62
All quakes	22,256	23,534	27,454	31,419	31,194	30,478	29,568	29,685	31,808	7,787

*As of July 27

Source: U.S. Geological Survey

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WATERY WEATHER

From El Niño to water temperatures to the Gulf of Mexico "dead zone," several trends are affecting the Atlantic and Pacific oceans this summer.

- An active El Niño, a periodic warming of the Pacific, returned in July and is expected to last through winter 2009-2010, government scientists say.
- In the United States, El Niño can bring needed winter rainfall to the Southwest, limit wintry weather in the North and reduce Florida's wildfire risk, but also produce more damaging winter storms for California and the South.
- Past El Niños resulted in severe flooding in Central and South America, but drought in Indonesia.
- In June, the world's ocean surface temperature was the warmest since record-keeping began in 1880.
- In late July, the annual Gulf of Mexico "dead zone," where oxygen levels drop, was about 3,000 square miles, smaller than had been forecast.

Source: National Oceanic and Atmospheric Administration

Climate: Rising losses make debate over change moot

CONTINUED FROM PAGE 10

grounded in historical experience."

It's a reaction evident in the industry's increased reliance on weather modeling to forecast events and their losses, Mr. Tobin said.

Andreas Spiegel, senior climate change adviser for Zurich-based Swiss Reinsurance Co., said the company has acknowledged findings of the Intergovernmental Panel on Climate Change, which in 2007 concluded that climate change is occurring and greenhouse gas emis-

sions are contributing to it. "I wouldn't doubt climate change is increasing losses," he said.

Swiss Re has taken steps to fight climate change, such as sponsoring Climate Week in New York to reach out to world leaders before December's U.N. Summit on Climate Change in Denmark, Mr. Spiegel said.

Industry advocacy groups are getting involved as well. The Reinsurance Assn. of America is collaborating with the Reston, Va.-based National Wildlife Federation and the Arlington, Va.-based Nature Conservancy to preserve natural features such as barrier islands in the Carolinas that mitigate climate-caused damage, said Frank Nutter, RAA president. Environmental groups hope to save the islands' wildlife habitat, while the RAA seeks to abate future coastal hurricane losses.

Catastrophes caused \$52.5 billion in insured losses in 2008, according to a Swiss Re sigma study. "Statistics confirm a trend towards an increase in the number and costs of natural catastrophes and man-made disasters," the study said.

Opportunity meets threat

Those in the insurance industry see environmental issues as an opportunity and a threat, and are altering how they manage their own risk.

As some insurers await environmental legislation before building options around climate change, brokers have helped them devise ways to serve buyers' needs, Mr. Britstone said. For example, Aon helped a client insure a carbon sequestration project, in which carbon dioxide is stored in the ground to prevent it from polluting the atmosphere. Based on a risk analysis, Aon's engineers and underwriters were able to characterize the risks in terms that fit insurers' current offerings, helping the client find coverage.

Brokers and insurers also have been collaborating to offer "green" endorsements, which supplement policies and enable buyers to rebuild damaged properties to enhanced environmental standards.

Reinsurers are preparing as well. Swiss Re has used catastrophe bonds to transfer risk to capital markets and employed index-based insurance to better protect against weather-related risks, Mr. Spiegel said.

For RSA, adapting to clients' needs and preventing losses are two tasks strongly affected by climate change, Mr. Pritchard said. For losses, he said the company is monitoring trends, such as flooding in England in the past decade, that could be attributable to climate change.

For Mr. Pottle, trends indicate increased losses will continue, regardless of whether or not they are due to human-caused climate change.

"It's part of the situation. Is it the whole situation? Probably not," Mr. Pottle said. "It could just be bad luck."

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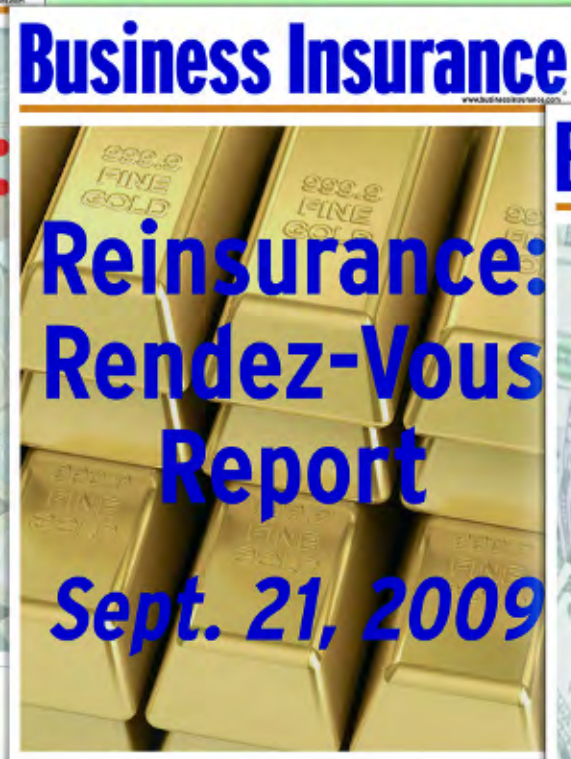


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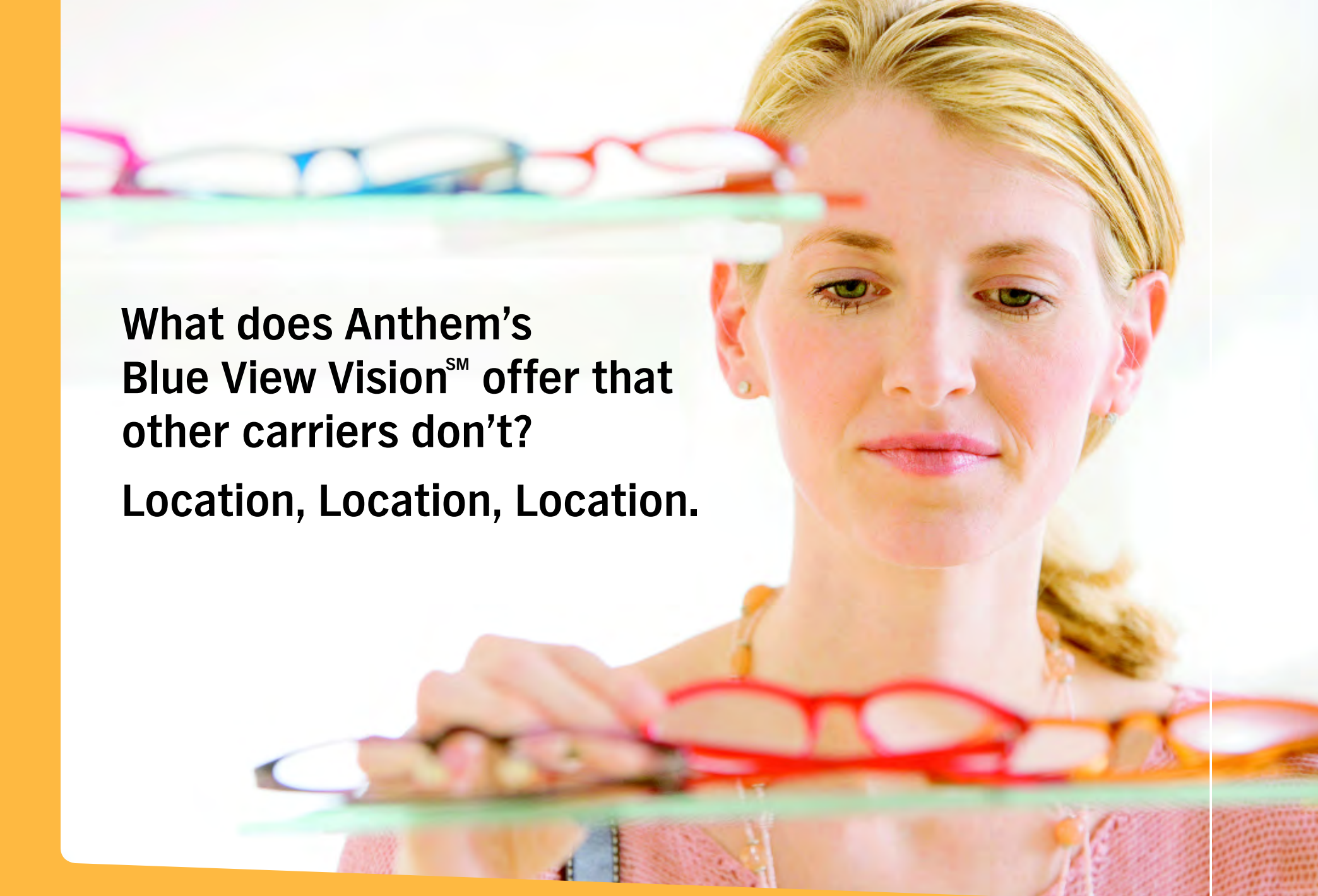
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Ranked by number of clients

COMPANY

BDO Consulting

500

Walworth & Nayh P.C., CPAs

500

Marsh Risk Consulting-Forensic Accounting & Claims Services (FACS) Practice

498

RGL Forensics

420

Denburg & Low P.A.

400

Source: BI survey

LARGEST BY NUMBER OF CPAs

Ranked by 2008 forensic accounting CPA staff

COMPANY

BDO Consulting

90

RGL Forensics

80

Marsh Risk Consulting-Forensic Accounting & Claims Services (FACS) Practice

37

SMART Business Advisory & Consulting L.L.C.

17

Crowe Horwath L.L.P.

11

Source: BI survey

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Company/Address	Phone/Web site	Clients	Revenue from forensic accounting	Total Staff	Principal officers
AGC-Alfermann Gray & Co. L.L.C. 219 Highway 72 W., Rolla, Mo. 65401	573-364-1700 www.agccpa.com	4	\$150,000	10	Felecia G. Dixson, partner
BDO Consulting 135 W. 50th St., New York, N.Y. 10020	212-885-8000 www.bdoconsulting.com	500	N/A	175	Carl Pergola, partner/executive director
Crowe Horwath L.L.P. 477 Madison Ave., New York, N.Y. 10022-5841	212-572-5500 www.crowehorwath.com	100	\$6,000,000	43	Jonathan Marks, Mari Reidy, partners
Dempsey Partners L.L.C. 426 Danbury Road, Wilton, Conn. 06897	203-762-5052 www.dempsey-partners.com	200	N/A	32	John D. Dempsey, managing partner
Denburg & Low P.A. 1350 Connecticut Ave., N.W., Eighth Floor, Washington, D.C. 20036	202-785-5600 www.denburg.com	400	N/A	12	Jay L. Denburg, president
Forensic Accounting Services L.L.C. 2389 Main St., Glastonbury, Conn. 06033	860-659-6550 www.forensicaccountingservices.com	50	N/A	1	Stephen Pedneault, managing director
Marsh Risk Consulting-Forensic Accounting & Claims Services (FACS) Practice 1166 Ave. of the Americas, New York, N.Y. 10036	212-345-1063 www.marshriskconsulting.com , www.marsh.com	498	\$50,000,000	185	Ken Giambagno, managing director/global practice leader
RGL Forensics 5619 DTC Parkway, Suite 1010, Englewood, Colo. 80111	303-721-8898 www.rgl.com	420	\$34,698,000	200	Paul MacPherson Brunner, CEO
RWH Myers & Co. L.L.C. 200 W. Monroe, Suite 1270, Chicago, Ill. 60606	312-739-1800 www.rwhmyers.com	50	\$4,000,000	18	Bill Myers, Sharon Pisko Wolfe, Glenn Rand, Chris Hess, Bill Warren, partners
SMART Business Advisory & Consulting L.L.C. 4 Penn Center, 1600 JFK Blvd., Suite 1030, Philadelphia, Pa. 19103	215-832-3406 www.smartgrp.com	50	\$6,000,000	20	Frederick J. Kohm Jr., John J. Swanick, senior managing directors
Walworth & Nayh P.C., CPAs 17800 Newburgh Road, Suite 101, Livonia, Mich. 48152	734-464-8990 www.walnay.com	500	N/A	18	Robert Walworth, president

Source: BI survey
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Interest in cat consortium grows

But little consensus on role to be played federal government

By MARK A. HOFMANN

WASHINGTON—Interest in natural catastrophe policy is stirring once again in Washington as hurricane season approaches its midpoint.

But as is usually the case, there is no consensus on what role—if any—the federal government should play. There is even less consensus about how federal policy would and should affect commercial policyholders.

The bills that have been introduced in both houses, both called the Homeowners' Defense Act of 2009, do not address commercial insurance. The bills would allow state-sponsored insurance funds to bundle their catastrophic risks in a new National Catastrophe Consortium, which then could issue financial instruments linked to the catastrophic risks or be reinsured through its members. The federal

'Property/casualty insurance is just part of a larger commercial building problem. If you're not able to extend your loan on your property, whether or not you have insurance for it is secondary.'

Jennifer Platt, International Council of Shopping Centers

government would guarantee state funds' bond obligations. It also would establish a federal natural catastrophe reinsurance fund.

Some insurance interests and others working through Washington-based ProtectingAmerica.org support the bill. The organization recently said enacting the Homeowners Defense Act, which includes tornadoes (see box), is crucial to reconstruction efforts after a major hurricane or earthquake.

The economic downturn makes enactment of the measure "even more critical," James Lee Witt, co-chair of ProtectingAmerica.org and former Federal Emergency Management Agency director, said during a Washington news conference in late July. He said he was "optimistic" the measure would win approval.

What the bill does not do, though, is provide any direct benefit for commercial insurance buyers. A group of commercial policyholders—the National Catastrophe Policyholders Coalition—formed in 2007 to promote policies to improve the availability and afford-

ability of catastrophe insurance (BI, May 14, 2007). Although the group still is "loosely together," its members are involved more in "information-sharing and monitoring legislation that is out there" than promoting a particular plan, said Jennifer Platt, director-federal government relations in the Washington office of the New York-based International Council of Shopping Centers, one of the coalition's original members.

She said the group's members tried to discern the best solution for commercial policyholders, but "we

have yet to come up with a solution that is both economically and politically viable."

"Certainly commercial policyholders have a stake in the debate," Ms. Platt said. "However, the current legislation is looking at state funds. There is a difference between commercial policies and residential policies."

"At this point, without another hurricane breathing down our necks, it's going to be more difficult. The other piece is that property/

See **FUND** on page 21

HISTORICAL TORNADOES

An average of 800 tornadoes are reported a year in the United States and occur most frequently east of the Rocky Mountains during the spring and summer. Record events include:

DEADLIEST: The so-called Tri-state tornado in March 1925 killed nearly 700 in a 219-mile swath across Indiana, Illinois and Missouri.

BIGGEST OUTBREAK: Some 147 tornadoes hit in 13 states on April 3-4, 1974, killing more than 300.

HIT MOST OFTEN: Oklahoma City, which has had more than 100 twisters touch down since records have been kept.

Source: National Oceanic and Atmospheric Administration



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Questions Answers

Eli Lehrer is a senior fellow at the Washington-based Competitive Enterprise Institute, a free market-oriented public interest group. Mr. Lehrer directs the CEI's studies of insurance and credit markets. Before joining CEI, he worked as speechwriter to former U.S. Senate Majority Leader Bill Frist, R-Tenn. Mr. Lehrer recently discussed federal natural catastrophe and insurance policy with Business Insurance Senior Editor Mark A. Hofmann.



Limited government role seen in tackling catastrophe risks

Q: What role should the federal government play in setting natural catastrophe policy?

The federal government certainly has a role to play in setting natural catastrophe policy, but it's a pretty limited role. For the most part, the federal government should work to encourage people to take better care of their own property, to reinforce

it, and to promote mitigation.

The best way to promote mitigation is through risk-based rates. The second-best way is through programs that, in one way or another, help people of modest means to mitigate their own homes.

Q: Why are you opposed to creation of a federal catastrophe insurance backstop?

It's a terrible idea for two major reasons. First and most importantly, it simply won't work. A federal insurance backstop would concentrate risk within the United States. That is a clear violation of sound actuarial principles. If it were to charge actuarially adequate rates, if legislation says that it will, such a backstop would have to charge more than the private reinsurance market charges. If it doesn't charge such rates, then it'll need a very large subsidy from taxpayers.

Second, and perhaps just as importantly, more importantly to some environmentalists, a backstop would encourage lots of development in places where it simply should not happen, environmentally sensitive areas, areas that are better used either for the homes of very rich, very stupid people or as open space.

Q: Turning to the National Flood Insurance Program: Here's a program that provides commercial as well as residential coverage. Do you think this program is viable or should there be another solution to it?

In the long term, there needs to be a private solution for flood insurance. The NFIP is almost \$20 billion in debt and has no practical way of paying it back. That said, it's not possible to end NFIP overnight. There needs to be an incremental process of reform that would involve improving the maps, raising rates both for conforming and nonconforming properties, and probably figuring out ways to move some people and some properties out of flood zones entirely. So there is a private solution and I don't think (the NFIP) is viable in the long term. In the short term, there's an alternative.

Q: Is the private market, particularly for commercial insurance, adequate to respond to another event on the scale of Hurricane Katrina?

Yes, the capacity was there for Katrina and, even with the weakened economy, the private capacity is still there particularly for commercial insurance. Rates might well go up after another major event, but that's a sign that the market works.

I don't really see any signs that the market, particularly for commercial insurance, is weak even in places where, as a result of burdensome government regulation, there is a weak individual or private market.

Q: If you could put one single reform in federal catastrophe policy into effect, what would it be?

I'd raise the rate substantially in NFIP and kick out a lot of the nonconforming properties. I'd make NFIP move closer to actuarial adequacy.

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Fund: Interest in cat consortium grows

CONTINUED FROM PAGE 19

casualty insurance is just part of a larger commercial building problem. If you're not able to extend your loan on your property, whether or not you have insurance for it is secondary," Ms. Platt said.

The ICSC remains hopeful that when Congress deals with financial services regulatory reform, "there will be some discussion of what should be done to protect commercial policyholders in the event of a major catastrophe," she said.

The Risk & Insurance Management Society Inc. has not taken a position on the Homeowners Defense Act, said Deborah Luthi, director-external affairs for New York-based RIMS and director-enterprise risk management at Matheson Inc. in Sacramento, Calif.

"RIMS has no formal position on the National Homeowners Defense Act as it addresses the needs of homeowners in disaster-prone areas but is silent on the commercial sector's needs," said Ms. Luthi. "While RIMS might prefer for the commercial sector to be included, and have communicated this preference to congressional offices, we understand the problems with homeowners securing insurance are especially onerous in certain areas of the country. We know that oftentimes homeowners insurance is practically impossible to get at affordable prices after a major event such as a hurricane. RIMS is also aware and sympathetic to some of our chapters in Florida, which have expressed this same sentiment."

Some observers question whether a federal backstop is needed for either personal lines or commercial lines.

For example, a group of insurers and insurance trade groups, environmental groups, emergency preparedness organizations and free-market think tanks have banded together in the new Washington-based group SmarterSafer.org. Its preferred approach is in risk-mitigation efforts called for in a trio of bills that Rep. Bennie Thompson, D-Miss., introduced earlier this year.

The Pre-Disaster Hazard Mitigation Enhancement Program Act of 2009, the Hazard Mitigation for All Act of 2009 and the First Responder Innovation and Support Act of 2009 encourage mitigation efforts that include increasing the structural integrity of houses and commercial buildings, coordinating the use of natural and man-made storm barriers, giving states incentives to improve their mitigation programs, and identifying and implementing innovative programs for first responders.

Skeptics of the backstop approach called the legislation unneeded.

"This bill displaces a productive private industry," said Eli Lehrer, senior fellow at the Competitive Enterprise Institute in Washington, which belongs to SmarterSafer.org. "It will do nothing in the long run to actually reduce homeowners' insurance rates, but instead provides a subsidy for unwise development."

"If you looked at the reinsurance renewals, brokers all had adequate

capacity for the catastrophe risks the cedents sought," said Frank Nutter, president of the Reinsurance Assn. of America, another member of SmarterSafer.org. "Rates were slightly up between 12% and 15%, driven largely by some decline in the capital positions of the reinsurers, but also by the 2008 hurricane season. From our perspective, there continues to be an adequate private market for catastrophe risk and therefore no need for federal program."

"We've had varying levels of disagreement with and occasional agreement with proposals to create a more straightforward federal back-

stop," said Joel Wood, senior vp of the Council of Insurance Agents & Brokers in Washington. "Just as hurricanes don't respect borders, they don't respect commercial vs. residential, but we think the core issue is whether or not actuarially computed reserves equate risk with premium. Florida's public plan is funded by a taxpayer guarantee to make up for inadequate premiums when large claims inevitably occur. We have skepticism but not outright opposition to a federal backstop. Politically, it is a very difficult economic environment to dramatically extend the contingent liabilities of the federal government."



AP PHOTO

Galveston, Texas, resident Melissa Martinez gathers belongings salvaged from her home in the aftermath of Hurricane Ike in September 2008.



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Market Moves

Florida insurance group buys commercial insurer

SUNRISE, Fla.—Focus Holdings L.L.C., an insurance-focused holding company based in Sunrise, Fla., has acquired Capacity Insurance Co., the firms announced.

CIC, also based in Sunrise, will continue its focus on habitational and small mercantile risks, but also plans to expand its business, Focus

said in a statement about the acquisition that was effective July 1.

Douglas W. Bullington, chief executive officer of Focus Holdings, has taken the same role at CIC.

After the purchase, Oldwick, N.J.-based rating agency A.M. Best Co. Inc. placed CIC's financial strength and issuer credit ratings under review with negative implications, reflecting "the uncertainty associated with potential growth."

Focus' best-known operating subsidiary is managing general agent MacNeill Group Inc.

Atlanta Life reopens its doors

ATLANTA—Atlanta Life General Agency has reopened as a boutique

insurance brokerage focused on small- to midsize minority- and female-owned businesses.

Atlanta Life General Agency, a subsidiary of Atlanta Life Financial Group Inc., was formed in 2000 but closed in 2004 because "the strategic goals of the parent company changed," according to company statement.

It has reopened as a multiline broker offering property/casualty, employee benefits, retirement benefits and other insurance products.

Leonard P. Grimes, chief operating officer of Atlanta Life Insurance Co., is president and chief executive officer of Atlanta Life General Agency, the statement said.

The office is in Herndon Plaza, at 100 Auburn Ave., Atlanta, Ga.

30303. Its phone number is (800) 879-3279.

CNA announces merger of E&S divisions

WABASH, Ill.—CNA Financial Corp. has merged its surplus lines business and wholesale property operations into a new division.

The unit, called CNA Select Risk, includes the firm's excess and surplus lines business and its wholesale property accounts, CNA said in a statement.

Senior Vp John Angerami is leading the Wabash, Ill.-based division. He joined CNA after 31 years at the Chubb Corp., where he most recently was president of its E&S business.

In the statement, Mr. Angerami said the new unit will focus on casualty programs, transportation and property, and plans to expand underwriting to other industry specialties.

Farmers to expand Michigan facilities

CALEDONIA, Mich.—Farmers Insurance Group of Cos. said it will build two new office facilities on its grounds in Caledonia, Mich.

Farmers will break ground this fall on a new 175,000-square-foot office building and a 100,000-square-foot print and distribution center in Caledonia, the firm said in a statement.

Farmers projects adding 1,600 employees during the next several years as it increases its capabilities, a spokesman said.

Los Angeles-based Farmers is a unit of Zurich Financial Services Group Inc., providing business insurance and financial services, among other services, to policyholders nationwide.

California county taps Hartford for disability

SAN BERNADINO, Calif.—The county of San Bernadino, Calif., has selected the Hartford Financial Services Group Inc. to provide short- and long-term disability coverage to its 18,000 employees, the firm said.

Simsbury, Conn.-based Hartford uses nurses as the first point of contact for workers with a short-term disability claim and includes return-to-work coordinators in its clinical team of professionals.

More than 1,100 other public employers use Hartford for disability, group retiree health and other insurance, the firm said.

Max Specialty licensed in Puerto Rico

RICHMOND, Va.—Max Specialty Insurance Co. has been licensed to write nonadmitted insurance in Puerto Rico, the firm announced recently.

Previously, the Delaware-licensed insurer had been approved to write business on a nonadmitted basis in 49 other states and the Virgin Islands.

The Richmond, Va.-based Max Specialty is the U.S. subsidiary of Max Capital Group Ltd., offering various forms of property, marine, casualty, excess liability, professional liability and umbrella insurance.

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UP CLOSE

Comings & Goings



JOHN TIERNEY

NEW JOB TITLE: Senior Vp of Boston-based Karen Clark & Co.

PREVIOUS POSITION: President of Boston-based Bunker Hill Insurance Co.

GOALS FOR NEW POSITION: To expand the scope of actuarial involvement in the management of catastrophe risk in the primary insurance market. Currently, in the primary insurance market, actuaries have not had sufficient involvement in the management of catastrophe risk. We want to change that condition.

INDUSTRY CHALLENGES: The biggest challenge...is developing

more sophisticated techniques in quantifying and understanding exposures. In the past, we have relied too much on historical loss experience, which doesn't always adequately reflect potential loss activity. Currently, there is too much of a reliance on models.

INDUSTRY OUTLOOK: Generally, I am positive on the industry. Our industry has shown a persistent ability to respond to new challenges. Given the volatility the country has shown in the financial industry, I think this industry seems to respond to challenges. We manage the risks to our business well.

OUTSIDE THE INDUSTRY, A DREAM JOB: To be general manager of the Boston Red Sox.

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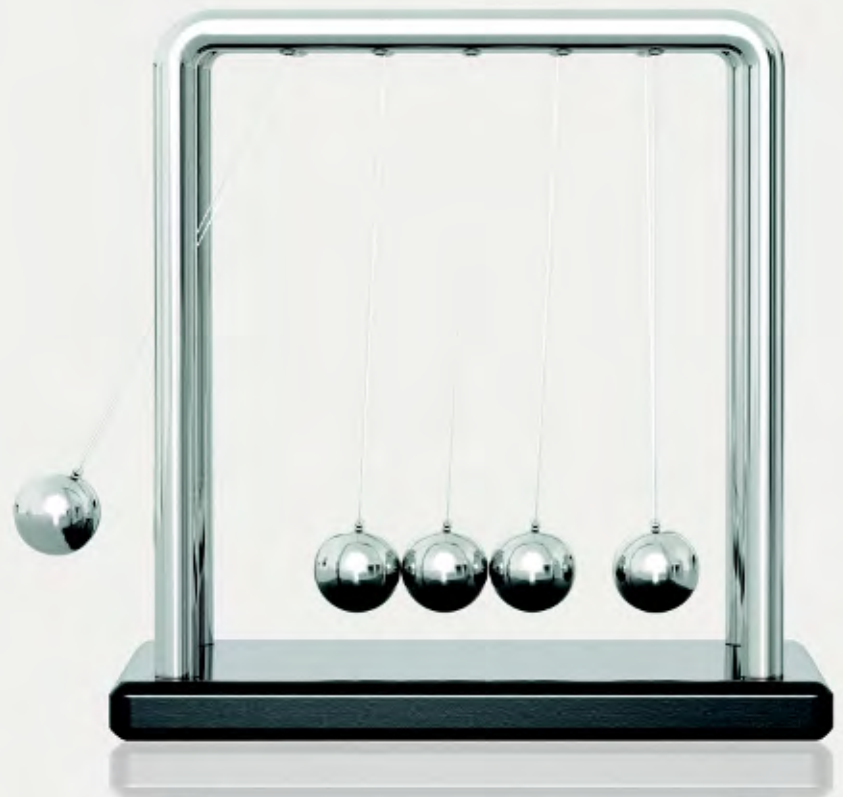
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LEGAL NOTICE

NOTICE

By order dated October 10, 2001, the Supreme Court of the State of New York, New York County, placed Frontier Insurance Company ("Frontier") into rehabilitation ("Rehabilitation Proceeding") and appointed as rehabilitator of Frontier ("Rehabilitator") the then-Superintendent of Insurance of the State of New York, Gregory V. Serio (and his successors in office) ("Rehabilitation Order"). Pursuant to the New York Insurance Law ("Insurance Law") and the Rehabilitation Order, the Rehabilitator was given the responsibility of, among other things, marshalling Frontier's assets and adjudicating claims consistent with Article 74 of the Insurance Law.

The Rehabilitator has submitted to the Court supervising Frontier's Rehabilitation Proceeding a verified petition ("Petition") seeking an order: (1) establishing a date certain ("Terramar Notice Date") as the last date on which a notice ("Terramar Notice") regarding any insurance policy or insurance or reinsurance contract issued by Terramar Insurance Company, Terramar Insurance Agency, Advanced Risk International, Ltd. or Terramar General Agency ("Terramar Policy") may be submitted to the Rehabilitator so as to preserve any obligation of Frontier pursuant to such Terramar Policy; (2) directing that the Terramar Notice shall be made on forms prescribed by the Rehabilitator and shall accurately and sufficiently set forth the required information identifying (a) the Terramar Policy pursuant to which Frontier has or may have an obligation ("Identified Terramar Policy"), (b) the policyholder(s) of such Identified Terramar Policy, (c) the person(s) with an interest in the Terramar Policy who, by submitting a Terramar Notice, seeks to preserve such person's interest in the Identified Terramar Policy ("Submitting Terramar Policy Interest Holder"), and (d) any claim under such Identified Terramar Policy where the Submitting Terramar Policy Interest Holder has knowledge of such claim prior to the Terramar Notice Date; (3) barring any claim against Frontier pursuant to any Terramar Policy unless such Terramar Policy and the policyholder(s) of such Terramar Policy have been accurately and sufficiently identified in a timely Terramar Notice; (4) barring any claim against Frontier pursuant to any Terramar Policy where the Submitting Terramar Policy Interest Holder had knowledge concerning such claim prior to the Terramar Notice Date and did not submit a timely Terramar Notice setting forth the required information concerning such claim; (5) barring any claim against Frontier pursuant to any Terramar Policy by any person other than the Submitting Terramar Policy Interest Holder who submitted the Terramar Notice in connection with such Terramar Policy; (6) establishing a date certain as the last date ("Bond Bar Date") on which a notice ("Bond Notice") regarding any bond issued by Frontier, including any surety bond or other bond or guaranty identified in New York Insurance Law Sections 1113(16) or 6801 ("Bond"), may be filed with the Rehabilitator so as to preserve any obligation of Frontier pursuant to such Bond; (7) directing that any Bond Notice shall be made on forms prescribed by the Rehabilitator and shall accurately and sufficiently identify (a) the Bond pursuant to which it is alleged that Frontier has an obligation, (b) the default, event, accident, or occurrence allegedly giving rise to a claim pursuant to such Bond ("Triggering Event"), (c) the date of the Triggering Event, (d) the alleged injury, loss or damage caused by the Triggering Event, (e) the dollar amount of the claim alleged as a result of the Triggering Event, and (f) the obligee or principal under such Bond who, by submitting a Bond Notice, seeks to preserve such person's rights under the Bond ("Submitting Bond Interest Holder"); (8) barring any claim against Frontier pursuant to any Bond unless a timely Bond Notice has been submitted that accurately and sufficiently identifies the Bond, the claim alleged pursuant to such Bond, and all other information required by the Bond Notice; (9) barring any claim under any Bond in which the Triggering Event occurs after a date certain ("Bond Cutoff Date"); (10) barring any claim against Frontier pursuant to any Bond by any person other than the Submitting Bond Interest Holder who submitted the Bond Notice in connection with such Bond; (11) approving the form and manner of notice to be given to all persons with an interest in a Terramar Policy or a Bond and all other interested parties (collectively, "Interested Persons") regarding this Order to Show Cause, the Petition and the relief sought herein; (12) approving the form and manner of notice to be given to all Interested Persons regarding the Terramar Notice Date, the Bond Cutoff Date, the Bond Bar Date and all other relief ordered herein; and (13) for other related relief as is just.

The Petition will be submitted to the Court on October 9, 2009 ("Return Date"). If you wish to object to the Petition, you must serve a written affidavit or affirmation setting forth your objections and all supporting documentation ("Answering Papers") upon the Rehabilitator so as to be received by the Rehabilitator at least seven days prior to the Return Date, and by submitting copies of the Answering Papers, with affidavits of service on the Rehabilitator, to the Clerk, at the Courthouse, located at 16 Eagle Street, Albany, New York, on or before the Return Date. Service on the Rehabilitator shall be made by first class mail at the following address:

The Superintendent of Insurance of the State of New York as
Rehabilitator of Frontier Insurance Company
123 William Street
New York, New York 10038-3889
(Attention: Andrew J. Lorin, Esq. - General Counsel)

All Frontier policyholders and creditors and other interested parties are advised to review all available information and to protect their rights accordingly. The Liquidator has posted the Petition on its website, www.NYLB.org. In the event of any discrepancy between this notice and the documents submitted to Court, the submitted documents control.

KERMITT J. BROOKS, Acting Superintendent
of Insurance of the State of New York as
Rehabilitator of Frontier Insurance
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Reform: Challenges mount as key Senate panel delays release of bill

CONTINUED FROM PAGE 1

exchanges where U.S. residents could shop for health plans, the Senate bill is expected to include state-sponsored, nonprofit cooperatives, which would be offered as one option in an insurance exchange.

"Conceptually, we like the idea as long as the co-ops aren't a public plan in drag," said Joel Wood, senior vp at the Council of Insurance Agents & Brokers in Washington. "The broader concern is the impact on existing group plans if every American is afforded access to some government-run plan."

Employers also hope the Finance

Committee bill, unlike the House bill, will include an individual mandate and not an employer mandate.

H.R. 3200 requires individuals to buy health care coverage or pay a tax to the federal government equal to 2.5% of adjusted gross income. It also mandates that employers provide a certain level of benefits established by a Health Benefits Advisory Committee or be subject to a tax of up to 8% of payroll.

Hopes for Senate proposal

Proposals being considered in the Senate Finance Committee are "not attractive to employers, but it does

the least harm," said Steve Raetzman, a senior consultant at Watson Wyatt Worldwide in Arlington, Va. "I think people are hoping that the Senate comes out with something that becomes the reference point for what can pass on a bipartisan basis."

Even before H.R. 3200's passage by three House committees, employers raised concerns about the legislation's potential impact on employer-sponsored benefit plans.

The National Coalition on Benefits, made up of more than 185 employers—including Boeing Co., Xerox Corp. and Caterpillar Inc.—as well as business groups—such as

the National Business Group on Health and the Business Roundtable—sent a letter to Democratic House Speaker Nancy Pelosi of California and Republican Rep. John Boehner of Ohio, opposing the House version of the legislation because of its potential to erode employer protections under the Employee Retirement Income Security Act.

"We're strongly opposed to anything that would touch ERISA," said Helen Darling, president of the Washington-based NBGH. "In particular, we're very concerned about so-called 'minimum credible coverage,'" that would be required under

H.R. 3200 to avoid the 8% payroll tax.

Some have expressed concerns about the uncertainty that aspect of the legislation would create for employers' existing plans (*BI*, July 27).

Insurers, which also support an individual mandate, voiced their opposition to H.R. 3200 at a teleconference last week, where AHIP President Karen Ignagni announced the industry trade group would step up its media campaign against any legislation that would include a public plan option.

"A government-run plan would inevitably rely on its price-setting ability to offer artificially low premiums, effectively subsidized by the private sector through cost-shifting," Ms. Ignagni said. "This would force employers to drop their coverage, creating a death spiral for private insurance and financial catastrophe for many hospitals and doctors."

Supporters of the public plan option, including most Democrats and the Obama administration, dispute that claim and say the public plan would foster greater competition among insurers.

Public option scaled back

Although the original version of the House bill would have allowed the public option to base provider payments on Medicare rates, the conservative Blue Dog Democrats successfully amended the legislation to require the public option to negotiate reimbursement rates directly with providers that choose to participate, similar to the way insurers negotiate with providers that choose to participate in their preferred provider networks.

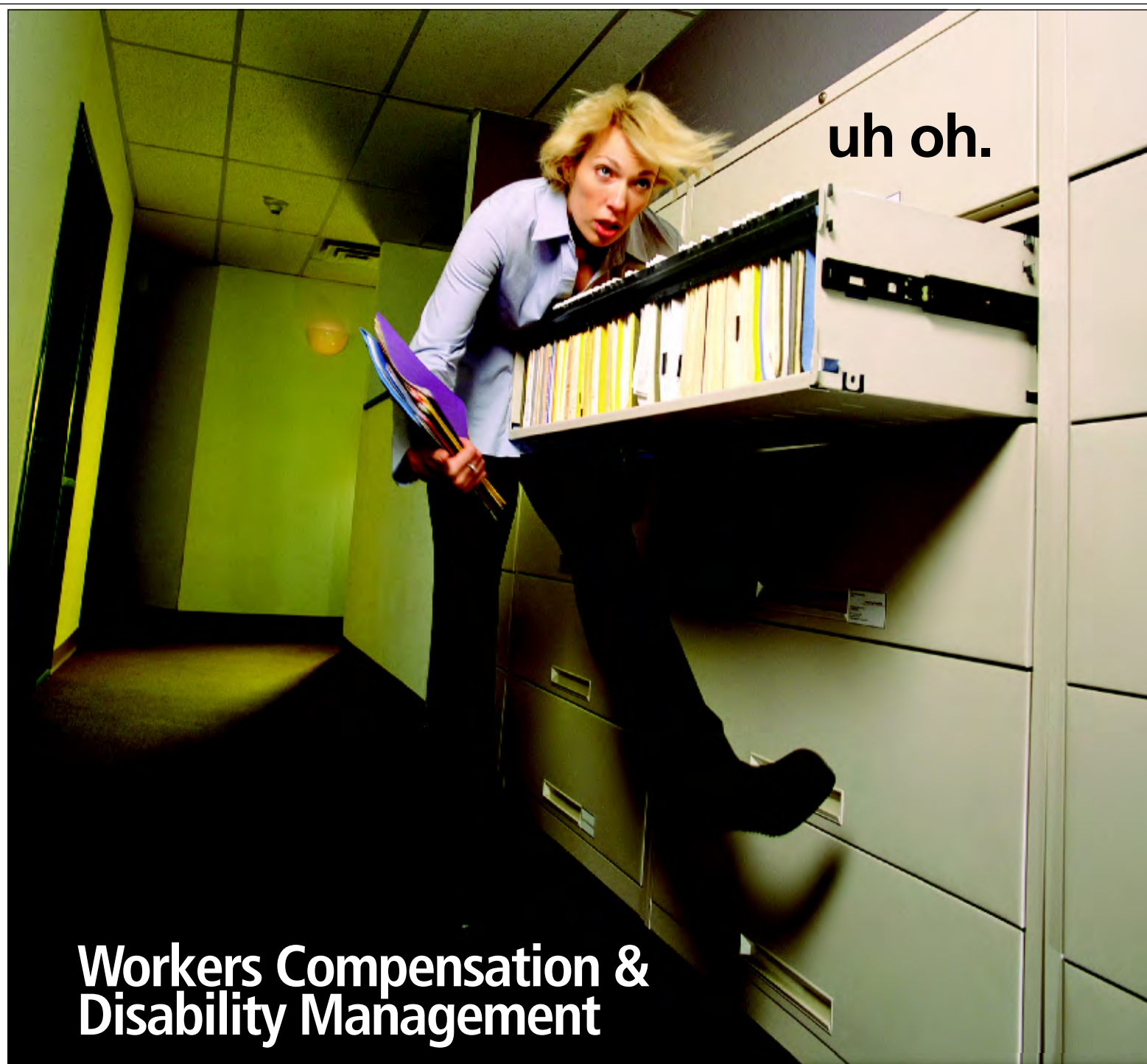
As AHIP pleads its case over the airwaves and anti-reform protesters flood town halls across the United States, employers continue to work through traditional channels, sending letters to Congress and talking directly with lawmakers about their concerns.

"We're encouraging our members to meet with their congressional delegations during the summer recess at this critical period," said Andrew Webber, president of the National Business Coalition on Health, which also has sent a letter on behalf of its coalition network of 7,000 public and private employers to President Obama and congressional leaders recommending that final legislation preserve ERISA.

Employers don't plan to enter the public debate, because "I'm not sure it would work," said NBGH's Ms. Darling.

"We're not going to be attending any town hall meetings," said Laurel Pickering, executive director of the New York Business Group on Health. "Instead, we have scheduled two of our own meetings" with lawmakers.

"We think it's better for us to have our own forum with Congress to lay out the issues that are important to us," Ms. Pickering explained. "We're clearly wanting to communicate our opinions about maintaining the employer-based system and protecting ERISA."



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Contingents: Gallagher deal seen opening door for Marsh, Aon, Willis

CONTINUED FROM PAGE 1

last month that he met with Illinois Attorney General Lisa Madigan's office about 25 times during the past four years to discuss the inequity.

"We've said all along that we were willing to give (contingents) up if the rest of the industry was going to follow," Mr. Gallagher said. "I'm very, very pleased that our attorney general and director of insurance—once they recognized that, in fact, the industry standard of contingent commissions was not going to change—agreed that it would be unfair to leave us in a situation where we could not collect them."

Ms. Madigan's office said as much in explaining the decision to lift the ban.

"Gallagher has fully complied with the terms of our settlement and has committed to providing its clients with full disclosure of its compensation arrangements. Because other brokers continue taking contingent commissions, the ban may require Gallagher to operate at a competitive disadvantage, particularly in this difficult economy," Ms. Madigan's office said in a statement.

Illinois Director of Insurance Michael T. McRaith echoed the attorney general's remarks, adding that while there is a growing trend toward full transparency, "we do need to continue to work toward a uniform standard for disclosure so that when a customer makes a decision, that customer is making a decision based on all the information that is relevant."

It remains to be seen whether other states will follow Illinois' lead and lift the contingent bans on Marsh, Aon and Willis.

The Illinois attorney general's office said it was willing to discuss the issue with Chicago-based Aon, which paid \$190 million in 2005 to settle client-steering and other allegations leveled by Illinois, New York and Connecticut.

The New York State Insurance Department, which was a party to

Buyers see different ways to address broker pay issue

Risk managers voiced various opinions about contingent commissions and the likelihood that the insurer-paid incentive payments will be permitted industrywide rather than banned entirely.

Similar to the Risk & Insurance Management Society Inc.'s position, David S. Hershey, risk manager of Lexa International Corp. in Portsmouth, N.H., said he was disappointed in Illinois' decision to amend Arthur J. Gallagher & Co.'s 2005 settlement agreement that banned contingents.

"I believe the only fair way of addressing the contingency process is to ban it entirely," Mr. Hershey said. "If everyone...is on a fee basis, all insureds would be the recipient of full disclosure" and there wouldn't be any need for additional regulation or legislation.

Bill Milaschewski, director of risk management for Cabot Corp. in Boston, said that while he can "accept contingent commissions for agents as they work on behalf of the insurer, brokers are hired by clients, not by insurers. As brokers work specifically for and on behalf of clients, they should be compensated by clients only," he said.

Jessica Maldonado, director of enterprise risk management for Centerline Capital Group in

New York, however, said she's not "fully against" brokers getting paid by insurers.

"The brokers absolutely, in my opinion, serve as a distribution channel to the insureds, and the insurance company needs that and they rely on that, and there is some validity to the fact that brokers should be compensated for that," Ms. Maldonado said.

Such compensation, however, should not be contingent on profit or volume, she said. Brokers "need to come up with a new model of how to get compensated for the value they provide (insurers). If they do that and they articulate that, then I don't have a problem with it."

"I understand and can see value in a system that rewards profitable business," said a risk manager who asked not to be identified. "There is a major problem, however, with steering, perceived or otherwise; lack of transparency; and a system that puts the burden on the risk manager to have to ask for the information."

"There are company systems in place that clearly identify down to a specific policy where contingent commissions are paid and this should be voluntarily disclosed to the client," the risk manager said.

—By Sally Roberts

the Marsh, Aon and Willis settlements, said it also is willing to revisit the issue.

"Right now, we are focused on increasing disclosure across the board," a NYSID spokesman said,

referring to the department's efforts to regulate producer disclosure standards. "Our goal is to level the playing field, and at some point we will need to revisit the settlement agreements and see if they still work. But our primary focus right now is our producer compensation disclosure regulation," he said.

New York Attorney General Andrew Cuomo and Connecticut Attorney General Richard Blumenthal could not be reached for comment.

Analysts say Gallagher's deal with Illinois paves the way for Marsh, Aon and Willis to amend their settlement agreements in the near future.

"I think it definitely will" open the door for Marsh, Aon and Willis to begin accepting contingents again, said Mark Lane, a principal and research analyst with William Blair & Co. L.L.C. in Chicago. But contingents likely never will be a central part of large brokers' business models like they once were or material to their finances, given "the fact they dropped the practice in the name of increased transparency and putting their clients first," he said.

"The regulatory pendulum is clearly shifting back in favor of the large insurance brokers," Keith F. Walsh, an analyst with Citigroup Global Markets, said in a note to investors. "Whether we call a commission contingent, supplemental or enhanced, there is a clear path opening for insurance brokers to earn more money."

New York-based RIMS said it was "disappointed" by Illinois' move to lift Gallagher's ban, especially as it was made without any concurrent proposal to regulate producer compensation disclosure.

"The investigations, admissions and fines that culminated in the agreement signed by some brokers

in 2005 prove that these practices can be, and were, manipulated to the detriment of the insurance consumer," RIMS said in a statement.

In an interview, RIMS Vp Terry Fleming acknowledged that New York authorities "are probably going to move in (a similar) direction at some point" and lift settlement bans against Marsh, Aon and Willis.

"We're encouraged that at least the New York State Insurance Department is working on a new regulation for transparency and disclosure and our feeling is that it will be in place before any of the settlements are lifted. Or at least that's our hope," said Mr. Fleming, who is director of the division of risk management at Montgomery County, Md.

Marsh and Aon applauded Illinois' efforts.

"We continue to believe that the settlement agreements should sunset and that a clear set of rules grounded in transparency should apply equally to all insurance producers," Dan Glaser, Marsh chairman and CEO, said in an e-mail.

Greg Case, Aon's president and CEO, during an analyst conference call described Gallagher's amendment as being much more about leveling the playing field than about collecting contingent commissions.

"Even with these steps, there's still a long, long way to go in the context of the overall industry," Mr. Case said.

Willis Chairman and CEO Joe Plumeri, who previously has called for abolishing contingent commissions, said during an analyst call that even if New York granted Willis permission to again accept contingent commissions, it would not do so. But Mr. Plumeri said he expects Willis to be paid similarly to brokers that accept contingents, just in the form of upfront commissions.

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Notice of increase in the Payment Percentage in relation to OIC Run-Off Limited and The London and Overseas Insurance Company Limited (both subject to a Scheme of Arrangement)

Notice is hereby given in the matter of OIC Run-Off Limited (formerly The Orion Insurance Company Plc) and The London and Overseas Insurance Company Limited (the "Companies") that, in accordance with the Companies' Scheme of Arrangement ("Scheme") which became effective on 7 March 1997, the payment percentage will be increased by 2% from 48% to 50%.

Creditors who have received a payment of 48% of their liabilities established under the Scheme will receive an additional 2% payment within 90 days. Policyholders who are still to establish their claims under the Scheme will receive payment as soon as those liabilities to them are agreed.

Queries regarding claims' agreement and payments should be directed to the run-off manager, Whittington Insurance Services Limited, appointed by the Scheme Administrators from PricewaterhouseCoopers LLP. Their details are as follows:

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Benmosche: New CEO's background seen as helpful

CONTINUED FROM PAGE 1

Golub, former chairman and CEO of American Express Co., as its nonexecutive chairman.

Meanwhile, AIG reported a \$2.51 billion loss for the first half of 2009, although it posted \$1.82 billion in net income for the second quarter. It also announced its plan to proceed to separate its commercial insurance operations into a special-purpose vehicle and rebrand them as Chartis (see story).

In addition, rating agencies downgraded the rating of two AIG units, including its airline leasing unit, to near-junk bond status.

Mr. Benmosche, 65, was MetLife's chairman and CEO from 2000 to 2006. Before joining MetLife in 1995, he was with New York-based PaineWebber Inc., most recently as executive vp.

Mr. Benmosche succeeds Edward M. Liddy, who said in May that he would step down as chairman and CEO when successors were found.

Mr. Liddy earned just \$1 a year, but Mr. Benmosche's salary has not yet been disclosed. It will have had to be approved by the federal government in light of AIG's acceptance of federal funds.

AIG also said Vice Chairman and Chief Restructuring Officer Paula Rospot Reynolds has decided to leave late in the third quarter.

Observers generally praised Mr. Benmosche's selection, noting his supervision of MetLife's transition to a publicly held insurer in 2000.

"He's got a lot of experience in dealing with restructuring and organizational issues, as well as the legal issues associated with rearranging a large, complex enterprise," said Bill Bergman, an analyst with Morningstar Inc. in Chicago.

Beyond "his own ability and experience," he likely has a network of attorneys "that is pretty strong because of his experience in the past" when seeking counsel, said Mr. Bergman.

Steven D. Schwartz, an analyst with Raymond James & Associates in Chicago, said Mr. Benmosche's MetLife experience will "come in handy" at AIG. "He's an impressive guy, and I think he'll be able to do good things there," he said.

Jim Amen, a partner with Philo Smith & Co. in Stamford, Conn.,

Commercial operations rebranded as Chartis

NEW YORK—American International Group Inc. has moved to separate its commercial insurance operations into a special-purpose vehicle and new brand, Chartis, to establish an identity distinct from its troubled parent.

AIG said it intends to contribute the equity of AIU Holdings Inc. and AIU Holdings L.L.C. into Chartis, comprising AIU's commercial insurance, foreign general insurance and private-client business.

Kristian P. Moor, an AIG and AIU veteran who has been named Chartis' president and chief executive officer, said a decision will be made later as to whether AIG will seek outside investors, a third party or a stock offering for up to 20% of the entity, depending on market conditions.

"We don't have an exact timetable," Mr. Moor said. "Obviously, the market conditions will dictate quite a bit." He said he expects to have audited, worldwide financials—and a board of directors and a request for proposals from investment bankers—by the end of this year.

Mr. Moor said the "overwhelming response" by AIU's customers, brokers and employees to a sur-

vey several months ago was the need for a brand change because "people really need to focus on what our organization is" and its financial strength.

Most of the company's units are expected to switch to the Chartis name by year-end.

"Today we have a new brand, so as an organization overall, everything that has gone on has really made us stronger and closer and more committed to our brokers and our customers," he said.

Marc Steinberg, a senior financial analyst with Oldwick, N.J.-based A.M. Best Co. Inc, said, "They're trying to rebrand...to further separate some of these businesses from the AIG name."

There is "headline risk" associated with the AIG name, said Kevin Ahern, a credit analyst with Standard & Poor's Corp. in New York. "We believe that the current situation at AIG was not caused in any way by any fundamental issues with the insurance operations."

Establishing an entity that would contribute to retaining management and clients is a step "in the right direction," Mr. Ahern said.

—By Judy Greenwald

said, aside from financial services, most concerns surrounding AIG relate to its life business, particularly international operations. Mr. Benmosche "has a good background to deal with all aspects of it," Mr. Amen said. "He seems well-suited to understand the scope of the business, and all the dynamics that surround it."

Marc Steinberg, a senior financial analyst with Oldwick, N.J.-based A.M. Best Co. Inc., said, "Overall, it's a good move for AIG." Mr. Benmosche "historically, has a very strong business presence."

He "can really offer AIG his

diverse experience through (merger and acquisition) activity and managing large global organizations so, all and all, I think it's a good fit." He "fits the ideal criteria from our perspective" as far as being a viable candidate who can help devise a strategy "to move the company forward," Mr. Steinberg said.

"Clearly, he brings a lot to the table in terms of skill set," said Kevin Ahern, a credit analyst with Standard & Poor's Corp. in New York. He led MetLife through major cultural change when it went public and was successful in large transactions when he was its leader, he said.

FOR SALE

Through July 31, American International Group Inc. said it has completed asset sales and dispositions this year alone that will generate \$4.6 billion in net proceeds to repay the federal government. This includes the \$1.1 billion through a public offering of AIG-owned common shares of Transatlantic Holdings Inc. The largest asset sales since late 2008 include:

NOVEMBER 2008: Sao Paulo-based Uniao de Bancos Brasileiros S.A. acquired AIG's shares in Unibanco AIG Seguros S.A. for \$820 million. As part of the deal, AIG acquired the shares held by AIG Brasil Companhia de Seguros S.A. for \$15 million.

APRIL 2009: AIG completed the sale of HSB Group Inc., parent company of Hartford Steam Boiler Inspection and Insurance Co., to Munich Re Group for \$739 million and assumption of \$76 million of outstanding HSB capital securities.

MAY 2009: AIG sold its prime real estate holding in Tokyo to Nippon Life Insurance Co. for \$1.2 billion.

JULY 2009: AIG sold 21st Century Insurance Group, the wholly owned subsidiaries comprising AIG's U.S. personal auto business, to Los Angeles-based Farmers Group Inc. for \$1.9 billion.

JULY 2009: AIG sold the majority of the U.S. life insurance premium finance business of AIG Credit Corp. and A.I. Credit Consumer Discount Co. to First Insurance Funding Corp. for \$679.5 million plus the possible purchase of additional insurance premium finance assets for \$61.2 million.

Source: AIG reports and filings

Mark Lane, a principal and research analyst with William Blair & Co. L.L.C. in Chicago, said, "I think he has more comprehensive and broader experience than Ed Liddy, although he still may lack some global and more comprehensive financial services experience."

Mr. Lane added, "He's definitely an insurance guy, I'd say, which may be good or bad."

Greg Case, president and CEO of Chicago-based brokerage Aon Corp., described Mr. Benmosche in a statement as an "excellent choice."

Mr. Benmosche may have to endure the close government scruti-

ny Mr. Liddy encountered, although some believe this function may be filled by whoever is ultimately named as chairman.

Cathy Seifert, an S&P insurance equity analyst said, "I do think he is capable of this."

Referring to Ms. Reynolds' departure after joining AIG in 2008 to oversee the divestiture of AIG assets and be chief liaison with the Federal Reserve Bank of New York, Best Vp Andrew Edelsberg said he supposes AIG "believes they have stabilized the company at this point."

Overseeing AIG's dismantling will be a challenge.

For instance, Moody's Investors Service on July 31 downgraded the ratings of International Lease Finance Corp. to Baa3 from Baa2 for senior unsecured debt and to Prime-3 from Prime-2 for short-term paper, and placed the ratings under review for further possible downgrade. Moody's cited ILFC's constrained ability to issue new unsecured debt, which it has historically relied upon to meet its funding needs.

Moody's downgraded the ratings of another AIG unit, American General Finance Corp., to the same levels.

Earlier estimates of how much AIG could fetch for ILFC ranged as high as \$12 billion, but lower ratings could increase its cost of capital and reduce its value.

Robert Riegel, managing director at Moody's, said AIG's results reflected "some stabilization" of its units, but its situation affected its "ability to sell new products to some extent, so the premium decline is partly attributable to that."

Ms. Seifert said ILFC's downgrade to "almost junk" status is a "big negative."

"Real concerns" exist about AIG's ability to repay the federal government, Ms. Seifert said. "There's a very tough environment out there, and people know there's blood in the water."

AIG's commercial net premiums written decreased 18.3% in the second quarter to \$4.97 billion. The unit posted a 99.8% combined ratio for the quarter vs. 93.9% a year earlier.

While "underlying profitability was greatly enhanced by some favorable mark-to-market changes," the "underlying fundamentals of a lot of core units remain very weak and very challenged," Mr. Seifert said.

AIG's stock closed at \$27.14 Friday, more than double the previous week's close of \$13.14 per share.

Italy: Buyers work to manage new risks

CONTINUED FROM PAGE 4

expense in keeping technology protected from outsiders, providers and customers may not be as vigilant, which Mr. Rubini said "is becoming a big problem."

Technology service providers generally guarantee clients that computer system outages will last no longer than 12 to 24 hours, said Marco Terzago, risk manager at SKF Industrie S.p.A. in Torino, Italy, and ANRA's deputy chairman.

Often, though, no analysis is performed to show top company managers how a 24-hour outage would affect the business, Mr. Terzago



Mr. Terzago



Mr. De Felice



Mr. Vaccarino

said. "There is no integration between the operational business continuity plan, if there is one, and the disaster recovery plan done with the supplier. It's really an issue."

Risk managers also need to take a closer look at whether ERM is best-suited to their organizations, the experts agreed.

"A lot of people are talking about

going back to the basics" of identifying, assessing, monitoring and mitigating risks, said Maurizio Castelli, Milan-based managing director of the Italian branch of XL Insurance, a unit of XL Capital Ltd. During the financial crisis, problems in some ERM programs surfaced because companies implemented ERM programs in a theoretical rather than practical manner, he said.

Alessandro De Felice, group risk manager at Prysmian S.p.A., a Milan-based manufacturer of cables and systems for energy and telecommunications companies, said an ERM program should be based on risk managers' knowledge of the exposures, rather than "the theory of consultants who bill millions in invoices to set up an ERM

approach that applies formulas and completely ignores traditional risk management."

ERM should apply basic risk management across the spectrum of an organization's risks, Mr. Castelli said. "How can we be more effective in this type of approach to a broader range of risk? Probably not with one type of ERM, but with more of a committee approach, working in teams."

Milan-based Jorge Luzzi, director of corporate risk management at tire-maker Pirelli & C. S.p.A., Simone Vaccarino, head of credit management, treasury and insurance at telecommunications firm Fastweb S.p.A.; and Roberto Bosco, corporate risk manager at media company Mediaset Group Rti S.p.A., also participated.

Hartford loses \$1.2B, raises more capital

By JUDY GREENWALD

HARTFORD, Conn.—Hartford Financial Services Group Inc.'s property/casualty operations remain strong, but uncertainty continues to shadow the insurer because of its life operations, observers say.

However, Hartford's disclosure last week that it raised \$900 million in a common stock offering may be a promising sign, one analyst said.

For first-half 2009, Hartford reported a \$1.22 billion loss compared with a \$688 million profit for the same period last year. For the second quarter, the insurer reported a \$15 million loss vs. a \$543 million profit a year earlier.

Second-quarter results reflected a \$649 million aftertax net realized capital loss, due primarily to \$207 million in impairments and a charge of about \$300 million related to Hartford's obligations to Allianz S.E. from the June closing of Hartford's investment agreement with the U.S. Treasury, according to the insurer.

"Profitability remains strong in our ongoing property and casualty operations, which is particularly noteworthy at this stage in the price cycle," Chairman and Chief Executive Officer Ramani Ayer said in a statement.

Mark Lane, a principal and research analyst with William Blair & Co. L.L.C. in Chicago, said Hartford has stabilized its ratings and marketplace position "for the time being, although I still think people are concerned about their staying power to a certain degree, and I still think they're vulnerable to employee and client departures."

"They're still in the process of rebuilding credibility and rebuilding their staying power in the market," said Mr. Lane.

"I still think the future is pretty uncertain for them, at least within their life segment," said Drew Woodbury, an associate equity analyst with Morningstar Inc. in Chicago. "The property/casualty operations

K&R: Cover may respond

CONTINUED FROM PAGE 3

son said. But "under the terms and conditions of (a standard K&R) policy, there is no reason why that wouldn't be covered."

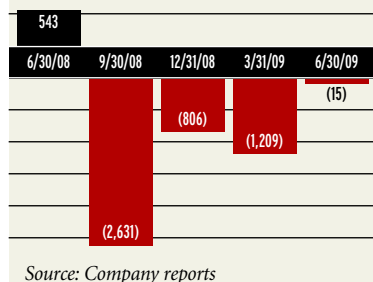
Ms. Ling and Ms. Lee spent more than four months detained after a North Korea court sentenced them to 12 years of hard labor for entering the country illegally while filming a story about the country's border with China.

Their release came after last week's highly publicized meeting between former President Clinton and North Korean leader Kim Jong Il.

Because there was no ransom demand, situations like Current TV's likely would involve the wrongful detention portion of a K&R policy, agreed Greg Bangs, vp and worldwide product manager for crime and K&R insurance at Chubb Group of

QUARTER BY QUARTER

Profit and (loss) for Hartford Financial Services Group, in millions of dollars.



Source: Company reports

have done relatively well, especially compared to their life segments."

"Financially, the company appears to have largely stabilized," said Paul Bauer, senior credit officer with Moody's Investors Services in New York "At this point, we're not seeing the big losses that we've seen in recent quarters," he said. Moody's outlook is "developing."

Fitch Ratings' outlook, however, remains negative, said Brian Schneider, an analyst in Chicago. "We're still a bit cautious as to what the ultimate investment recovery may be."

Andrew Edelsberg, vp with Oldwick, N.J.-based A.M. Best Co. Inc., said "international operations are no longer core to their strategy. They're going to focus on the U.S." for Hartford's life and property/casualty business. "They still have a significant franchise, a recognized name, and their property/casualty operations have been pretty solid throughout this period."

Meanwhile, Hartford said its common stock offering raised \$900 million for general corporate purposes, \$150 million more than planned.

That suggests improving sentiment among investors, said Robert Hafner, associate director at New York-based Standard & Poor's Corp. "There are clear indications that the situation for the Hartford is starting to improve," he said.

Insurance Cos. in Warren, N.J.

Wrongful detention insurance typically excludes coverage for someone violating the law, Mr. Bangs said. That could be the case if, as North Korea charged, the journalists entered the country illegally.

A policyholder still would have coverage, though, if parties are held under duress and the country holding them uses their detention for propaganda or political purposes, Mr. Matheson said.

Many news organizations purchase K&R insurance to protect their correspondents, Messrs. Matheson and Bangs noted.

"Every major K&R insurer certainly writes their share of news-gathering organizations," Mr. Bangs said. Within the past year or so, some news companies have added freelance staff and independent contractors to the cover, he added.

Scheffel: Allianz changes the mix in U.S.

CONTINUED FROM PAGE 4

rate & Specialty desks, and those desks will cover all our core product lines. That means the diversification strategy for us as a region will grow.

Q: What are Allianz clients seeking most in the current environment?

Allianz customers are looking for long-term, global partnership from a carrier that has the size and quality of network they need; financial stability; quality know-how and service capability, such as loss prevention advice; and a carrier that pays claims when they happen. Clients want to be able to mitigate cycle swings. And being in a long-term partnership helps mitigate the degree of cycle swings.

Q: What are Allianz's core strengths?

Our top strengths are our people and our client relationships. I could not be any more proud of the team that Allianz Global Corporate & Specialty has here in North America. I am very fortunate to be able to say that every day I look forward to coming into work. We're here in North America but part of a huge global team. We have diversification within the company. We engineer well.

If I may borrow a quote from the Chicago Blackhawks—I'm a big hockey fan—it's "one goal, one team." Our team is also extremely client-focused. The Allianz Global Corporate & Specialty North America team is brought together annually for our "Client Focus Conference." This conference educates our

employees on our clients' feedback and provides training on how to be even more client-centric.

It is critical to our success that we are continually listening to our clients and receiving their feedback. In 2008, we developed the Allianz Client Advisory Board, where 13 key clients regularly provide us with input and act as true advisers to our business decisions.

Q: What's next for Allianz in North America in the next 12 months?

The long-term strategy is we would like to continue to grow but grow profitably. However, we're not going to sacrifice underwriting for the sake of growth. One of my personal goals is for Allianz to be recognized as an industry leader in all our product lines.

Cup: FIFA uninsured for strike exposure

CONTINUED FROM PAGE 4

the 2010 and 2014 events after putting together a unique arrangement to provide cancellation coverage for the 2006 World Cup.

The organization turned to the capital markets in 2003 and purchased a \$260 million catastrophe bond to cover cancellation expenses if the 2006 event could not be played. It was the first such bond to transfer the risk of staging a sporting event to the capital markets and was the first to cover the risk of terrorism.

FIFA is forgoing cancellation cover of the 2010 and 2014 World Cups, instead covering the more likely risks of postponing or moving the events.

Several global insurers are involved in the coverage, the bulk of which is reinsured with Munich Reinsurance Co. and Swiss Reinsurance Co., Mr. Kattner confirmed.

A source with knowledge of the coverage said it is structured to essentially function as a fronting arrangement whereby the direct insurers pass along nearly all of the risk.

The coverage was brokered by Erwin Himmelseher Assekuranz-Vermittlung GmbH & Co. in Cologne, Germany, Mr. Kattner said.

The union spokesman was optimistic about completion of the World Cup facilities in South Africa.

"We have ironed out many of the issues we have long held with the construction industry," he remarked, and none that remain appear contentious enough to lead to a labor action.

"The facilities will be completed in time," the spokesman said.

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Incident Management Success with Enterprise-class Technology

August 25 | 1:30 PM Eastern

This webinar will help you gain an understanding of what enterprise-class incident management technology and service can do for your organization, and how a tailored offering that matches your unique needs can deliver more timely and accurate information, maintain control over critical incident intake, and control costs.

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Counterparty Financial Strength: Assessing Risks of Key Partners

September 1 | 2:00 PM Eastern

Counterparty risk is significant and in the spotlight today. Assessing counterparty risk is particularly important when the counterparty is an insurance company. This live, 60-minute webcast will explore what risk managers should be thinking about and questions they should ask to assess the financial strength of the insurers with which they entrust their organizations' assets and earnings stability.

For details, visit BusinessInsurance.com/Webinars

News In Brief

CONTINUED FROM PAGE 1

Benchmark Survey," produced by New York-based Advisen Ltd. Falling demand as a result of the recession has prolonged the soft market, Advisen said. Workers compensation renewal premiums were down an average of 2.8% in the second quarter, while general liability renewal premiums posted a 1.1% drop on average, according to the benchmark survey. D&O premiums increased on average 2.9% in the quarter; but, excluding financial services companies, policies renewed with a 4.1% average decrease. Property premiums fell less than 1%, compared with a 6.1% drop in the second quarter of 2008, the report found.

Delaware department forms captive division

Delaware Insurance Commissioner Karen Weldin Stewart has established a Bureau of Captive and Financial Insurance Products within the state's insurance department to provide more dedicated resources to the regulation of Delaware captives. The new captive division is led by Steve Kinion as the bureau's director. Mr. Kinion is an insurance attorney and a former deputy insurance commissioner of Oklahoma. Mr. Kinion succeeds William P. White in leading Delaware's captive program. Mr. White left the department when his contract expired at the end of July and is doing alternative risk transfer consulting through his company, Prism Strategies L.L.C. Delaware had 40 licensed captives at the end of 2008.

Securities lawsuits rise in third quarter: Report

An increase in securities-related lawsuits filed during the first weeks of the third quarter suggests a second-quarter lull in the litigation may have been an aberration, concludes an Advisen Ltd. report. Plaintiffs filed 221 securities lawsuits in what Advisen described as a "hyperactive first quarter." In the second quarter, just 140 such suits were filed, including 37 class actions, a sharp decrease from the previous quarter, New York-based Advisen said. Advisen also said federal securities class action suits no longer account for the majority of securities

suits, as was true in the past. In the second quarter, the most frequent claims were securities fraud suits filed by regulators and law enforcement agencies.

Swiss storm damage could hit \$228 million

Insured property damage in Switzerland from deadly storms that swept through central and eastern Europe last month could reach as high as €160 million (\$228 million), the Intercantonal Reinsurance Union says. The storms pounded the region July 23-24 with high winds, heavy rain and hail that killed at least 11 people, battered property, and caused flooding in Austria, Czech Republic, Germany, Poland, Slovakia and Switzerland.

Cat bonds total \$1.38 billion for half

Nine catastrophe bonds totaling \$1.38 billion have been issued during the first half of this year, compared with 11 transactions valued at \$2.4 billion during the same period last year. The roughly \$1 billion decline represents a 42.5% reduction in risk capital, according to New York-based Guy Carpenter & Co. L.L.C. and GC Securities, both units of Marsh & McLennan Cos. Inc. The activity represents a positive rally after the hiatus the insurance-linked securities market experienced during the second half of 2008, when the financial crisis hurt the catastrophe bond market.

Noted

CNA Financial Corp. has named Bob Lindemann to the recently created post of president and chief operating officer of CNA Commercial, which includes the insurer's business insurance, middle market and risk management units. Mr. Lindemann most recently served as chief operating officer of Zurich North America. **White Mountains Insurance Group** is reorganizing its reinsurance business by converting its Bermuda reinsurance operations into a branch of White Mountains Re Sirius. White Mountains Re President and Chief Executive Officer Allan Waters said in a statement, "The reorganization keeps our successful Bermuda reinsurance team in place while bringing the security of the whole Sirius balance sheet to our clients in Bermuda."...Members of the International Organization for Standardization have endorsed the first **international standard for risk management**. The ISO 31000:2009 standard is expected to be available in October.

Reinsurance: Bill targets non-U.S. cover

CONTINUED FROM PAGE 4

important safety valve in many areas of the country," particularly in disaster-prone areas, said Deborah M. Luthi, a member of RIMS board of directors and director of risk management services at Matheson Inc. in Sacramento, Calif.

Opponents pointed to a May study by Cambridge, Mass.-based Brattle Group that said the proposed legislation would cost consumers more than \$10 billion per year and reduce U.S. reinsurance capacity by 20%, hitting the disaster-prone states of California, Florida and Louisiana the hardest.

Foreign-based insurers such as Zurich-based Swiss Reinsurance Co. say they reinsure their business with affiliates because it's a more effective way to manage capital, not to gain tax advantages.

"This is very punitive, and it's clearly a double tax," said Michael Natal, vp-finance for Swiss Re in Armonk, N.Y. He said Swiss Re, as a group, already pays taxes to Switzerland on the portion of U.S. business it cedes to its affiliates.

Such a measure could result in Swiss Re "reducing its U.S. business, or pulling out of the market entirely," Mr. Natal said.

The controversy over the perceived tax advantage for foreign-based insurers and reinsurers has been brewing for several years, observers say.

Rep. Neal introduced a similar measure last year, on which Congress took no action. In December, Sen. Max Baucus, D-Mont., sought comments for a draft proposal on a similar measure. The effort gained momentum again in May when President Obama said a tax haven crackdown was needed, although he did not specifically include limiting tax deductions for foreign-placed reinsurance. Soon after, Rep. Neal said he would reintroduce his bill, saying he hoped President Obama's initiatives would reinforce his efforts.

Opponents argue the bill is "unfairly" marketed as tax-haven legislation.

One reason the previous legislation was unsuccessful is because it was viewed as a move that could affect capacity, said Howard Mills, a New York-based director and chief adviser for the insurance industry group of consultants at Deloitte & Touche USA L.L.P. "Anything seen to further reduce capacity could be viewed negatively," he said.

As a stand-alone tax measure,

observers say the bill is not likely to succeed. However, "this bill could go through as a revenue raiser on another piece of legislation completely unrelated to reinsurance," said Eli Lehrer, a senior fellow with the Competitive Enterprise Institute in Washington. Opponents said this scenario poses the "biggest threat."

Observers say the political climate also has intensified since the previous measure was introduced. While President Obama has not backed the latest measure, "the Democratic president and the Democratic Congress are looking for ways to raise revenue to pay for their programs," said Robert P. Hartwig, president of the New York-based Insurance Information Institute.

Observers say any action on the bill is unlikely until after the August recess. In addition, the bill has not yet been evaluated by the Congressional Budget Office to determine how much tax revenue the bill could generate.

However, opponents said they plan to keep up lobbying efforts.

"We plan to be pushing just as hard" to prevent it from moving forward, said Terry Fleming, a vp of RIMS and director-division of risk management for Montgomery County in Rockville, Md.

FDIC: Move to collect on D&O coverage

CONTINUED FROM PAGE 3

sions, brokers and attorneys say the use of the exclusions dissipated during the recent soft market, though recently insurers have again sought to insert regulatory exclusions. While they have been unsuccessful in most cases, the riskiest financial institutions have been forced to accept them, the observers say.

"We're seeing some insurers being very insistent that they get regulatory exclusions," said William A. Boeck, a Kansas City-based senior vp and insurance and claims counsel at Lockton Financial Services. "The battle days of regulatory exclusions may be coming back."

Some legal observers say another battle could loom over the "insured vs. insured" exclusion, which bars coverage for claims by one insured entity against another insured entity, traditionally intended to forestall collusion. The question is whether the FDIC, in stepping into the shoes of an insured bank, is barred by such exclusions from suing directors and officers, who also are insured under

the same D&O liability policy.

Kay Wilde, a Chicago-based attorney and consultant in Lovells L.L.P.'s insurance and reinsurance group, said the wording of such exclusions varies widely, but in cases where the policy specifically extends the exclusion to the insured entity's bankruptcy trustee, some courts have found for the insurer.

"When it's the standard, vanilla 'insured vs. insured' exclusion and it doesn't have that specificity, then courts tend to not apply that and, in those cases, they find that there is coverage," she said.

Mr. Shappell said one of the largest concerns of policyholders is that the FDIC will decide "this is a good source of revenue" and file a high volume of suits simultaneously or at the same time as a bevy of suits from other regulators and plaintiffs.

"We're watching very carefully what the FDIC appetite is here to file these claims and litigate these claims because, particularly if the FDIC is going to be looking to hold individuals responsible for the losses of a (financial institution), that's

a huge fight," he said. "People will be fighting for their financial life. Those cases do not come cheaply."

The size and complexity of cases brought by the FDIC likely would lead to higher defense costs, which already have inflated markedly in recent years, legal observers say. In many cases, observers say defense costs alone can exhaust the primary layer of D&O liability coverage, and begin to impact excess insurers.

"Several years ago it was somewhat safe to assume that defense costs (would) be contained in the primary layer and I don't think you can (assume that) anymore," Randy Hein, vp and quantitative analytics manager at Chubb Specialty Insurance, said in an Aug. 3 webinar sponsored by Advisen Ltd.

The FDIC may have a different willingness to settle than the typical D&O liability plaintiff, for political or other reasons, Ms. Wilde said.

"I had a client describe it as 'This is going to be a nightmare,' because it's just a different dynamic than most claims handlers are used to," she said.



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Business Insurance END PAGE

Contributing: Jeff Casale, Judy Greenwald, Mark A. Hofmann

Jeter's contract stops short of fun

Poor Derek Jeter.

For all his millions, the New York Yankees shortstop can't go hang gliding, hot air ballooning or even play bocce ball, according to terms of his contract.

Mr. Jeter will make \$20 million this year under his contract with the New York Yankees that concludes in 2010 with a salary of \$21 million.

But he risks his salary for any period that he is unable to play if he were to be hurt while playing hockey or "any form of winter sport," whitewater rafting, motorcycle racing or chopping wood, among the many activities prohibited by his 2001-2010 contract.

The contract is at education.baseballhalloffame.org/experience/thematic_units/labor_history/jeter.pdf.

The Yankees' protectiveness may be understandable. This year, Mr. Jeter's 14th in Major League Baseball, the 35-year-old recently passed Ted Williams on the all-time career hits list.

Still, all those millions and he can't have any fun.

New York Yankees shortstop Derek Jeter's \$20 million contract limits his activities off the baseball field. If he is injured while partaking in any of the laundry list of activities specified, he risks losing his salary.

LANDOV

INVESTIGATORS SNIFF OUT CAUSE OF HEALTH SCARE

One purpose of perfume is to mask unwanted odors, not be an unwanted odor.

But that's what happened at a Fort Worth, Texas, call center late last month. As workers began falling ill, no one knew that perfume would prove to be the culprit.

According to reports, nearly 150 people reported feeling poorly and nearly three dozen were taken to hospitals while the rest received treatment at the Bank of America call center where the incident occurred.

The victims complained of dizziness and shortness of breath, reportedly leading investigators to suspect initially that carbon monoxide or some other substance caused the symptoms.

But investigators soon detected that the cause wasn't one of the usual suspects, but rather perfume, after finding out the incident began when two workers felt dizzy after a co-worker used the scent.

Investigators weren't certain what specific scent was involved, but you can be sure someone will raise a stink about its presence in the workplace.

Cash for Clunkers covers uninsured

A Wisconsin senator wanted to make sure uninsured motorists could cash in on the government's Cash for Clunkers program, so he urged the U.S. Transportation Department to change its rules.

Wisconsin is one of two U.S. states that doesn't require drivers to have vehicle insurance—New Hampshire being the other—which would have excluded about 15% of Wisconsin drivers from the federal program, said Sen. Russ Feingold, D-Wis.

The Car Allowance Rebate System program initially required that a car or truck be insured for at least one year prior to trade-in for a consumer to qualify for the rebate as high as \$4,500.

So Sen. Feingold urged Transportation Secretary Ray

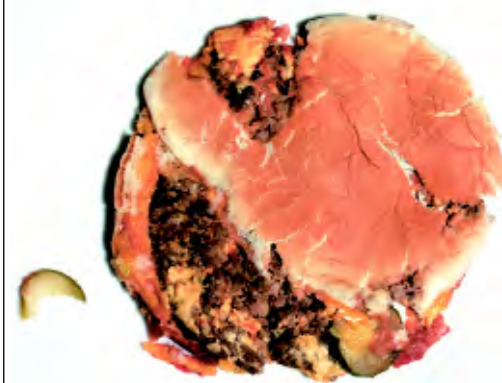
LaHood to change the rule to allow uninsured drivers to qualify for the highly popular program.

"Now with this fix, all Wisconsin drivers who abide by state law are eligible to take part (in the program)," Sen. Feingold said in a statement.

State law in Wisconsin is changing, though. Starting in June 2010, residents of the Badger State will join 48 other states in requiring motorists to have vehicle insurance.

In the meantime, Sen. Feingold said he didn't think it was fair for Wisconsin drivers to miss out on the opportunity to trade in their vehicle for one that gets better gas mileage.

We can just hope that uninsured motorists will manage to avoid crashing their new ride in the meantime.



Principal fired over food fight bonding exercise with students

While not exactly something out of "Animal House," a West Virginia high school principal's role in a cafeteria food fight was too much for local officials.

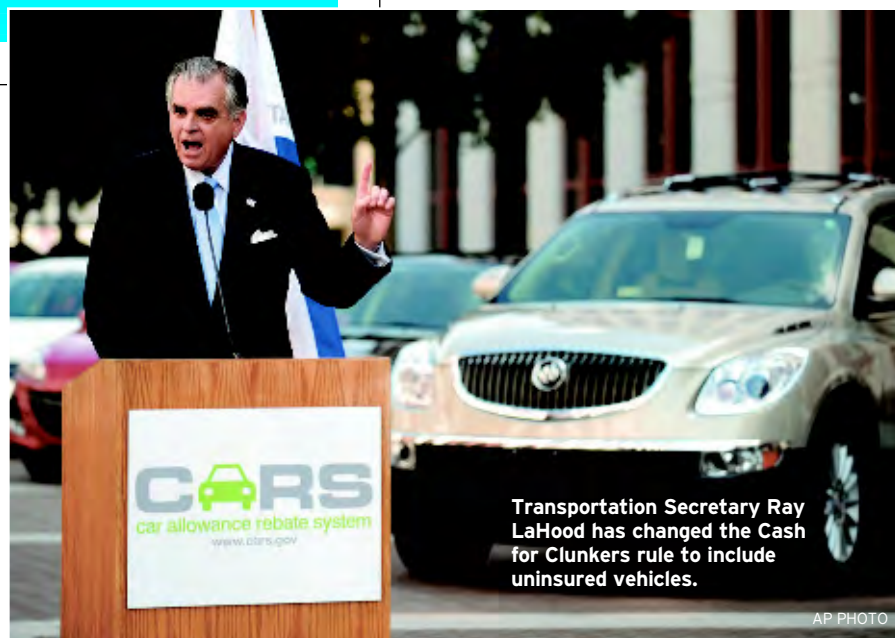
Brenda Wells, principal of Buckhannon-Upshur High School in Buckhannon, W.Va., was fired last month after an incident during which she jumped onto a pile of students while trying to stop a fracas, according to press reports.

According to the reports, Ms. Wells said, "While attempting to stop the food fight, I observed two boys fighting and I went over in an attempt to break up the fight. I saw everyone was laughing and to relieve the tension I jumped on."

I didn't get two inches off the floor, and I probably looked like a huge beach ball and I was done and up before you could say 'one.'"

Ms. Wells may have not been down for the count, but it still left the county school superintendent pretty unhappy. Ms. Wells claimed a growing concept in education is that principals are to have fun with kids to build more positive relationships with them, which leaves the pupils more willing to listen. But the superintendent disagreed.

Ms. Wells, who initially was suspended, was fired by the Upshur County Board of Education on the superintendent's recommendation.



Transportation Secretary Ray LaHood has changed the Cash for Clunkers rule to include uninsured vehicles.

AP PHOTO



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