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**AIG CEO WILLUMSTAD: \$18B IN
LOSSES PUT 'EVERY BUSINESS'
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IN BATTLE WITH CALIFORNIA
REGULATORS / PAGE 3**

In Brief

**Calif. court strikes down
noncompete agreements**

California law prohibits employee noncompete agreements unless the agreement involves the sale of a business, the California Supreme Court said last week. The opinion in *Edwards vs. Arthur Andersen L.L.P.* involved certified public accountant Raymond Edwards, who was employed by an Arthur Andersen unit that was later sold. Mr. Edwards signed a noncompete agreement when he was hired in 1997, but refused sign a termination of the agreement due to liability concerns. Mr. Edwards sued, claiming intentional interference with his prospective economic interests, among other things.

**XL completes
capital raising**

XL Capital Ltd. announced that it has closed a capital-raising deal.

See **IN BRIEF** page 26

BENEFITS MANAGEMENT

BENEFIT FINANCING STRATEGIES

Public entities generally keep traditional pension plans; funding benefits through captives grows slower than

expected; college program may add early retirees and nonprofits; flexibility propels health reimbursement arrangements.

PAGE 9

IRS slams door on pension transfers

Administration unveils proposal to allow them

By JUDY GREENWALD

WASHINGTON—An Internal Revenue Service and Treasury Department ruling last week will stymie for now any effort by defined benefit pension plan sponsors to transfer their frozen plans to financial services firms, say observers.

The Treasury Department and IRS said in the ruling that such a transaction would not comply with current law.

And while the Bush administration has proposed a framework under which legislation could be created that would permit these transactions, observers disagree as to the likelihood of its successful passage (see story, page 24).

A survey last year by Arlington, Va.-based Watson Wyatt Worldwide found that 138 out of 638 Fortune 1000 companies had frozen or terminated plans. Employers in recent years have moved away from defined benefit plans for several reasons, including the volatility of funding requirements, which can fluctuate wildly due to changes in interest rates and investment results.

Additionally, employers have moved away from the plans because of concerns of ever higher costs as life expectancies continue to rise.

Typically, when employers freeze their defined benefit plans, they beef up their 401(k) or other defined contribution plans, for which costs are far more predictable.

While no such transaction has been done in the United States, some have been done in the United Kingdom. For instance, New York-based Citigroup Inc. last year established a nonbank subsidiary to acquire Thomson Regional Newspapers Ltd.'s U.K. pension fund.

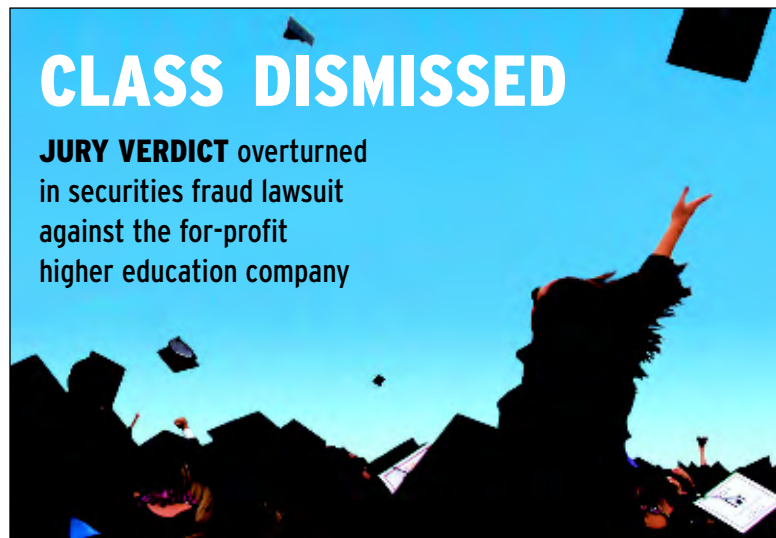
Interest has been strong in transactions involving financial institutions, under which all of a plan's assets, liabilities and administrative duties would be transferred to a financial services firm, say observers.

Had the IRS approved such transactions, "hundreds" would likely have been developed over the next several years, said Douglas German, St. Louis-based chief actuary for Buck Consultants L.L.C. Others say

See **PENSIONS** page 24

CLASS DISMISSED

JURY VERDICT overturned in securities fraud lawsuit against the for-profit higher education company



Judge overturns verdict against Apollo

Reaction mixed on securities fraud ruling

By DAVE LENCKUS

PHOENIX—Securities fraud attorneys disagree about the potential ramifications of a federal judge's decision last week to overturn a plaintiff jury verdict in a rare securities fraud case that went to trial.

Defense attorneys say the development in the *Apollo Group Inc.* class action will create problems for plaintiffs in demonstrating that misleading information caused loss-

es for investors.

But plaintiffs attorneys say the case will not be influential in other litigation because the *Apollo* judge erred in overturning the verdict and that the case, like other securities fraud lawsuits, is fact-specific.

The jury in the case, heard in U.S. District Court in Phoenix, returned a verdict early this year that would have required Phoenix-based Apol-

See **APOLLO** page 25

Marsh turnaround plan starts to show through

Broker announces more job cuts, revamps placement process

By SALLY ROBERTS

NEW YORK—Recovery efforts at Marsh Inc. appear to be well under way as Marsh & McLennan Cos. Inc. last week reported better-than-expected second-quarter results, driven by strong revenue and mar-

gin improvement at its financially challenged brokerage unit.

Expense reduction remains the name of the game at New York-based Marsh, which eliminated more than 500 positions during the first half of this year and said it plans to eliminate another 900 posi-

tions, largely in the United States, by the end of the year. About one-third of the 900 eliminations will either be outsourced or managed through attrition. The cuts will affect corporate, back-office and nonclient-facing positions, said Dan Glaser, Marsh's chairman and chief executive officer.

The reductions are in addition to more than 600 positions within Marsh's U.K. operation that were transferred earlier this year to London-based Capita Group P.L.C. under a back-office outsourcing deal.

FIRST-HALF RESULTS

Six-month results for Marsh & McLennan Cos. Inc.:

REVENUES:	\$6.09 BILLION	▲ 9.75%
TOTAL EXPENSES:	\$5.99 BILLION	▲ 20.6%
OPERATING INCOME:	\$94 MILLION	▼ 83.7%
NET INCOME (LOSS):	(\$145 MILLION)	

The job cuts also are in addition to more than 300 positions eliminated at MMC's reinsurance brokerage unit Guy Carpenter & Co. L.L.C. in the first half of the year.

Overall, Marsh revenues grew 7.7% in the second quarter of 2008, to \$1.21 billion, with 3% organic

See **MARSH** page 26

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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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Restructuring expected as AIG reports loss

Cost-cutting efforts, sale of some units may follow as credit market woes hurt insurer

By ROBERTO CENICEROS

NEW YORK—American International Group Inc. may divest several noncore businesses as it restructures to conserve capital, analysts predict following a dismal earnings announcement last week.

The extent of the \$5.36 billion second-quarter loss surprised analysts and contrasts with the New York-based insurer's \$4.28 billion profit for the second quarter of 2007. It brings the company's total net losses to \$18 billion over the past three quarters.

New York based AIG blamed its troubles on credit default swaps tied to the problems in the subprime mortgage market and investment performance.

Returning to profitability will require a "less complex AIG," Chairman and Chief Executive Officer

Robert B. Willumstad said last week. "We are conducting a comprehensive review of all AIG's business-



'We are examining every business, as well as the assumptions underlying how we do business in the markets where we have a presence. We are considering all options.'

Robert B. Willumstad,
American International Group Inc.

es with the objectives of improving results, reducing AIG's risk profile and protecting our capital base," Mr. Willumstad said in a statement. "We are examining every business,

as well as the assumptions underlying how we do business in the markets where we have a presence. We

AIG executives said the company's capital position is stronger today than at the end of the first quarter and stressed the company's earnings potential.

The housing downturn has not harmed the quality of AIG's insurance franchise, so the company has a lot to work with, said Mark Lane, an analyst with William Blair & Co. in Chicago.

But following last week's quarterly announcement, the \$20 billion that AIG raised two months ago may not be enough to replenish its continuing capital losses, analysts said.

"The \$20 billion they have raised at this point is nice. I just don't know if that is going to be enough or not," said Bill Fitzpatrick, an analyst in Milwaukee at Optique Capi-

See **AIG** page 26

Senate set to move on ADA reform measure

Widely supported bill would offer workers broader protections

By MARK A. HOFMANN

WASHINGTON—The outlook for Senate legislation that would extend the coverage of the Americans with Disabilities Act remains bright despite the shrinking legislative calendar, according to Capitol Hill observers.

That's because the ADA Amendments Act of 2008, introduced by Sen. Tom Harkin, D-Iowa, shortly before the Congress began its August recess, enjoys broad support among senators who have signed on as co-sponsors as well as the wide range of ideologies they represent.

Both presumptive major party presidential nominees—Sens. John McCain, R-Ariz., and Barack Obama, D-Ill.—are among more than 60 co-sponsors of the measure.

Additionally, similar legislation won overwhelming support in the House of Representatives earlier this summer (*BI*, June 30).

The bill would instruct courts to interpret the definition of disability under the ADA broadly. Like the House bill of the same name, the measure would make clear that the use of mitigating measures, such as diabetes medication, would not remove an individual from the ADA's protections.

Sen. Harkin said the bill comes in response to a series of court decisions that unfairly restricted the scope of the ADA's protections.

The measure, which is bypassing committee consideration and moving directly to the full Senate for consideration after Congress returns

next month, should receive a favorable reception there, say observers.

"I think it's pretty clear that it's going to pass the Senate," said Lawrence Lorber, a partner in the Washington office of Proskauer Rose L.L.P. With more than 60 co-sponsors representing every point on the political spectrum and "with no indication that anybody is opposed to it, I assume it would pass with at least as overwhelming

ADA HIGHLIGHTS

Highlights of the ADA Amendments Act of 2008, S. 3406, as introduced in the Senate:

- Defines a person with a disability as one who has a physical or mental impairment that "substantially limits" one or more of the major activities of the individual.
- Holds that mitigating measures such as medication cannot be considered when determining if a person is entitled to protections of the Americans With Disabilities Act.
- Instructs courts to interpret the definition of disability as broadly as permitted by the ADA.

Source: Library of Congress' Thomas.gov

as the House bill," he said.

"We're optimistic this can be the vehicle that can move forward and restore the original intent of the ADA," said Keith Smith, director-employment and labor policy at the National Assn. of Manufacturers in Washington.

"We're definitely optimistic that the Senate will recognize the importance of this and move forward," Mr. Smith said.

Mr. Lorber pointed out that the

See **ADA** page 25

Auto dealer RRG halts legal battle with Calif.

Cost of protracted litigation reason for pullout

By JERRY GEISEL

SACRAMENTO, Calif.—A small Montana-domiciled risk retention group providing medical stop-loss coverage to California auto dealers is ending its legal battle with the California Department of Insurance and will stop writing the coverage.

While Auto Dealers Risk Retention Group Inc. had more than a dozen policyholder-owners, its legal tug-of-war with the California Insurance Department drew national attention because of potential far-reaching consequences for the risk retention group industry.

California insurance regulators tried to stop the RRG from operating, arguing that neither state law nor the federal Liability Risk Retention Act permits RRGs to write medical stop-loss coverage. Regulators, who issued a cease-and-desist order, said such coverage was an excess layer of disability/health insurance, which the Risk Retention Act does not allow.

The auto dealers' RRG, with support from RRG trade groups, challenged that argument, maintaining that the coverage is allowed under the federal law and that as a non-chartering state, California lacked the authority to block the group from operating without obtaining a court order. RRG advocates said California's action undermined Congress' intent when it enacted the Risk Retention Act: to allow the groups to operate nationwide with

minimal interference from out-of-state regulators after meeting the licensing requirements of one state.

In March, a federal judge issued a preliminary injunction blocking the cease-and-desist order, saying, as a nonchartering state, California had no right to regulate the auto dealers' RRG.

But facing protracted litigation, the auto dealers said last week they could not afford to continue to fight the California Insurance Department and will cease writing medical stop-loss coverage. "The board of directors determined that as a newly formed business enterprise," the RRG "simply cannot incur the cost of protracted litigation with the state of California," the RRG said in a statement.

California Insurance Commissioner Steve Poizner said in a statement that it is "crucial that companies follow the rules when conducting business in our state."

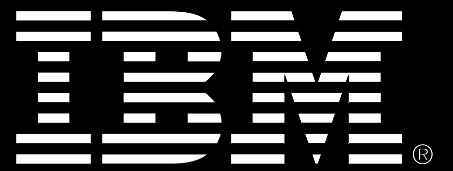
RRG advocates worry other states now will try to block RRGs from operating within their borders. California's perceived success will embolden other states to try to do the same, said Richard Goff, president of the Self Insurance Institute of America.

In effect, California used its economic power to grind down a small RRG, said Robert "Skip" Myers, Washington counsel for the National Risk Retention Assn. and a partner with Morris, Manning & Martin L.L.P.



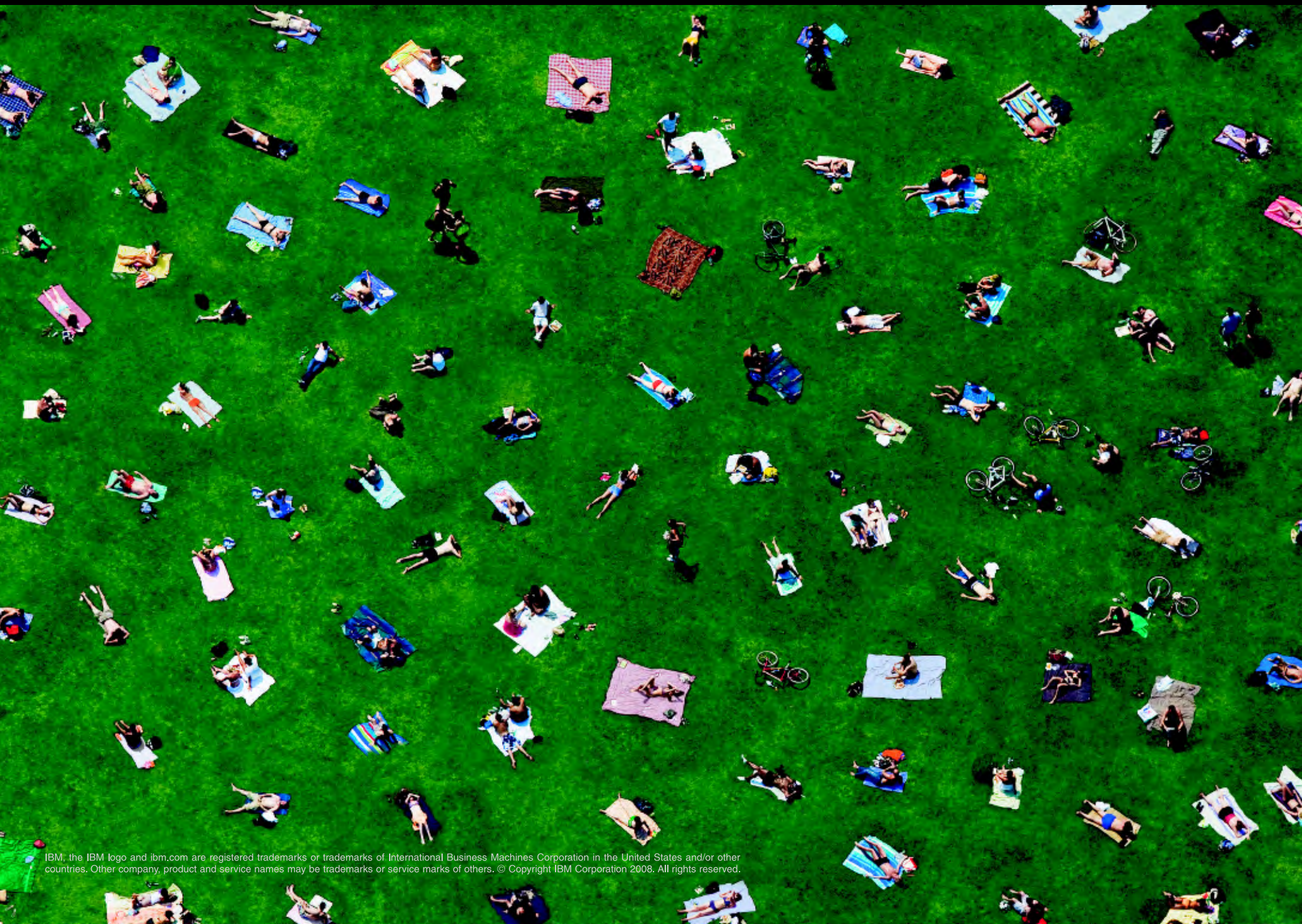
'Follow the rules when conducting business in our state.'

Steve Poizner, California insurance commissioner



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CAFA: Ruling on mass actions welcomed

CONTINUED FROM PAGE 4

circumstances common to all plaintiffs, proposes one proceeding and thus one trial," he wrote.

Judge Easterbrook noted the appeals court took the case because the legal issue had never been addressed in any federal circuit court. He wrote that the lower court's "conclusion is the only sensible reading" of the CAFA statute. "Courts do not read statutes to make entire subsections vanish into the night," he wrote.

The ruling simply reiterated what CAFA says, said an expert on the class action reform law.

"It's not particularly earth-shattering because it basically said CAFA said what it meant and meant what it said," said Jessica Miller, a partner in the Washington office of O'Melveny & Myers L.L.P.

But the ruling nonetheless is important because there has been little case law on the issue, said Ms. Miller, who added that it marks a victory for due process.

"Mass actions can be abusive because you're putting 100 or more

people before a jury and there is no way a jury can fairly pass judgment on the claims of so many people in one trial," which raises questions of due process, she said.

Tort reform advocates welcomed the decision as closing a potentially



troublesome loophole in CAFA.

The fact that the ruling came from the 7th U.S. Circuit Court of Appeals gives it considerable weight, said Glenn Lammi, chief counsel-legal studies division at the Washington Legal Foundation in Washington.

"It's significant because it's Judge Easterbrook and because it's the 7th Circuit," Mr. Lammi said. "The 7th Circuit encompasses Chicago, Cook County and Madison County, where a lot of these kinds of cases are filed and transferred from state court to federal court under CAFA."

"It was a logical application of CAFA and it plugs a loophole plaintiffs' lawyers thought they could drive a truck through—it was in the terminology of what a mass action is and when the language of CAFA would apply," Mr. Lammi said.

"I think it is a significant decision. I think it is welcome decision," said Robin Conrad, executive vp of the Washington-based National Chamber Litigation Center Inc. "Judge Easterbrook had identified this attempt by the plaintiffs' bar to exploit a loophole that was never intended by Congress."

Victor Schwartz, general counsel of the Washington-based American Tort Reform Assn., made much the same point.

"The significance is less its technicalities than to say to plaintiffs' lawyers that we are not going to respond to your potentially innovative ways to circumvent CAFA," Mr. Schwartz said.

Virda Bell Bullard et al vs. Burlington Northern Santa Fe Railway Co. et al. 7th U.S. Circuit Court of Appeals; No. 08-8011; Aug. 1, 2008.

Commentary

Rising prices at pump help improve health

Which costs more today, a fill-up or a checkup?

Depending on the kind of vehicle you drive, it could very well be the fill-up.

In fact, when asked to name the single biggest issue facing them daily, regional commuters in Pennsylvania recently cited rising gasoline prices over health care and taxes.

This could take the edge off some of the single-payer proposals being bandied about during the presidential campaign. Workers are now more concerned about getting to work than whether their job provides health insurance.

But rising fuel prices are producing some beneficial side effects as people drive less: The National Safety Council reports that traffic deaths around the country are plummeting. Meanwhile, people are taking to the streets, walking more and riding bicycles to get around town. It could be the ultimate crash diet for a nation that's become fat and lazy on cheap gas, suggests Charles Courtemanche, an assistant economics professor at the University of North Carolina in Greensboro.

His research has determined there's a causal relationship between gasoline prices and obesity: For every \$1 spike in gas prices, the prevalence of obesity in the United States should drop by as much as 9% after seven years. Conversely, about 8% of the rise in obesity between 1979 and 2004 can be attributed to falling gasoline prices during that period.

If his calculations are right, every \$1 increase in the price of gasoline could feasibly trim the obesity rate in this country and save more than 10,000 lives and more than \$11 billion in medical spending a year.

Professor Courtemanche said the idea of studying gas prices and obesity came to him while he was working on his Ph.D. at Washington University in St. Louis. When fuel prices began to climb, he decided to trade his half-hour commute by car for a bus pass. But taking public transportation also meant he'd have to walk about an hour a day. It made him wonder whether he and others switching to public transit might lose weight from the additional workout.

His theory became the thesis for his doctoral dissertation in health economics. "A Silver Lining? The Connection Between Gasoline Prices and Obesity" uses data from state health departments and the Centers for Disease Control & Prevention collected between 1984 and 2006 to show that when gas prices rise, people



JOANNE WOJCICK

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walk more, bike more and eat out less.

Professor Courtemanche found the connection between high gas prices and eating out to be particularly interesting, so he drilled down a bit further to find out why. He found when people have less disposable income due to higher gas prices, they are less likely to frequent restaurants.

"It turns out there's an effect on functional exercise and also eating out in restaurants," he

When gas prices rise, people walk more and eat out less.

said. "Canceling optional trips may result in more home-cooked meals."

Professor Courtemanche also studied the opposite effect: Whether higher gas prices would put a damper on the purchase of healthy foods, which are generally more expensive. However, he did not find any link between the price paid for gas and the frequency of consuming certain types of foods, healthy or not.

Because the most recent data available predates the recent surge in gas prices, Professor Courtemanche said he could only guess what an additional \$1 hike in the price of fuel might do to the nation's obesity rate. The national average price for a gallon of gas was just \$3.22 in December, when he wrote his paper. It's now hovering around \$4.

Because of the continuing high fuel prices, Professor Courtemanche plans to continue his research. But even if the effect of higher gas prices reaches a point of diminishing returns, it's still good news, he points out. Today, the CDC says nearly two-thirds of U.S. adults weigh more than they should, and obesity imposes substantial costs on society, both in terms of early mortality and medical expenses.

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Business Insurance OPINIONS

ADA amendments merit prompt action

DESPITE THE RAPIDLY shrinking legislative calendar, Congress will still have time to enact a piece of critical employment-related legislation when lawmakers return from their August recess.

That's the ADA Amendments Act, a version of which has already passed the House. As we report on page 3, a similar bill has been introduced in the Senate. That bill appears to be on a legislative fast track—just as it should be.

As we've noted before, the ADA Amendments Act is a finely crafted compromise between the employer and disability communities to restore balance in how the Americans with Disabilities Act has been applied. A series of rulings pared the act's protections far beyond what its framers had intended nearly two decades ago.

The decisions led to Alice-in-Wonderland situations where employees were penalized for taking steps—such as diabetes medication—to lessen the impact of their disabilities. Clearly, remedial action was needed. The ADA Amendments Act provides such action in both of its incarnations. It calls for a common-sense application of the ADA in a way that employers, advocates for the disabled and the Bush administration all agree is needed. It is not a new affirmative action program for employees with disabilities but rather a reaffirmation of the original intent of the ADA.

Congress won't have much time to deal with meaningful legislation when it returns. Only measures enjoying the broadest base of support stand a chance of passage. The ADA Amendments Act, which won the support of more than 400 lawmakers in the House and has more than 60 co-sponsors—including both presumptive presidential nominees—in the Senate, clearly fits that description.

We hope the Senate makes the passage of the act a priority when it returns and that lawmakers can agree on a bill and get it to President Bush's desk for his signature with all due dispatch.

Frozen pension plan sales could help employers

SHOULD EMPLOYERS be allowed to sell their frozen defined benefit pension plans to financial services companies?

As we report on page 1, this question is hypothetical in the United States following a Treasury Department ruling that federal pension law does not permit such sales.

For the moment, that ends the matter. Still, we think the issue merits discussion. Employers of all sizes already outsource certain functions and sell various units to concentrate on their core business. Why should frozen pension plans, which also carry assets and liabilities, be treated differently?

Concerns about the security of pension plan participants' benefits are valid and must be addressed. The Pension Benefit Guaranty Corp., however, already plays a big role in protecting such benefits. Any legislation that enables the sale of frozen plans to third parties must reconcile benefit protection with the legitimate business interest of profiting from investing and managing the plan assets.

It's a fact that employers for years have been moving away from defined benefit plans in favor of defined contribution and similar approaches. Traditional pension plans entail heavy administrative and funding burdens, which many employers are loath to keep carrying.

If the option of selling frozen plans enabled employers to better afford other retirement savings plans, that certainly would be in the public interest.

The ADA Amendments Act reaffirms the original intent of the ADA.



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THIS WEEK'S RESULTS

Q Should the Federal Emergency Management Agency reduce or eliminate aid to public entities that sustain uninsured losses from successive disasters of the same type such as repeated flooding?



NEXT WEEK'S QUESTION

Q: Has Marsh & McLennan Cos. Inc. turned a corner financially?

BI Online Poll tool is sponsored by Wausau Insurance Cos.

Letter to the Editor

Implementing HDHPs calls for planning and communication

To the editor: As a vp of human resources and risk management, I thoroughly enjoy reading *Business Insurance*. In the July 14 issue, I totally agree with the article by Louise Esola titled, "Switch Toward High-deductible Plans Not Easy for Employers."

Our company was the recipient of Prepaid Media's 2007 Most Successful CDHP Implementation for a small employer (300 full-time/40 part-time employees). In the first year, we achieved 73% participation in our HDHP. For any employers experiencing anxiety over making the introduction of an HDHP, I suggest the following will assist with your implementation:

- If you are the person or group challenged to deliver the plan to employees, you must be well-educated about all aspects of consumer-driven health care, and in general what consumerism represents.
- You must believe the program will work and will be a win-win for employees and the employer. Don't introduce consumer-driven health care just to reduce employer costs; be the ambassador.
- Network and talk with other HR/benefit professionals.
- Work with your broker and insurer.
- Deliver, in person, the plan to add a HDHP six to eight months before your effective date. Deliver the

See **LETTERS** page 21

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BENEFITS MANAGEMENT



Public entities generally keep traditional pension plans

Cost and labor contracts are main reasons why adoption of defined contribution plans has lagged the private sector

By JOANNE WOJCIK

Concerns about whether public entities will be able to meet their future pension obligations are prompting lawmakers nationwide to scrutinize government workers' retirement benefits, with some states legislating ways to shore up the plans, such as raising retirement ages or increasing employee contributions.

For example, Kentucky Gov. Steve Beshear in June signed legislation that bumps up the retirement age for new employees and requires state employees to contribute 1% of their earnings to their retirement

plans for the first time. The new law also shrinks annual cost-of-living adjustments from 5% to 1.5%.

In New Hampshire, Gov. John Lynch signed legislation earlier this summer that places a cap on the maximum retirement benefit state workers may receive.

This year's activity continues a trend sparked in the early part of the decade in response to poor investment performance by public pension funds. Since then, however, most of the funds have recovered. In fact, the vast majority of more than 2,600 public pension plans are fiscally sound, according to a January report by the Govern-

ment Accountability Office. Many experts consider a funded ratio of about 80% or better to be adequate for government pensions, and the GAO found that 58% of 65 large public entity pension plans were funded to that level in 2006.

At least two other analyses of public pensions' fiscal health reached similar conclusions: A 2007 report by the Pew Charitable Trusts' Center on the States found that states have saved enough to cover about 85% of their long-term pension costs. Meanwhile, Wilshire Associates Inc.'s recent report on state retirement systems estimates that the ratio of pension assets to

liabilities for all 125 state pension plans was 95% in 2007, up from an estimated 88% in 2006.

"I think it's fair to say there was a market downturn that affected funding levels," said Cathie Eitelberg, national director public sector market for the Segal Co. in Washington.

"The fact that these systems may have some degree of change is reflective of the market, but overall, they continue to head in the right direction," said Jack Ehnes, chief executive officer of the California State Teachers' Retirement System in Sacramento.

Despite improved funding levels,

concerns remain.

Katherine Barrett, a senior consultant at Pew Charitable Trusts in Washington, said that while public pension systems on average are adequately funded, "there are a number of states that are showing signs of weakness" when examined individually.

Pew's December 2007 report, "Promises with a Price," found that 19 states are only 75% funded or less.

"It's not that the funds are in trouble; it's the concern about financing them going forward,"

See **PENSIONS** next page

Pensions: Public entity funding concerns

CONTINUED FROM PREVIOUS PAGE

said Eileen Neill, managing director in Santa Monica, Calif., for Wilshire Associates Inc. "It's really the fact that the cities are strained and it's expensive to maintain them from their perspective."

That's how New Jersey got in trouble, according to Christian Weller, a senior fellow at the Center for American Progress in Washington, who testified in support of the public pension system before a July 10 hearing of the U.S. Congress Joint Economic Committee.

For several years, lawmakers used funds earmarked for the state's pension systems to balance the state's budget instead, he said. As a result, New Jersey, like many other states, is now playing catch-up, which is creating tension at a time when public entities are facing other economic pressures.

"So as demands on budgets go up, you ultimately have to find the money somewhere in terms of tax increases or other revenue cuts," Mr. Weller said. "This caused a headache for (Gov. Jon) Corzine in New Jersey because he ran on giving property tax relief. He was in a bind because of his predecessors' misdeeds."

In fiscal year 2007, which ended June 30, New Jersey contributed \$1.1 billion in cash to its public employee retirement systems, but it's still about \$28 billion short of its obligations, according to a spokesman for Gov. Corzine. Pension reforms passed last year, which include raising the retirement age

for new hires and increasing employee contributions, will help reduce that deficit, the spokesman said.

While public entities may continue to fine-tune elements of their defined benefit pension plans to make them less costly, it is unlikely that they will soon adopt the defined contribution approach as

'Generally, what you see, with few exceptions, the defined contribution plan is an added choice...not a replacement for the traditional DB plan.'

Cathie Eitelberg, Segal Co.

the private sector did when its defined benefit plans became too expensive, experts say.

In fact, no state has created a broad-based defined contribution plan since Alaska did so in 2005, according to the National Conference of State Legislatures in Denver. Michigan is the only other state to offer a defined contribution plan as its primary retirement vehicle, which has been in place since 1999.

"I think you're going to continue to see discussions around defined contribution plans in the public sector. But generally, what you see,

with few exceptions, the defined contribution plan is an added choice for individuals coming into the system, not a replacement for the traditional DB plan," said Segal's Ms. Eitelberg.

New Jersey, for example, established a defined contribution plan as part of its 2007 pension reforms for elected and certain appointed officials.

The primary reason most states opt to stick with defined benefit plans over defined contribution plans is cost. Since pension benefits are either constitutionally or contractually protected, when states introduce defined contribution plans, they must keep their defined benefit plan in place, forcing them to operate two pension plans, said Hank Kim, executive director and counsel to the National Conference on Public Employee Retirement Systems, a trade association for public pension funds in Washington.

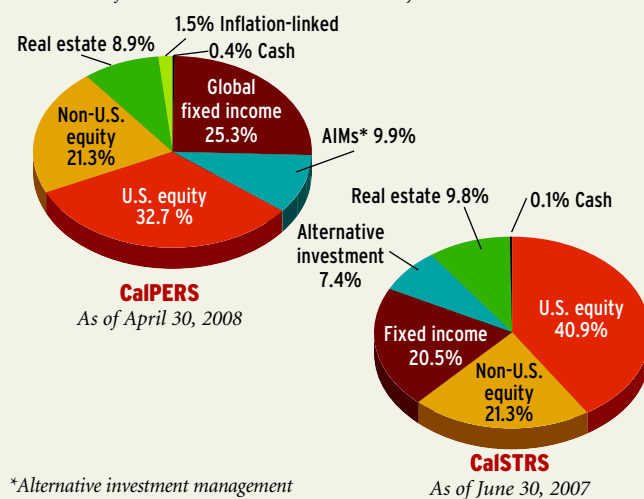
"We didn't find much momentum for switching because of the expense and the complications," said Pew's Ms. Barrett.

In fact, Kansas last year decided to launch a new defined benefit plan for new hires after a feasibility study determined a defined contribution plan would be more costly. The new plan does, however, increase the age and service requirements for retirement eligibility.

"If you get people to work longer and retire later, that does reduce the cost of the plans," said Steve McElhaney, a principal at Mercer L.L.C. in Richmond, Va.

INVESTMENTS OF CALPERS AND CALSTRS

Allocation of assets by the California Public Employees' Retirement System and the California State Teachers' Retirement System.



*Alternative investment management
Source: CalPERS.ca.gov

'Patient capital' investments rev the economic engine

Besides funding pensions for retired government workers, many of the large public-sector defined benefit pension plans also serve as engines for economic growth.

That's because most public pension funds invest a portion of their portfolios in so-called "alternatives," such as venture capital, private equity firms and emerging technologies.

For example, the California Public Employees' Retirement System announced last year that it was partnering with a new private equity fund that will invest up to \$700 million of CalPERS' pension fund assets in ventures that are working to improve the quality and cost efficiency of the nation's health care system (*BI*, June 11, 2007).

Alternative investments are a specific asset class in the California State Teachers' Retirement Systems' portfolio totaling 10.6% of its total investments, according to Jack Ehnes, chief executive officer of CalSTRS in Sacramento. It includes private equity, environmental and venture capital, he said.

"The focus of CalSTRS' investments in recent years has been on environmental investment opportunities," Mr. Ehnes said. "CalSTRS also started a 'green' real estate fund this year."

Although the primary objective of public pension funds is to provide benefits to plan members, "there is always a much broader economic benefit to be gained," said Eileen Neill, managing director at consulting company Wilshire Associates Inc. in Santa Monica, Calif.

"You can look at it as an investment by the taxpayers in the growth of this country, because that's what these funds are doing with their pro-

fessional managers," Ms. Neill said. They're a major source of capital for private equity, "the engine of growth in this country. If you think about it, that's where the new firm formation happens."

In addition, the nation's "infrastructure is getting a huge benefit now from investments by these funds," she added. "They don't just benefit the plan participants. They actually benefit society in general."

A 2007 study conducted by the Applied Research Center at California State University in Sacramento found that the benefits paid to California's retired educators and their families by CalSTRS have a ripple effect throughout the economy.

The report found that the total economic impact of CalSTRS' benefits payments, including the multiplier effect from benefit recipient spending, totaled \$9.23 billion in 2006. In addition, \$4.49 billion was added to the state's economy from business activity related to CalSTRS' benefits payments. Another \$2.11 billion was paid in salaries to individuals filling the 60,867 jobs created in 2006 from economic activity related to CalSTRS' benefits payments.

"It's not like these plans are in a vacuum somewhere with the money under a mattress," said Cathie Eitelberg, national director public sector market for the Segal Co. in Washington.

"They generally have higher rates of return because they're institutional investors. They have long time frames and are willing to and can bear more risk than an individual. It's also a pot of money that's invested in our economy. It's 'patient capital,'" she said.

—By Joanne Wojcik

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200815

Corporate interest rises in funding benefits through captives

Compared with purchasing coverage in commercial markets, employers can save up to 10% on costs

By **JERRY GEISEL**

The corporate drive to fund employee benefit risks of U.S. employees through captive insurance companies is slowly picking up steam. The advantages of captive benefit funding—chiefly cost savings and improved cash flow—are becoming better known, and corporate interest is rising, said Mitch Cole, a principal with Towers Perrin in Stamford, Conn. “The takeup rate will increase

with demonstrated success,” Mr. Cole said. If pending applications from United Technologies Corp. and ConAgra Foods Inc. are approved later this year, eight companies will have received department approval between 2006 and 2008, which is more than any other three-year period since the DOL liberalized the rules in 1999. And that number could soon go higher. “We have several proposals in the pipeline,” said George O’Donnell,

senior vp with Aon Consulting in Somerset, N.J. “This is something we are currently looking at,” said Laurie Solomon, director of risk management at the Coca-Cola Co. in Atlanta. The biggest motivation to fund benefit risks through captives is financial. Experts say companies can, over the long haul, cut benefit costs by between 5% and 10% compared with purchasing coverage in the commercial market. “This does save money,” said

Karin Landry, a managing partner at Spring Consulting Group L.L.C. in Boston. The profit from funding the risk goes to the captive and not to a commercial insurer, Ms. Landry added. While life, long-term disability, and accidental death and dismemberment risks have been the most popular benefit risks funded through captives, other benefit areas are being examined by employers, including using the captive to reinsure annuities purchased from commercial insurers by pen-

sion plans. “Captives could emerge as a useful tool for pension plan funding,” Mr. Cole said.

Captive kickoff

The drive to fund benefits through captives was kicked off nine years ago when the Labor Department, which has jurisdiction over the issue, removed a two-decade old roadblock that stood in the way of virtually all companies with captives seeking to implement that funding approach to reduce benefit plan expenses.

A 1979 rule that said at least 50% of a captive’s premium volume had to be generated by business unrelated to its parent in order for the captive to fund benefit risks for the parent. The department maintained

‘Captives could emerge as a useful tool for pension plan funding.’

Mitch Cole,
Towers Perrin

that outside business was necessary to safeguard an employee benefit plan against less-than-arm’s length transactions.

Few employers, though, had or wanted to put that much outside business in their captives. As a result, the 50% premium test stood as a barrier to all but a handful of companies.

But a breakthrough occurred in 1999 when Labor Department officials, following years of discussions with captive attorneys, said meeting the 50% test would no longer be an absolute prerequisite to winning department approval for funding benefits through captives.

The department said it would consider the quality of the fronting insurers used by the captive to issue policies and whether plan participants would benefit from the arrangement, among other factors.

After that pledge of flexibility, the department in August 2000 approved an application by Columbia Energy Group to use the Vermont branch of its Bermuda-domiciled captive to reinsure its long-term disability benefits program.

Columbia Energy—a big natural gas company that has since been acquired by NiSource Inc. of Merrillville, Ind.—won approval by agreeing to increase participants’ benefits, to use a top-rated insurer to issue the policies and to use an independent fiduciary to oversee that all conditions of Columbia’s application were met, among other steps.

In 2003, the door to funding benefits through captives opened wider when the Labor Department approved an application from Decatur, Ill.-based argibusiness giant Archer Daniels Midland Co. to reinsure its group life insurance pro-

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THE DRIVE TO FUND EMPLOYEE BENEFIT RISKS THROUGH CAPTIVES

Employers that have received approval to fund benefit risks in their captives under rules the Labor Department liberalized in 1999.

Employer	Benefits funded	Captive domicile	Year of approval
Columbia Energy Group*	LTD, Life	Vermont branch of Bermuda captive	2000, 2007
Archer Daniels Midland Co.	Life	Vermont	2003
International Paper Co.	Life	Vermont	2003
Alcon Laboratories Inc.	Life, LTD	Vermont	2004
SCA Corp.	AD&D, Life, LTD	Virgin Islands branch of Ireland captive	2004
Alcoa Inc.	Life	Vermont	2005
Sun Microsystems Inc.	Life	Vermont branch of Bermuda captive	2005
AstraZeneca	AD&D, Life, LTD	Vermont	2006
H.J. Heinz Co.	Life, LTD	Vermont	2006, 2008
AGL Resources Inc.	AD&D, Life, LTD	Hawaii branch of British Virgin Islands branch	2006
Wells Fargo & Co.	Life, LTD	Vermont	2006
Cephalon Inc.	AD&D, Life, LTD	Vermont branch of Bermuda captive	2007
YKK Corp. of America	AD&D, Life	Vermont	2008

* Later acquired by NiSource Inc.

Captives: Interest rising for funding benefits

CONTINUED FROM PAGE 12

gram through its Vermont captive.

The significance of that approval went far beyond ADM; it set the stage for other employers that wanted to fund benefits through their captives to take advantage of an expedited Labor Department review process.

Under that process—often called “Ex-Pro”—the Labor Department must act on an application for a so-called prohibited transaction exemption within 45 days of

receipt. Ex-Pro is available to applicants who can cite two substantially similar exemptions the department has approved within the last five years.

By taking advantage of the Ex-Pro process, companies can considerably reduce the time, effort and legal fees needed to get through the Labor Department review process.

With Ex-Pro at hand and the Columbia Energy model to follow, benefit and risk management experts expected numerous employers to follow the trail blazed by Columbia Energy.

Those predictions, though, proved premature.

Since the approval of Columbia Energy and ADM's applications, only 11 other employers have filed for and received Labor Department approval to fund benefit risks through their captives. Whirlpool Corp. withdrew an application to fund retiree health care benefits through its Vermont captive, while the applications from United Technologies of Hartford, Conn., and ConAgra of Omaha, Neb., are pending.

While some of the nation's biggest—including Alcoa Inc., H.J. Heinz Co., International Paper Co., Sun Microsystems Inc. and Wells Fargo & Co.—have been among those going the captive benefits funding route, the total has been smaller than some experts had predicted.

Others, though, aren't surprised that so far relatively few companies have expanded their captives to fund benefit risks.

“Change always occurs slower than people anticipate. We always anticipated that growth would be gradual,” said Towers Perrin's Mr. Cole.

“With any new approach, there are some companies that are early adopters. But many others will take a wait and see approach,” Mr. Cole said.

Another reason for the low adoption rate is the challenge of getting risk management and employee benefit departments to work together on such a project, experts say.

In addition, companies incorrectly assume that the approach is a difficult one to prepare for and to implement.

“There is a perception that this is a lot more difficult than it really is,” said Suzanne Gallie, senior risk manager at Sun Microsystems in Broomfield, Colo. In 2005, Sun received Labor Department approval to fund life insurance risks through the Vermont branch of its Bermuda captive.

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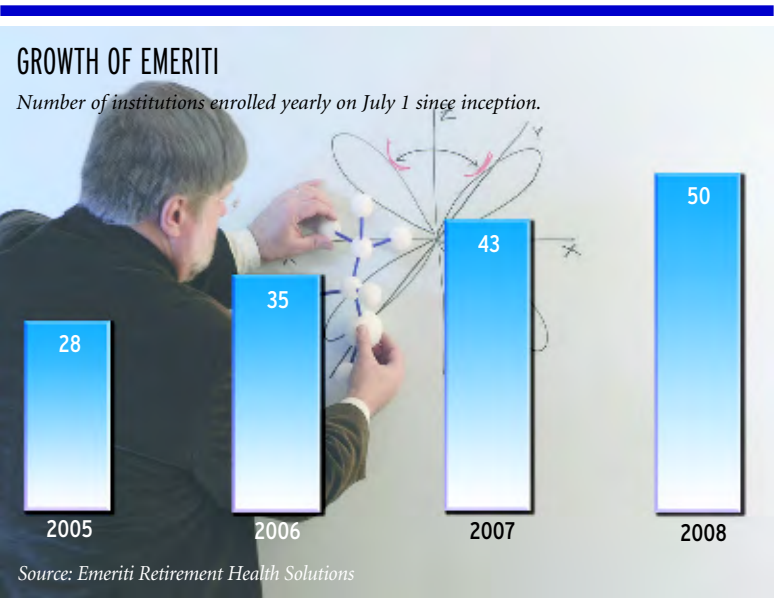
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College retiree health care program plans to expand benefit offerings

Rise in retiree health care costs, flexibility of plans raises interest

By KRISTIN GUNDERSON HUNT

A program designed to make retiree health care plans more affordable for colleges and universities intends to expand its offerings to early retirees in 2009 and perhaps even nonprofits in 2010, officials say.

Emeriti Retirement Health Solutions, which launched in July 2005 with 28 enrolled institutions, now has 50 colleges and universities

enrolled to use its benefit programs provided by Hartford, Conn.-based Aetna Inc. and investment advice provided by Boston-based Fidelity Investments.

The rise in retiree health costs that was the impetus for the program three years ago continues today, and colleges and universities see the programs as a cost-effective way to compete for employees, said Ken Cool, president of New Wind-

sor, N.Y.-based Emeriti.

"Institutions are trying to find a sustainable and flexible financial paradigm to provide their employees with access to good supplemental insurance to Medicare for their retirement years," Mr. Cool said.

Schools participating in the Emeriti program make contributions to tax-exempt trusts called voluntary employees' beneficiary associations to fund retiree health benefits. Employees also may contribute, but on an after-tax basis to separate VEBAs.

Employees direct how the money is invested, such as money market accounts or "life cycle" mutual funds, which are balanced portfolios that become less risky as investors approach retirement, said Michael Thompson, a principal in the health and welfare practice at PricewaterhouseCoopers L.L.P. in New York.

The accumulated assets can be withdrawn tax-free by retirees to pay for a variety of health care plans provided by Aetna, to reimburse their out-of-pocket health costs or to pay premiums for non-Aetna plans.

The desire to attract and retain quality employees as well as provide workers with sufficient funds so

'Retirement health care has become one of the most important (considerations of employees) when looking at their retirement.'

Ken Cool,
Emeriti Retirement Health Solutions

they don't have to delay retirement are two other major reasons why Emeriti has grown, Mr. Cool said.

"Having access to health insurance is very important to members of this community," Mr. Cool said. "Retirement health care has become one of the most important (considerations of employees) when looking at their retirement."

Claremont McKenna College in Claremont, Calif., rolled out the Emeriti program in January for its 298 employees, ages 40 through 65, who are eligible for the plan. The college contributes \$450 a year to each eligible employee's account.

Previously, the college could not afford to offer retiree benefits because they were most often through defined benefit plans, requiring the institution to account for the future liability of "open-ended" health costs on a current basis, said Robin Aspinall, vp for business and administration and treasurer for Claremont McKenna.

The college found the Emeriti program more manageable, though, because it is a defined contribution



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CONTINUED FROM PREVIOUS PAGE

plan in which the college determines how much it can contribute each year, Ms. Aspinall said.

The plan's flexibility also is appealing, she said, as it gives retirees choices of how to spend the funds, whether it is health insurance provided through the program or to fund other health-related expenses.

"The college can control its investment in the program and still provide a benefit for its employees that they would not otherwise have," Ms. Aspinall said.

In January 2006, St. Olaf in Northfield, Minn., transitioned from its traditional Medicare wrap-around retiree benefits to the Emeriti program because of escalating costs and growing concerns that retirees would have to pay more if nothing changed, said Roger Loftus, the college's director of human resources.

Since switching to Emeriti, Mr. Loftus said the college has seen health premiums fall by \$200 a month per person. St. Olaf currently contributes \$104 a month to a VEBA for its 535 eligible active employees

who are at least 39 years old and work at least part-time. About 170 retirees also are enrolled in the program and receive varying VEBA contributions depending on when they retired and how much they were promised in retirement.

Mr. Cool said Emeriti's broad appeal to institutions that have never offered retiree health care benefits before and those looking to cut current costs have helped the program grow and evolve.

Initially the program offered three

bundled medical and prescription drug plans through Aetna. This year, Emeriti is offering four medical plans and three prescription drug plans from which retirees can choose and mix and match, Mr. Cool said.

Starting next year, Emeriti will expand its offerings to include three retiree group health plans to early retirees ages 60 to 65 to bridge the gap between active coverage and Medicare eligibility, Mr. Cool said.

The three plans have various

deductible levels and out-of-pocket limits, as well as in- and out-of-network options.

He said Emeriti's next effort will be to expand its eligible market beyond higher education institutions to other nonprofit organizations, possibly as soon as January 2010.

"Other organizations have the same need for health security as colleges and universities," Mr. Cool said. "All of these nonprofits need the same advantages of access as

people in higher education."

For now, several participating colleges appear content with the program's results.

St. Olaf's Mr. Loftus said feedback from retirees and employees has been overwhelmingly positive and the college is happy to be providing benefits.

"We believe it's the right thing to do," Mr. Loftus said. "If there is any way we can assist (retirees) in their quality of life, we're going to do that."



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Health reimbursement arrangements still an appealing choice

A major advantage for employers: Such accounts can be established without adopting a high-deductible health plan

By KAREN PALLARITO

A relative newcomer to the health benefits arena, health savings accounts have quickly become popular among employers but haven't curbed plan sponsors' use of health reimbursement arrangements.

In fact, some consultants and attorneys anticipate future growth of HRAs.

"There is still great interest in

HRAs, but it is primarily the large employers" that take advantage of these accounts, said John R. Hickman, a partner and head of the health benefits practice at Alston & Bird L.L.P. in Atlanta. Large employers tend to be more innovative and have the infrastructure to run an HRA, he said.

As benefits counsel to health plan sponsors, Mr. Hickman is frequently called upon to address compli-

ance issues pertaining to HRAs and consumer-directed health plan designs. He recently pointed to a conversation he had with a client who expressed interest in offering an HSA and first-dollar coverage for maintenance drugs. The difficulty, he said, is that the list of preventive drugs that may be covered under an HSA-eligible high-deductible health plan without satisfying the minimum deductible is "very narrow."

However, "the same employer could set up an HRA and have either first-dollar coverage or \$5, \$10 copayment coverage for maintenance drugs," he said.

Another advantage is that HRAs don't have to be tied to a high-deductible health plan, a leap many employers aren't yet prepared to make, said Randall Abbott, a senior consultant in Watson Wyatt Worldwide's Boston office.

In industries with high turnover, such as retail, it may make more sense for employers to offer an HRA instead of an HSA because HSA funds are portable, Mr. Abbott said. "You don't want employees leaving with employer money very shortly after they join the organization."

Kelly Fristoe, an independent insurance agent in Wichita Falls, Texas, and secretary of the Texas Assn. of Health Underwriters, said interest in HRAs is growing among the large and small groups that he serves because they offer more design flexibility.

He recently helped a 90-employee physician clinic set up an HRA to fund 80% of health care costs employees incur before satisfying their individual deductible of \$5,000 or family deductible of \$10,000 under the employer's high-

Using HRAs for retiree health care is 'kind of under the radar. We're doing it with some employers, and I think it's going to grow.'

Alexander Domaszewicz, Mercer L.L.C.

deductible health plan. For a group this size, statistics suggest that roughly 15% to 20% of plan members will pierce the deductible, thereby limiting the employer's financial exposure, Mr. Fristoe said. Had the same employer funded an HSA for every employee, it would have spent much more.

Some studies show that adoption of new health plan offerings tied to either an HRA or an HSA has been roughly the same. Nationally, an estimated 3.8 million workers are enrolled in consumer-driven plans, about equally divided between HSA-qualified high-deductible health plans and plans with an HRA, according to the 2007 Employer Health Benefits Survey conducted by the Kaiser Family Foundation and Health Research and Educational Trust (see chart, page 19).

As of July 1, a national survey of 6,400 companies found that 26% of employers intend to offer HRAs in their next renewal period, up from 19% for the previous year, according to Donald Mazzella, chief operating officer of Information Strategies Inc., a Ridgefield, N.J.-based consulting firm. Most of these companies are large employers, he said.

Another 31% of employers surveyed said they will add HSAs in 2009, bringing the total to 47%, Mr. Mazzella said.

Still, HSAs are not for everyone.

When the Metropolitan Employee Benefit Board in Nashville, Tenn., saw its health maintenance organization premiums double over a six-year period, it decided to make a radical change. Effective Jan. 1, it

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Continued on next page

continued offering a preferred provider organization plan but replaced its HMOs with a high-deductible health plan tied to an HRA.

"The board pretty early on seemed a lot more interested in pursuing the HRA arrangement, and that's pretty much where we focused our efforts with regard to the funding arrangement that would be offered on the account-based plan," said Shannon Hall, a human resources analyst and liaison to the board, which administers benefits for some 15,000 government employees of Nashville and Davidson County, Tenn.

"Making a change from two HMOs to an account-based plan is a pretty dramatic move," she said, "so I would say it definitely hasn't been without bumps in the road."

But enrollment in the new plan wildly exceeded expectations. About 50% of benefit-eligible workers enrolled in the account-based plan, while the other half opted for a more traditional PPO.

Ms. Hall said she believes the response is the result of a massive educational effort. Nearly 150 informational meetings were held across the city last August and September.

Some employers are offering more than account choice. Alcoa Inc., for example, has had an HRA since 2004 but added an HSA to the mix for this year.

"We're trying to appeal to two different employee groups," said Scott Kovaloski, manager of health and welfare benefits consulting for the Pittsburgh-based aluminum producer.

Most HSA participants have a higher-than-average annual salary and are more likely to be able to afford to put money into their account to save for retirement, he said, while employees with HRAs have an average or below-average salary and don't have the disposable income to put into an HSA.

Alcoa will revisit that decision in a couple of years as part of a benefits review, Mr. Kovaloski said. Currently, 18% of the company's 27,000 salaried and nonunion employees are enrolled in an account-based plan, mostly through the HRA.

Employers are exploring other creative ways to use HRAs as well, such as rewarding employees who perform certain health and wellness tasks, which can include complet-

ing a health risk assessment, having a biometric screening or using an online cost-comparison tool.

In the past, many employers handed out \$25 gift cards as rewards. But as incentive amounts rise, employers risk running afoul of IRS guidelines that obligate employers to pay taxes on those outlays and to treat that money as taxable income to the employee, said Alexander Domaszewicz, a Newport Beach, Calif.-based principal and senior consultant with Mercer L.L.C. By setting up a special "zero-balance" HRA, the employer can give tax-free incentive payments to employees.

Likewise, Mr. Domaszewicz has seen a couple of employers use HRAs to funnel bonuses to employ-

ees as part of a severance package.

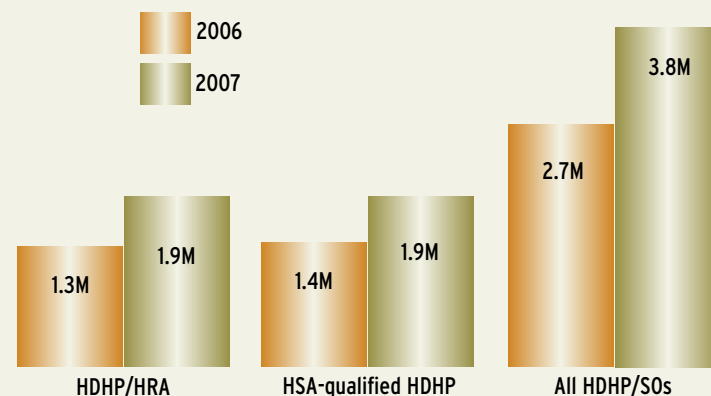
A number of large employers are creating HRAs just for retiree health care, he said. For example, an employer may promise \$1,000 per year to an employee's HRA beginning at age 40, with the stipulation that the money cannot be touched until retirement.

"It's a tool you can use to create these kind of retiree value propositions for employees and replace retiree medical to some extent," he said.

Such atypical uses of HRAs, in which the account isn't tied to a health plan, aren't commonplace yet. "It's still kind of under the radar," Mr. Domaszewicz said. "We're doing it with some employers, and I think it's going to grow."

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In re Petition of PRO Insurance Solutions Limited, as foreign representative of SPHERE DRAKE INSURANCE LIMITED, Debtor in a Foreign Proceeding.

In a Case Under Chapter 15 of the Bankruptcy Code
Case No. 08-B-12832 (JMP)

NOTICE OF FILING AND HEARING ON PETITION UNDER CHAPTER 15 OF THE UNITED STATES BANKRUPTCY CODE

PLEASE TAKE NOTICE that on July 22, 2008, PRO Insurance Solutions Limited (the "Petitioner"), as the duly authorized foreign representative, as defined in section 101(24) of title 11 of the United States Code (the "Bankruptcy Code"), of Sphere Drake Insurance Limited ("Sphere Drake"), commenced a case (the "Chapter 15 Case") by filing a Petition (the "Petition"), pursuant to Chapter 15 of the Bankruptcy Code, with the United States Bankruptcy Court for the Southern District of New York (the "Court");

PLEASE TAKE FURTHER NOTICE that the Petitioner seeks, among other things, entry of an order giving full force and effect in the United States to the Scheme of Arrangement (the "Scheme") proposed by Sphere Drake and sanctioned pursuant to section 425 of the Companies Act 1985 of Great Britain by the High Court of Justice of England and Wales (the "High Court"), a permanent injunction and related relief;

PLEASE TAKE FURTHER NOTICE that the Petitioner is requesting recognition of a foreign main proceeding, as well as a permanent injunction and related relief;

PLEASE TAKE FURTHER NOTICE that pursuant to the Amended Order Limiting Notice, Scheduling Hearing and Specifying the Form and Manner of Service of Notice, dated July 29, 2008 [Docket No. 9], the Court has scheduled a hearing (the "Hearing") for September 10, 2008 at 10:00 a.m., or such other time as counsel may be heard, before the Honorable James M. Peck in Room 607 of the Bankruptcy Court, One Bowling Green, New York, New York, to consider the Petition and the relief requested by the Petitioner;

PLEASE TAKE FURTHER NOTICE that in addition to the Petition, the Petitioner filed, among other things: (i) the list required to be filed pursuant to Rule 1007(a)(4) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"); (ii) the Statement of Foreign Representative required to be filed pursuant to section 1515 of the Bankruptcy Code; (iii) the Verified Petition under Chapter 15 of the Bankruptcy Code for Recognition of a Foreign Main Proceeding, for a Permanent Injunction and Related Relief; (iv) the Memorandum of Law in Support of Petition Under Chapter 15 of the Bankruptcy Code for Recognition of a Foreign Main Proceeding, for a Permanent Injunction and Related Relief; and (v) the Declaration of William Nigel James Montgomery, UK Counsel (collectively, the "Supporting Documents");

PLEASE TAKE FURTHER NOTICE that any party in interest wishing to submit a response or objection to the Petition or the relief requested by the Petitioner must do so pursuant to the Bankruptcy Code and the Local and Bankruptcy Rules, including, without limitation, Bankruptcy Rule 1011, in writing and setting forth the bases therefore, which response or objection must be filed with the Office of the Clerk of the Court, Room 534, One Bowling Green, New York, New York 10004-1408, and served on Chadbourne & Parke LLP, 30 Rockefeller Plaza, New York, NY 10112 (Attn: Howard Seife, Esq.) so as to be received by them all no later than 4:00 p.m. (EDT), September 3, 2008;

PLEASE TAKE FURTHER NOTICE that the response or objection to be filed with the Office of the Clerk of the Court must be filed: (i) electronically by registered users of the Court's electronic case filing system in accordance with General Order M-242 of the Bankruptcy Court for the Southern District of New York, a copy of which may be viewed on the Court's website, www.nysb.uscourts.gov; and (ii) by all other parties in interest on a 3.5 inch disc, with hard copy provided to the Chambers of the Honorable James M. Peck, at the address specified above;

PLEASE TAKE FURTHER NOTICE that all parties-in-interest opposed to the Petition or the Petitioner's request for relief must appear at the Hearing at the time and place set forth above;

PLEASE TAKE FURTHER NOTICE that the Hearing may be adjourned from time to time without further notice other than an announcement in open court at the Hearing or the adjourned date or dates of the Hearing and filing of a notice on the Court's electronic docket of the Chapter 15 case; and

PLEASE TAKE FURTHER NOTICE that if no response or objection is timely filed and served as provided above, the Court may grant the recognition and relief requested by the Petitioner without further notice. Copies of the High Court's order sanctioning the Scheme and the Verified Petition under Chapter 15 of the Bankruptcy Code for Recognition of a Foreign Main Proceeding, for a Permanent Injunction and Related Relief are available to review and download at www.wfumpools.com. Copies of the Petition and the Supporting Documents will be made available upon request at the office of the Petitioner's United States Counsel at the address below:

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

NEW YORK CITY HOUSING AUTHORITY

INVITATION FOR BIDS

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The New York City Housing Authority ("NYCHA") requests quotations from qualified **INSURANCE CARRIERS** for Primary/Excess Property and Boiler & Machinery Insurance coverage. **Coverage is to become effective October 30, 2008.**

Proposals must be made in the format included in the Invitation for Bids package containing instructions, specifications and detailed submission requirements. Packets may be obtained by calling NYCHA's Property Insurance Broker: **Towers Perrin, One Stamford Plaza, 263 Tresser Boulevard, Stamford, CT 06901 at (203) 363-1974.** In order to be eligible, completed bids **must be received by 4:00 P.M. EST on September 05, 2008.**

All inquiries for additional information regarding the Invitation for Bids are to be directed, in writing, to **Todd Hohlweck, Towers Perrin, at the aforementioned address, telephone or e-mail at Todd.Hohlweck@towersperrin.com.**



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Tino Hernandez
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LEGAL NOTICE

LEGAL NOTICE

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
COMPANIES COURT

No. 5963 of 2008
No. 5962 of 2008

IN THE MATTER OF
GLOBAL GENERAL AND REINSURANCE COMPANY LIMITED
AND IN THE MATTER OF THE COMPANIES ACT 2006 OF GREAT BRITAIN
IN THE MATTER OF
GLOBALE RÜCKVERSICHERUNGS-AG
AND IN THE MATTER OF THE COMPANIES ACT 2006 OF GREAT BRITAIN
SCHEMES OF ARRANGEMENT
between
GLOBAL GENERAL AND REINSURANCE COMPANY LIMITED
(former names **THE CHRISTANIA REINSURANCE COMPANY LIMITED, UNITED REINSURERS LIMITED, GERLING GLOBAL REINSURANCE COMPANY LIMITED and GERLING GLOBAL GENERAL AND REINSURANCE COMPANY LIMITED**)
and
GLOBALE RÜCKVERSICHERUNGS-AG
(former names **GERLING-KONZERN GLOBALE VERSICHERUNGS-AKTIEGESELLSCHAFT, GERLING-KONZERN GLOBALE RÜCKVERSICHERUNGS-AKTIEGESELLSCHAFT and GERLING GLOBALE RÜCKVERSICHERUNGS-AKTIEGESELLSCHAFT**)
and
their respective Scheme Creditors
(as defined in the schemes of arrangement referred to below)

NOTICE IS HEREBY GIVEN that by an order dated 29 July 2008 made in the High Court of Justice of England and Wales in the above matters the Court has directed that meetings of the Scheme Creditors (as defined in the scheme of arrangement hereinafter mentioned) (the "Meetings") of the above named companies (together the "Companies") be convened for the purpose of considering and, if thought fit, approving (with or without modification) a scheme of arrangement proposed to be made between each of the Companies and their respective Scheme Creditors pursuant to Part 26 of the Companies Act 2006 (the "Scheme"). The Meetings will be held on Friday 10 October 2008 at the offices of Clyde & Co LLP, 51 Eastcheap, London, EC3M 1JP, United Kingdom, commencing at 11am (London time). All Scheme Creditors are requested to attend at such place and time either in person or by proxy. Two separate Meetings will be held by each Company, one Meeting for Scheme Creditors with Notified Outstanding Claims and one Meeting for Scheme Creditors with IBNR Claims (each as defined in the Scheme). If you are a Scheme Creditor with both Notified Outstanding Claims and IBNR Claims you will be entitled to vote at both Meetings.

Scheme Creditors may vote in person at the Meeting(s) or may appoint another person, whether a Scheme Creditor or not, as their proxy to attend and vote in their place.

Scheme Creditors are all policyholders having claims or potential future claims arising under or in connection with:

- (i) all reinsurance policies underwritten by GLOBAL General in the UK between 1940 and 1988, excluding all policies (a) written by GLOBAL General through the GLM Pool (the London market pool operated by V.J. Wright "Underwriting" Limited and, subsequently, by GLOBAL London Market Limited) and (b) written by GLOBAL General that protect policies underwritten by HS Weavers (Underwriting) Agency Limited and ME Rutty Underwriting Agency Limited;
- (ii) all insurance and reinsurance contracts relating to aviation risks underwritten or assumed by GLOBALE (whether by means of a portfolio transfer or otherwise) between 1954 and 2002, where the broking company that placed the risk with GLOBALE was incorporated in the UK on the date that the contract inception;
- (iii) all insurance and reinsurance contracts relating to aviation risks underwritten or assumed by GLOBALE (whether by means of a portfolio transfer or otherwise) between 1954 and 2002, where the policyholder was incorporated in the UK on the date that the contract inception or the policyholder was a Lloyd's Syndicate provided that any such contracts that protect both policyholders that were incorporated in the UK ("UK Policyholders") and policyholders that were not so incorporated but were Group Undertakings of UK Policyholders on the date that the contract inception shall be included as Scheme Business, excluding all claims relating to the terrorist attacks which took place on 11 September 2001 and the loss of an American Airlines aircraft which occurred on 12 November 2001; and
- (iv) all contracts of treaty reinsurance underwritten or assumed by GLOBALE (whether by means of a portfolio transfer or otherwise) between 1954 and 1992, where the policyholder was a UK Policyholder (as defined in (iii) above) or the policyholder was a Lloyd's Syndicate provided that any such contracts that protect both policyholders that were UK Policyholders and policyholders that were not so incorporated but were Group Undertakings of UK Policyholders on the date that the reinsurance treaty inception shall be included as Scheme Business.

For the purpose of (iii) and (iv) "policyholder" includes all companies contractually entitled to claim under such contracts or reinsurance treaties whether or not they were individually referred to by name in the contracts or treaties.

The Scheme which GLOBALE is proposing to enter into with its Scheme Creditors also covers business underwritten by Gerling-Konzern Rückversicherungs-AG and transferred to GLOBALE in 1957 in so far as it is within the scope of (ii) and (iii) above.

Please note that any liabilities GLOBALE may have arising under or in connection with policies issued through the London market pools operated by E W Payne are excluded from the scope of the Scheme. In addition, any liability of GLOBALE to a policyholder with whom GLOBALE is engaged in legal proceedings (including arbitration) as at 21 January 2008 is excluded from the scope of the Scheme unless (i) GLOBALE and the policyholder concerned agree otherwise or (ii) the legal proceedings involve GLOBALE and its co-insurers or co-reinsurers and are part of a dispute involving the policyholder.

A copy of the proposed Scheme and a statement explaining the effect of the Scheme, as well as blank forms of proxy and voting forms, may be downloaded and printed from the following website www.globalre.com/schemes. They may also be obtained by attending at, or on written application to:

- (i) GLOBAL General and Reinsurance Services Limited, 50 Fenchurch Street, London, EC3M 3JY (marked for attention of Anne Williams) before midday (London time) on Tuesday 7 October 2008.
- (ii) GLOBALE Rückversicherungs-AG, Im Mediapark 4b, 50670 Köln, Germany (marked for the attention of Holger Fiedler) before midday (London time) on Tuesday 7 October 2008.

The Court has appointed Thomas Freudenstein of GLOBALE Rückversicherungs-AG, to act as chairman of the Meetings and has directed the chairman of the Meetings to report the result of the Meetings to the Court. The Court has appointed Graham Trowbridge to act as independent vote reviewer for the purposes of reviewing the values placed on Claims for voting purposes in certain circumstances and preparing a report on the reasonableness of those values for submission to the Court.

If approved by the requisite majority of creditors at each meeting, the Scheme will be subject to the subsequent approval of the Court.

If the Scheme is sanctioned in respect of GLOBAL General, GLOBAL General will file a petition in the United States of America under Chapter 15 of the United States Bankruptcy Code commencing a proceeding in the United States Bankruptcy Court to aid effective implementation of the Scheme. Similarly, if the Scheme is sanctioned in respect of GLOBALE, GLOBALE will file a petition in the United States of America under Chapter 15 of the United States Bankruptcy Code commencing a proceeding in the United States Bankruptcy Court to aid effective implementation of the Scheme.

Any policyholder who has any questions concerning the action he is required to take should contact the relevant Scheme Company using the details set out below:

GLOBAL General c/o GLOBAL General and Reinsurance Services Limited, 50 Fenchurch Street, London EC3M 3JY, United Kingdom.
Tel: +44 (0) 20 7173 3328 Fax: +44 (0) 20 7173 3301
Email: enquiries.pre89scheme@globalre.uk.com Website: www.globalre.com/schemes

GLOBALE, GLOBALE Rückversicherungs-AG, Im Mediapark 4b, 50670 Köln, Germany.
Tel: +49 221 2889 177 Fax: +49 221 2889 405
Email: solvent.scheme@globalre.com Website: www.globalre.com/schemes

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that AXA Reinsurance UK Limited (formerly known as Ancienne Mutuelle Reinsurance UK PLC and AXA Reinsurance UK PLC) (the "Transferor") and AXA Global Risks (UK) Limited (the "Transferee") applied to the High Court of England and Wales on 9 June 2008, pursuant to section 107(1) of the Financial Services and Markets Act 2000 (the "Act"), for an Order sanctioning the transfer to the Transferee of the entirety of the Transferor's insurance and reinsurance business (the "Business").

The Financial Services Authority ("FSA") has approved Mr Dewi James of James, Brennan & Associates, as independent expert in respect of the Scheme pursuant to s.109(2)(b) of the Act. It has also approved the form of Mr James' Scheme Report pursuant to s. 109(3) of the Act. The Scheme Report concludes that policyholders will not be adversely affected by the transfer. A statement setting out the terms of the transfer and containing a summary of the Report and a copy of the full Scheme Report can be obtained from Mr Phil Wix at AXA Liabilities Managers (UK Branch), Civic Drive, Ipswich IP1 2AN. Alternatively, it may be viewed and downloaded from www.clydeco.com/axare. General queries should be directed to Mr Phil Wix at the address stated above.

Any person who considers that they would be adversely affected by the carrying out of the scheme is entitled to be heard by the Court pursuant to section 110 (b) of the Act. The application will be heard on 2 December 2008 at the Companies Court, Royal Courts of Justice, Strand, London WC2A 2LL. Please inform Mr Phil Wix at the address set out above if you have any comments on the transfer or if you wish to be represented at the application.

HELP WANTED

The WV Public Employees Insurance Agency is recruiting for an Actuarial Analyst to work in the agency's headquarters in Charleston, WV. The successful candidate will possess a bachelors degree in mathematics, statistics, actuarial science, business administration, economics, finance, insurance, accounting, or a related field, plus two years of paid health care actuarial experience. The successful candidate must have completed an examination sponsored by the Society of Actuaries in the area of assignment or, upon appointment, incumbent will be required to begin an examination track sponsored by the Society of Actuaries related to the area of assignment. Benefits include: retirement, insurance, deferred compensation, annual increment, paid holidays, vacation, sick leave, flexible work hours, and training opportunities. Interested applicants should visit <http://www.state.wv.us/admin/personnel/jobs/wvneo.htm> to apply no later than August 31, 2008. WV Division of Personnel 304/558-3950 ext. 57207 \$33,396 - 61,788 EOE

REQUEST FOR PROPOSAL

Request for Proposal (RFP) The Washington State Department of Labor and Industries is issuing a Request for Proposal (RFP No. K1440) to solicit responses to perform two studies (Underwriting, and Risk Management/Claims) to evaluate and recommend improvements to the Retrospective Rating Plan. The services are scheduled to begin November 2008 and end June 2009.

To obtain a copy of the RFP, interested parties must register with Washington's Electronic Business Solutions (WEBS) at: <http://www.ga.wa.gov/Business/3start.htm>. Please select Commodity Code No. 9811, Management Consulting Services, 9850 Audit and Financial Services, 9855, Consulting Services, Safety & Health, in your WEBS registration process. Bidders are encouraged to register as early as possible to ensure they receive notification of bid updates. The Vendor will not receive notifications posted prior to registration. Documents must be downloaded from WEBS. Questions regarding the registration process can be directed to WEBS Customer Service at (360) 902-7400 or webcustomerservice@ga.wa.gov. The RFP is expected to be posted on WEBS on August 11, 2008. Responses are due on September 17, 2008. All inquiries related to the RFP should be addressed to Jeff Miller, RFP Coordinator, mlr235@lni.wa.gov, (360) 902-4475.

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- Ac520 Financial Accounting & Reporting
- Ac541 Sarbanes Oxley Compliance
- Ac543 Forensic Accounting
- Cs667 Disaster Recovery

Who? Developed by Jack Hampton, KPMG Professor of Business

Where? Jersey City, Newport, Newark, Englewood Cliffs

When? Trimesters start Sept, Dec, March, & June.

How? One night a week (10 weeks), hybrid (3 Fridays or 3 Saturdays, or online).

Contact: Carmela Beutel (201 761-6472, cbeutel@spc.edu) or Filomena Durso (201 761-6471, fdurso@spc.edu).

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UP CLOSE

GARRETT HANRAHAN

NEW JOB TITLE: Dallas-based chief executive officer of Global Aviation in North America for Willis Group Holdings Ltd.

PREVIOUS POSITION: Executive vp of Aon Aviation in Dallas and Southwest regional managing director.

VITAL STATISTICS: I have my (associate in risk management) and also completed an MBA program at Southern Methodist University in Dallas.

GOALS FOR NEW POSITION: I think first and foremost it's getting to know the people and clearly immersing myself in the Willis culture. From there...I will start to work with the leadership to set a strategy.

CHALLENGES FACING THE INDUSTRY: You can open up any newspaper anywhere and see the challenges facing the aviation sector. A lot of things that have



an impact on everyone economically have an acute effect on the aviation industry.

FIRST JOB IN THE INDUSTRY: I joined Alexander & Alexander out of undergraduate (school) in 1993 in what they called their risk management associate program. They literally schooled you in all the basics. I spent anywhere from one week to three weeks in each department, doing everything from claims and loss control to construction, to the financial services group, bonds, and also it was my first taste of aviation.

OUTSIDE THE INDUSTRY, A DREAM JOB: I would have loved to have been able to teach at a college level. It kind of goes back to my (double) degrees (in history and finance). History was something that I really enjoyed, but finance was something I did because I would need a job that would pay the bills.

Comings & Goings ONLINE

VISIT www.businessinsurance.com/ComingsandGoings for a full list of this week's personnel moves and promotions. Check our Web site daily for additional postings.



Kevin Knudson,
John B. Collins
Associates Inc.



Leslie G. Fenton,
KPMG Corporate
Finance L.L.C.

TO SUBMIT ITEMS

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

Allison Martinat
Business Insurance
360 N. Michigan Ave.
Chicago, Ill. 60601-3806
amartinat@businessinsurance.com

POSTING THIS WEEK

BROKERS:

- Integro Insurance Brokers
- American E&S Insurance Brokers
- Edgewood Partners Insurance Center
- Willis Group Holdings Ltd.

INSURERS:

- Harleysville Life Insurance Co.
- United America Indemnity Ltd.
- James River Insurance Co.
- & James River Management Co.
- Erie Indemnity Co.

REINSURANCE:

- John B. Collins Associates Inc.
- PartnerRe Ltd.

MANAGED CARE:

- WellPoint Inc.

OTHER PROVIDERS:

- KPMG Corporate Finance L.L.C.
- Fringe Benefits Management Co.
- Hewitt Associates Inc.

Letters to the editor

CONTINUED FROM PAGE 8

same message at open enrollment meetings just before your plan renewal date.

- Take the time to give serious thought to full replacement. We offer a traditional point-of-service plan as well with a modest 20% premium contribution for dependents only. Our HDHP is premium free for employees and dependents.

- After the initial announcement, have additional meetings to show how the plan works. The goal is to educate employees, which takes time.

- Introduce the right deductible and maximum out-of-pocket for your corporate culture.

- Encourage input and keep an open door policy. Listen and make minor adjustments if necessary.

- Cover wellness and safe-harbor screenings as outlined in IRS Notice 2004-23.

- Encourage preventive and wellness care.

- If not already in place, introduce a comprehensive wellness program. Employees need this roadmap to assist them.

- Give an extra day off with pay for completing an online health risk assessment. Employees need to be engaged and we found this helped.

- Allow employees to open a health savings account. This part of the overall plan is critical to the success of the program. Highlight the tax and personal benefits of an HSA.

- Provide some employer contribution to the HSA.

- Negotiate with your bank to waive certain fees to roll out the HDHP/HSA program.

- Be honest with your employees. Explain to them all medical insurance costs. If you have a cost plus/deductible program, share that with the employees.

Insurance is not prepaid health care, yet that is what we have lived with for years. We are at the beginning of a health care consumerism evolution. I am not telling you this process will be without some heartburn. However, if you are prepared, you will succeed.

How did the introduction of consumer-driven plan help us? As a self-funded plan with a \$50,000 individual stop-loss, we saw a 25% reduction in expected claims from our 2006 policy year to our 2008 policy year. We think that reduction, with the 73% participation level, does validate that if you properly package your CDHP, you can be successful.

Brian Boudreau
Vp, human resources
and risk management
Eastern Propane & Oil
Rochester, N.H.

WRITE

Business Insurance welcomes letters to the editor. The section is intended to be a forum for readers' opinions and comments. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Please send your letters to: Letters to the Editor, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Or fax: 312-280-3174, e-mail: rcoccia@businessinsurance.com

Products & Services

Integro policy covers hedge fund investors

NEW YORK—Integro Ltd. has introduced insurance to protect institutional investors from hedge fund losses due to fraud.

Hedge Shield covers institutional investors should hedge fund assets be seized by a governmental or other regulatory agency based on allegations of fraud. The coverage also

protects investors against reputational damage.

The policy is aimed at clients who have approximately \$30 million to \$40 million in one fund and covers overstatement of net asset values, theft, concealment of trades and false asset claims. Under contract terms, investors are reimbursed their principal within 90 days following the seizure of assets.

Investors will be required to insure their entire hedge fund portfolio and each fund will be investigated by Hamilton, Bermuda-based operational risk certification firm Amber Partners (Bermuda) Ltd. The policy is being underwritten by several insurers.

For more information, contact Michael Klaschka, managing princi-

pal, Integro Insurance Brokers Ltd., at 212-295-5340 or michael.klaschka@integrogroup.com.

Lexington adds pandemic flu endorsement

BOSTON—Lexington Insurance Co., a unit of American International Group Inc., is offering an insurance program to health care providers and hospitals should there be a flu pandemic.

Pandemic Rx, an endorsement to Lexington's commercial property policy for acute care medical facilities, covers business income loss and extra expenses incurred during a declared flu pandemic public health emergency.

The coverage reimburses policy-

holders for increased expenses or reduced income resulting from providing pandemic-related care for up to six months, subject to the limits purchased. Limits of up to \$25 million are available.

It also covers additional expenses incurred, such as procurement of vaccines, antibiotics, antiviral medications as well as consumable resources such as surgical and procedural masks, gowns, gloves, food, water and central lines kits. Durable resources including ventilators, respiratory care equipment, beds and intravenous pumps also are covered under the policy.

Pandemic Rx provides up to \$100,000 for crisis response and public relations costs for organizations responding to a flu pandemic.

For more information, contact Jennifer Wilkinson, product line manager for Lexington, at 617-330-4307.



AIG unit offers agribusiness coverage

NEW YORK—AIG Landmark, a unit of AIG Commercial Insurance, is offering coverage to address risks faced by the agribusiness sector.

The program extends to growers, packers, shippers, processors, handling and storage operations, and suppliers and vendors of agribusiness-related services. The multiline products include general liability, umbrella property, inland marine, auto liability, auto physical damage and workers compensation coverage.

For more information, contact Gary Wilburn, agribusiness leader, at 916-283-2421 or at gary.wilburn@aig.com.

RMS releases system to assess terrorism risks

NEWARK, Calif.—Risk Management Solutions Inc. has released its interactive terrorism risk management system to assist underwriters and portfolio managers in assessing terrorism-related exposures on new insurance submissions.

T-RMS is a browser-based application that uses high-resolution aerial imagery and photography from the Microsoft Virtual Earth platform to detect specific locations through risk-layered maps.

Users can view a property's proximity to other high-value locations in the portfolio to assess how it might affect their accumulations. Customers can also verify the type and size of a building being considered, along with the risk level of the surrounding structures.

The product incorporates qualitative terrorism risk information from RMS' database including high-risk targets in the United States and 20 international cities. The model allows insurers to quantify insured property and business interruption losses, as well as workers compensation, life, health, and personal accident injuries and losses, according to RMS.

For more information, contact Tristan Camanga, RMS product manager, at 510-505-2500 or visit www.rms.com.

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TO SUBMIT ITEMS

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International NEWS



New Aon fee per policy riles buyers in Germany

Broker: Transparent charge defrays added costs

By RICHARD MILLER

HAMBURG, Germany—Germany's commercial insurance buyers association has criticized a new annual €100 (\$156) per policy fee being charged by Aon Jauch & Hübener GmbH, which the Hamburg-based broker has imposed to defray some of the costs associated with regulations.

The Deutscher Versicherungs-Schutzverband e.V. is "not convinced that there is any benefit to clients that corresponds to that fee," said Philipp Andreae, in-house legal counsel for Bonn, Germany-based DVS. "On the contrary, DVS regards Aon's fee as another attempt to let clients pay for the financial embarrassments of some global brokers," he said.

As a result of buyer objections, Leberecht Funk, president of the association of German insurance brokers—Verband Deutscher Versicherungs-makler e.V.—said he believes the extra charge will be short-lived. Buyers will see Aon's move as looking for "loopholes to charge extra," he said.

"The client will think it is an abuse and they will resist paying it," said Mr. Funk, chairman of independent broker Funk Gruppe GmbH in Hamburg. "I think it will not survive."

While the service fee may be used elsewhere by Chicago-based Aon Corp., Mr. Funk says it is "totally uncommon" in Germany. "This was imposed from the outside, from the Anglo-Saxon world where it is more common, but it does not fit in Germany," he said.

Mr. Funk said he believed Aon would eventually be forced to "quietly withdraw" the charge.

Aon Jauch & Hübener began charging the annual €100 per policy fee to commercial clients with policies with a July inception date. Aon estimates that the typical industrial

and global client could pay about €500 (\$778) more each year because of the fee.

Aon said the fee is to cover some of the costs of complying with consumer protection regulations implemented under the E.U. Insurance Mediation Directive (2002/92/EC) as well as reforms of the German Insurance Contract Act, or Versicherungs-vertragsgesetz, which went into effect at the start of the year.

The consumer protection rules place an additional compliance burden on the brokerage, said Sven Erichsen, managing director at Aon Jauch & Hübener.

Aon also contends that the new requirements result in a greater level of service to clients—such as better data protection and storage and more transparency. "This is an additional service for which we charge this specific fee," Mr. Erichsen said. "It is our way of passing on some of the costs—and I stress only some of the costs" to the client.

Mr. Erichsen noted that for some clients the service is already included in their remuneration agreement. It will be added to agreements only where the additional services are not included.

Aon charges a per-policy service fee in other markets, including the United States, United Kingdom, France and the Netherlands, as well as Australia and other Asian markets, Mr. Erichsen said. The German operations have been looking at the option for two years now, he said.

Aon Germany has no concrete figures on how much revenue it expects to bring in from the new charge, Mr. Erichsen said.

Extra broker charges are a raw issue in Germany, particularly after much discourse over an additional 2.5% commission on net quote-based business imposed last year in

See **FEE** next page

Siemens sues ex-execs in scandal

Insurers have yet to determine whether potentially huge claim is covered

By RICHARD MILLER

MUNICH, Germany—Siemens A.G.'s recent decision to sue former executives linked to a corruption scandal adds yet another strand to an already complex and potentially expensive claim made against the company's directors and officers insurance.

But several months after Siemens first notified its insurers of its intention to file a directors and officers claim, the insurers continue to pick over policy wordings to ascertain if the policy will provide coverage.

Siemens, the Munich and Berlin-based engineering conglomerate, notified insurers in April of its intention to file a claim related to a far-reaching bribery scandal.

Prosecutors in more than 10 countries, including Germany and the United States, are investigating the alleged payment of bribes for business. And pending court deci-



AP PHOTOS

Klaus Kleinfeld (left) and Heinrich von Pierer, both former chief executive officers of Siemens A.G., are among 11 executives Siemens has sued, accusing them of breaching their duties in a far-reaching bribery case.

sions in Germany, Siemens could also face shareholder class actions from investors, particularly those in the United States, experts say.

In the latest twist in the corrup-

tion scandal, Siemens announced on July 29 that it would sue 11 former executive committee members

See **SIEMENS** next page

Revised law in Italy favors buyers

Ability to cancel policy penalty-free effectively kills long-term contracts

By MICHAEL BRADFORD

MILAN, Italy—A change in Italian law that allows commercial policyholders to break long-term contracts—traditionally written for 10 years—has forced insurers and brokers to focus on service standards and not just price, observers say.

Law No. 40, passed in April 2007, allows policyholders to cancel long-term contracts without penalty if they provide the insurer a 60-day notice. While many large corporate buyers already had abandoned 10-year policies, long-term contracts were still common among smaller policyholders.

Italian market sources say the legislation has effectively killed the practice, under which the policyholder was locked in to the contract, but insurers were allowed to cancel if they were unhappy with claims activity, for example.

The law's impact on the Italian insurance market has been to force insurers, agents and brokers to emphasize the quality of their products and services instead of touting low prices locked in for many years as reasons to buy, sources say.

"It is easy to buy customers and forget about them," said Marco Maraccani, general manager, Italy, at AIG Europe in Milan, a unit of New York-based American International Group Inc. "Now you have to prove what you can provide."

Speaking at a *Business Insurance Europe Risk Horizons* discussion in Milan, Mr. Maraccani said there is a challenge now for agents to show their real value to clients as the legislative change has created a more competitive market for business that is no longer guaranteed for up to 10 years.

The practice of writing 10-year

policies was a legacy of the Italian insurance culture and its disappearance is good for the market, Maurizio Castelli, Milan-based managing director of the Italian branch of XL Insurance, a unit of XL Capital Ltd., said during the discussion.

A European Commission report last September on competition in the business insurance sector expressed concern about the prevalence of long-term contracts in Italy and three other European countries.

The commission also named Austria, Slovenia and the Netherlands as countries where the duration of insurance contracts was much higher than the European norm.

In Italy, the commission's research found, the average duration of insurance contracts for small to midsize businesses was about six years, or 73 months, compared with about eight years in Austria, almost seven years in Slovenia and about six years in the Netherlands.

In all of those countries, the average duration of general liability and property insurance contracts was longer than six years, according to the commission's report. In the majority of E.U. member states, however, the report showed that the average duration of insurance contracts for small to midsize buyers was approximately 12 months or a little longer.

Italian market sources say large insurance buyers are not affected by the changes in contract duration as much as are small to midsize buyers, which far outnumber big companies in the country.

Long-term contracts were more common a decade ago for large policyholders, said Luca Franzi, a board member with RVA Rasini Viganò S.p.A., a Milan-based brokerage. "Today they are nearly impossible to find," he said of such policies.

Mr. Franzi said the disappearance of long-term policies is likely to have a broader impact on smaller insurance buyers who commonly purchased them.

Francesco Paparella, president of the Italian Assn. of Insurance & Reinsurance Brokers in Rome, said the full impact of the disappearance of long-term contracts will take some time to become clear. He said some policyholders will have to get used to paying more attention to their policies.

Policyholders in some cases did not bother to verify over time that their coverage was adequate when it was written on a long-term basis, Mr. Paparella said in an e-mail. "The impact on clients is generally positive," he said of eliminating long-term policies, because buyers will more frequently verify the adequacy of their insurance, leading to better relationships with underwriters.

Last September's commission report noted that law No. 40 was passed in response to several concerns in the business insurance market, one of them being that insurance agents allegedly succeeded in tying their customers down through long-term contracts.

While some market participants told the commission that this was no longer a problem in Italy, some buyers said they were not always able to buy contracts of the duration they wished.

The commission also said that insurers, by being forced to concede a unilateral option to cancel, may raise the price of insurance or no longer offer contracts with the duration that the market demands.

"Therefore, it remains to be seen whether the solution to the problem found in Italy in fact improves the situation for customers," the report noted.

Fee: Charge also applied in many other markets

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the German market by Marsh GmbH in Stuttgart, part of New York-based broker Marsh Inc. Last year the 2.5% became more widely adopted in the United Kingdom.

In Germany, the 2.5% commission is paid by the insurer only if the buyer—who some experts argue ultimately pays the charge—consents.

Aon Jauch & Hübener does not charge the additional 2.5% in Germany, Mr. Erichsen said. In comparison, the €100 fee is a much

more transparent alternative, he noted.

"This is a very transparent issue," Mr. Erichsen said. "You can say this is exactly linked to specific services, which is explained to the client."

"With a (commission) like 2.5%, it is not transparent, you do not have to tell the client (what additional services are covered)," he continued. "We decided to say, this is an additional service; we are setting a price for that, and the client knows exactly what he has to pay it for. It is much better to do it that way."

Siemens: Some say D&O claim could turn market

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over alleged breach of duties.

While Siemens notified its D&O insurers in April of its intention to file a claim, insurers continue to analyze whether the policy has been triggered, according to a market source.

The D&O policy is likely to cover any legal action that may arise from Siemens' lawsuit against its former directors. Legal costs and damages up to the policy limits that may

'If (Siemens' directors and officers claim is) successful, it might impact the higher excess layers' of its coverage.

Gerard van Loon,
Liberty International Underwriters

result from Siemens' lawsuit against the former executives—from both the defense and plaintiff side—might fall under the policy, a source noted.

The company has a D&O coverage limit of €250 million (\$388.5 million) underwritten by a consortium of insurers led by Allianz S.E., with portions held by HDI-Gerling, part of the Hanover-based Talanx Group, and Switzerland-based Zurich Financial Services Group.

A spokesman for Allianz Global Corporate & Specialty, the industrial arm of Allianz, refused to comment on the claim and the latest developments.

But if Siemens' D&O policy is triggered, it is very likely to access the excess cover, a market source said. And the potential scope of the claim means that experts believe it could turn rates in the directors and officers insurance market should the covered damage reach the €250 million limit.

Siemens announced on July 29 that it would pursue claims for financial damages against 11 former members of its executive committee, including former Siemens chief

executive officers Klaus Kleinfeld and his predecessor Heinrich von Pierer.

Mr. Kleinfeld is currently chief executive of Pittsburgh-based Alcoa Inc. He has not been charged with a crime and denies any wrongdoing.

The company claims the 11 former executives breached their organizational and supervisory duties in view of the accusations of illegal business practices and extensive bribery that occurred in the course of international business transactions in the years 2003 to 2006 and the resulting financial burdens to the company.

Siemens added that former committee members would be given an opportunity to state their positions on the accusations before legal action is taken. It is not uncommon for a German company to sue members of its executive committee.

"D&O policies in Europe typically will defend and indemnify directors against claims made against them by their company," said one market source. "In Germany that is perhaps the biggest risk that directors face as the supervisory board of a German company has an obligation to consider action against directors of the management board when they believe them to have been in breach of the duties that they owe to the company," he said.

"It is a claim type that does not arise frequently elsewhere in the world but it does arise," he said.

But observers noted that it is not common for companies to pursue damages in a civil case against directors and officers before government prosecutors have concluded their case. Some assume Siemens is taking the action to show regulators and investors that it is working to address the scandal.

Gerard van Loon, London-based head of German liability business at Liberty International Underwriters, a unit of Boston-based Liberty Mutual Group Inc., said that while he is not involved in the situation, he considered Siemens' new claim for damages against its directors interrelated to its previous claim. "If successful, it might impact the higher excess layers" of its coverage, he said.

Pensions: Ruling blocks DB plan transfers

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at least several would have been introduced by the end of this year.

A major appeal would be cost savings. Mr. German said these transactions have been estimated to cost plan sponsors an average of 15% less than another alternative, buying annuities from insurers.

"The beauty of this is, it eliminates the risk totally for the employer by giving it to the investment company" and would be less expensive than purchasing insurance company annuities, said Bob Leonie, a Minneapolis-based principal with Hewitt Associates Inc. who heads the solutions and strategies unit of its U.S. retirement practice.

The IRS/Treasury said in last week's announcement that these transactions would be inconsistent with the tax code's exclusive-benefit rule, which says an employer's pension plan must be for the exclusive benefit of its employees or their beneficiaries.

In the current legislative and regulatory environment, federal agencies "do not have a good way to distinguish between good and bad transactions," said Donald E. Fuerst, a principal at Mercer L.L.C. in Denver.

As a result, the IRS and Treasury Department "decided to take a very conservative route of trying to find a basis under current law under which they could exclude all the transactions," Mr. Fuerst said.

Pros and cons

Observers say the ability to transfer the pension plan of a financially troubled plan sponsor to a strongly capitalized financial services firm is highly desirable. Participants "would have much better security of benefits," Mr. Fuerst said.

But now, "that's been taken off the table," which is not good for either plan participants or plan sponsors in general, he said.

Another factor increasing its attractiveness is that it may help relieve the burden on the Pension Benefit Guaranty Corp., which in fiscal 2007 reported a \$13.1 billion deficit in its single-employer insurance program, say observers.

But others oppose the concept. "It would be foolhardy in the wake of the subprime mortgage crisis to allow financial institutions that are now hungry for cash to have access to billions of dollars of pension money," said Karen Friedman, policy director of the Washington-based Pension Rights Center, an advocacy group.

The financial institutions "would have every reason to invest the money as aggressively as possible to make the biggest profit they could for themselves, and paying retirees and workers in this case would be incidental," she said.

And if the pension plans were to fail, the financial institutions would "dump" them on the PBGC, said Ms. Friedman.

There is general agreement that imminent congressional approval of these transactions is unlikely as the current legislative session draws to a close.

In light of what has happened in the financial services industry over the past year, there has been understandably "more skepticism as to whether it's a good proposal or not," said Scott Macey, Somerset, N.J.-based senior vp and director of government affairs for Aon Consulting.

Outlook unclear

Observers disagree as to prospects further down the road. A new administration in Washington "might be open to something like this," Mr. Fuerst said.

Sylvia Pozezanac, a New York-based Towers Perrin principal, said while these transactions have been put on hold for now, the fact that there is a framework for legislation developed in concert with several agencies "is a very positive message to Congress."

Former PBGC Executive Director Bradley D. Belt said, "If, at the end of the day, it can be demonstrated that a particular transaction would have the effect of strengthening the covenant for participants," he would "have a difficult time envisioning who would be against that."

Mr. Belt, who is now chairman and chief executive officer of Washington-based Palisades Capital Advisors L.L.C., said his investment and advisory firm has had an interest in this area.

Both Citibank and New York-based Goldman Sachs & Co., which has also conducted these transactions in the United Kingdom, had no comment on the ruling.

This issue will not rest very high on Congress' priority list, with health care likely to take center stage next year, Mr. Leonie said.

However, he believes the concept will ultimately be approved. Employers, the investment companies and the government all have reasons "why it can be helpful," and if the security of participants can be improved if their pension plan goes to a stronger organization, "you can see a reason why something like this probably could happen in the near term," he said.

Now that some guidelines for legislation have been developed, it is just a question of getting agreement on those guidelines "and still keep it attractive for everybody," Mr. Leonie said.

However, Dan Pedrotty, Washington-based director of the AFL-CIO's office of investment, said given the general sense that financial institutions have been "fundamentally misjudging their exposure to risk," and a Democratic Congress, "I don't see it moving quickly either in this Congress or the next one."

Rep. Earl Pomeroy, D-N.D., who is a member of the House Ways and Means Committee, which has jurisdiction over tax and pension policy, said in a statement, "Democratic majorities are highly skeptical of pension buyouts. I do not anticipate legislation authorizing them—period."

But Stewart Lawrence, senior vp and national retirement practice leader for the Segal Co. in New York, said the concept's prospects will depend upon whether there are any more big financial institution meltdowns.

"If we're essentially through the worst of it, then I think it's got a chance. But if there are some other meltdowns, I can't see the public allowing it," Mr. Lawrence said.

Pension transfer framework issued by Treasury, IRS

While the Treasury Department and the Internal Revenue Service said last week that transferring frozen defined benefit plans to financial institutions is not permissible under current law, the Bush administration also proposed a framework under which legislation could be developed to permit these transactions.

The legislative framework, developed by the Treasury Department, the Labor Department, the Commerce Department and the Pension Benefit Guaranty Corp., says frozen pension plans could be transferred to an "entity unrelated to the employer" if it met certain requirements:

- Plan participants, their representatives and regulators and ERISA regulators would be required to receive advance notice of a plan transfer, and regulators would be provided with information to review and approve the proposed transaction.

- Only "financially strong

entities" in "well-regulated sectors" would be permitted to participate in these transactions.

- Parties to the transaction would have to demonstrate there would be less risk to the participants' benefits and the pension insurance system, and that it would be in the participants' best interest.

- There would be limits on transfers in order to limit undue risk concentration.

- Transferees would assume full responsibility for the transferred plans' liabilities.

- Subsequent transfer transactions would be subject to the same rules as the original transfer transactions.

"The principles set forth by the administration today are signposts that clearly mark the way," PBGC Director Charles E.F. Millard said in a statement. "We hope Congress will act on legislation to permit transfers that strengthen pension plans."

—By Judy Greenwald

Apollo: Federal judge overturns jury verdict in securities fraud case

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lo, a for-profit higher education company, to pay plaintiffs between \$166.5 million and \$277.5 million in damages, depending on the class size (BI, Feb. 4).

The case centered on whether a stock analyst's reports about a potentially costly but undisclosed regulatory problem that Apollo ultimately resolved for an immaterial sum could be considered a so-called "corrective disclosure" that triggered a drop in the company's stock price, even though the reports were issued nearly a week after media reported on the issue (see related story).

Under the so-called efficient market theory, the market corrects a fraudulently inflated stock immediately after a corrective disclosure.

However, the lead plaintiff, the

Policemen's Annuity and Benefit Fund of Chicago, argued that the Apollo analyst's reports—rather than the media reports—can be considered the corrective disclosure because they clarified information that was too complex for investors to understand previously and contained additional information.

A key Apollo expert witness, former Securities and Exchange Commission Chief Economist Kenneth Lehn and now a University of Pittsburgh finance professor, testified "that's not the way an efficient market works." He said the market will always react immediately if it reacts at all, and he testified that the analyst's reports did not contain new information.

The jury ruled for the plaintiffs on Jan. 16.

But on Aug. 4, U.S. District Court Judge James A. Teilborg overturned

the verdict, ruling that the analyst's reports did not prove that Apollo's failure to advise investors about its potential regulatory problems harmed investors.

In a statement, P. Robert Moya, senior vp, general counsel and secretary for Apollo, said, "It has



always been Apollo Group's position that the plaintiffs in the case did not suffer any damages arising from the disclosure of the initial government report and its unsubstantiated allegations, and we are pleased that the court has agreed."

Lead plaintiffs' attorney Stephen R. Basser, a partner with Barrack, Rodos & Bacine in San Diego, did not return phone calls.

Various legal experts, however, said they expect the case to be appealed to the 9th U.S. Circuit Court of Appeals.

Legal experts estimate that roughly one securities fraud case goes to trial out of the nearly 200 that are filed annually.

Even so, "I think it's relatively important, because in the last five years more securities fraud cases have been going to trial and to verdict" than before, said defense attorney William J. Passannante, a partner at Anderson Kill & Olick P.C. in New York.

"It throws more uncertainty into

the situation for the plaintiffs bar," he said.

Judge Teilborg's order also will affect securities litigation beyond those cases that go to trial, some experts say.

The order will "cool the ardor of plaintiffs attorneys to push cases to trial" in an effort to extract the biggest possible settlement from defendants, predicted attorney Kevin LaCroix, a partner with executive liability intermediary Oak-Bridge Insurance Services L.L.C. in Beachwood, Ohio.

Given the effort involved in bringing a case to trial, plaintiffs will "have to look twice at what happened in the *Apollo* and the *JDS Uniphase* (BI, Dec. 3, 2007) cases," in which the defendants prevailed at trial, Mr. LaCroix said.

Michael Klausner, a professor at the Stanford University Law School in Palo Alto, Calif., agreed.

For the summary judgment phase of litigation, the ruling provides trial judges more guidance than they had previously, said defense attorney Robert W. Brownlie, a partner at DLA Piper U.S. L.L.P. in San Diego. With such guidance, judges may be less reluctant to enter a judgment at that point, rather than allow the case to proceed, he said.

While that is "a reasonable view," it also is a "little bit of a stretch," because only 3.5% of cases reach the summary judgment stage, Mr. Klausner said.

But plaintiffs attorneys said the *Apollo* case does not trouble them.

Indeed, the 9th Circuit has a basis to overturn the ruling, because

Judge Teilborg appeared to weigh evidence after the jury's verdict and failed to view inferences that could be drawn in favor of the plaintiffs, said Carol Gilden, president of the Washington-based National Assn. of Shareholder and Consumer Attorneys.

For example, she said, the judge characterized as "nonsense" a plaintiffs' argument that the Apollo analyst's "obvious" access to the Department of Education's investigation report made the analyst's reports a corrective disclosure.

Attorney Barbara J. Hart, who represented the lead plaintiffs in *JDS Uniphase*, said Judge Teilborg's ruling does not present "ground-breaking" problems for plaintiffs.

More important, she said, the judge "recognized the legitimate public policy concern of companies deliberately disseminating confounding information and being rewarded for that." To prevent that, the judge said some corrective disclosures can be summaries of previously available information, noted Ms. Hart, a partner at Lowey Dannenberg Cohen & Hart P.C. in White Plains, N.Y.

Both Ms. Hart and Ms. Gilden, a partner at Cohen Milstein Hausfeld & Toll P.L.L.C. in Chicago, said the case is fact-specific and will not influence future cases even if the 9th Circuit upholds Judge Teilborg's order.

In re Apollo Group Inc. Securities Litigation, U.S. District Court in Phoenix, Master File No. CV 04-2147-PHX-JAT; Aug. 4, 2008.

ADA: Widely supported bill offers broader protection

CONTINUED FROM PAGE 3

Senate bill "differs in one pretty dramatic respect" from its House counterpart, as Sen. Harkin explained when he introduced the measure.

"The Senate bill builds upon the success of the House bill," said Sen. Harkin. "However, it seeks to broaden the definition of disability in a way that maximizes

the major life activities of the individual," Sen. Harkin said. "It does not substitute the term 'materially restricts' as in the House bill. Instead, the bill takes several specific and general steps that, individually and in combination, direct courts to take a more generous meaning and application of the definition."

"The biggest difference between that bill and the House is the definition," said Michael Eastman, executive director-labor law policy with the U.S. Chamber of Commerce in Washington.

He said both bills reflect common ground reached by business groups and the disability community.

"Both the Senate and the House bills embody that common ground. We're comfortable with both of them," Mr. Eastman said.

The Senate bill "makes clear what the intent of Congress is," said Mr. Lorber.

NAM's Mr. Smith stressed that both the House and Senate bills arose from discussions between employer groups and organizations representing the disabled.

"The real thing that needs to be celebrated here is the process" by which the business and disability communities worked out a compromise, he said. "This is the result of detailed negotiations."

"The NAM is very supportive of this," said Mr. Smith.

"At the end of the day, we support both bills," said the Chamber's Mr. Eastman.

He said the Chamber was "certainly hopeful" that the Senate would deal with the measure quickly.

"Our goal has been to try to get this on the president's desk this year," Mr. Eastman said.

The Senate bill 'seeks to broaden the definition of disability in a way that maximizes bipartisan consensus and minimizes unintended consequences.'

Sen. Tom Harkin, D-Iowa



bipartisan consensus and minimizes unintended consequences.

"Our bill leaves the ADA's familiar disability language intact: A person with a disability is one who has a physical or mental impairment that 'substantially limits' one or more of

Plaintiffs argue corrective disclosure triggered drop in company's stock price

The Apollo Group Inc. case centers on what is considered a corrective disclosure, or the revelation of either a company's misrepresentation or omission of information that would have been pertinent to investors.

Corrective disclosures gained importance in securities fraud cases under the U.S. Supreme Court's 2005 decision in *Dura Pharmaceuticals Inc., et al. vs. Michael Broudo et al.* In the case, the high court established a loss-causation standard for securities fraud plaintiffs that required them to go beyond showing they had purchased stock at an artificially inflated price. Under *Dura*, plaintiffs also must show that the share price fell after a corrective disclosure was issued and that there was a link between the disclosure and the price drop (BI, April 25, 2005).

Plaintiffs in the *Apollo* case charged that the Phoenix-based higher education company misled investors from February until September 2004 by not disclosing that the U.S. Department of Education was investigating whether the company violated

federal law in how it compensated student recruitment counselors. Violators face penalties as severe as losing their accreditation as well as hefty fines.

Apollo settled with the DOE in September 2004 for \$9.8 million without admitting any wrongdoing.

Apollo contended it was not obligated to disclose the investigation because it believed it would prevail or settle the dispute for an immaterial amount. Attorneys it consulted agreed, and the settlement amounted to less than 1% of its cash and cash equivalents, Apollo said.

Various newspapers reported the settlement on Sept. 14 that year, but that publicity did not trigger a drop in Apollo's stock price. The share price fell appreciably one week later—two days after a stock analyst's reports on the settlement appeared online and a day after her reports appeared in print.

The plaintiffs argued the analyst's reports were a corrective disclosure because they were the first explanation that investors

could understand and contained some new information.

In overturning the jury verdict for the plaintiffs, however, U.S. District Court Judge James A. Teilborg rejected their argument on several grounds.

Judge Teilborg ruled that media reports had noted prior to the analyst's reports that Apollo's DOE settlement could create future regulatory problems for the for-profit education organization.

In addition, the analyst's claim that an Apollo subsidiary, the University of Phoenix, was experiencing high turnover among enrollment counselors as a result of compensation changes triggered by the DOE investigation was untrue, Judge Teilborg noted. Therefore, the claim could not be new information for investors, he ruled.

The judge also dismissed as "nonsense" the plaintiffs' argument that the analyst's "obvious" access to the DOE's report on its investigation of Apollo made the analyst's report a corrective disclosure.

—By Dave Lenckus

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XL raised a total of about \$3.38 billion in equity and hybrid securities. On completion of the transaction, Fitch Ratings affirmed its insurer financial strength ratings of XL Insurance (Bermuda) Ltd. and XL Re Ltd. at A+ and removed all its ratings of XL from rating watch negative. The capital raising was aimed at extinguishing XL's exposure to financial guarantee company Security Capital Assurance Ltd., now known as Syncora Holdings Ltd., which XL spun off in 2006. In its 2007 results, XL recorded charges of about \$1.5 billion primarily linked to its investment in SCA.

Alliant hires team from Wells Fargo

Alliant Insurance Services Inc. has hired a team of property/casualty and employee benefit specialists away from Wells Fargo Insurance Services Inc. Jared J. Mitilier, former managing director of Nevada and national gaming practice leader for WFIS, has joined Alliant in Las Vegas as senior vp and resident director. In Phoenix, Tom Kaminsky, former health care benefits leader in the national gaming practice at WFIS, with a focus on Native American business services, joined Alliant as a senior vp-employee benefits, and Marcia Lambros, former senior vp-group benefits at WFIS, joined Alliant as first vp-employee benefits.

Tower Group to buy CastlePoint

Tower Group Inc. has agreed to acquire CastlePoint Holdings Ltd., the Bermuda-based reinsurer it established in 2006, for \$490 million in cash and stock. New York-based Tower Group, which already owns 6.7% of CastlePoint, said the gross premiums written of the combined company are projected to be in the range of \$1.1 billion to \$1.2 billion in 2009. The acquisition will allow Tower to "shift some of its reinsurance to other carriers at more favorable terms" and offer CastlePoint's programs and services, said Michael H. Lee, the chairman and chief executive officer of both companies.

Wachovia names head of insurance broker unit

Anne Doss, a 23-year veteran of Wachovia Corp., has been named managing executive of Wachovia Insurance Services Inc., succeeding Stewart McDowell, who has headed the bank's brokerage unit for the past five years. Most recently, Ms. Doss was head of bank integration for WIS, managing a team responsible for cross-selling insurance to clients across the bank. Mr. McDowell announced his plan to retire earlier this year.

Marsh: First-half results beat estimates

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growth, MMC said. New business grew 6% in the quarter, led by Marsh's international units, while expenses remained flat, even with \$22 million in severance-related charges, Mr. Glaser said during an analyst call. That led to "significant improvement in margins" in the second quarter compared with a year ago, he said.

"In fact, we earned materially more in the second quarter than we did for all of '07," Mr. Glaser said.

While MMC does not break out the results of its individual operating units, operating income within its risk and insurance services unit, which includes Marsh and Guy Carpenter, rose 61.3% to \$150 million. Adjusted operating margins, which exclude one-time and periodic charges, improved to 14.6% in the quarter compared with 8.6% in the same period in 2007. The growth came despite a 6% drop in revenues at Guy Carpenter, to \$204 million.

"Although the news is good, we still have a long way to go before we can say business is where we want it to be," Mr. Glaser said during the analyst call. "The market continues to be challenging and we still have a lot of work to do to create a more disciplined sales and growth-oriented culture that will drive more consistency in our top-line results."

Toward that effort, Mr. Glaser said Marsh is in the process of "fundamentally" changing its operating model in the United States to a more segmented approach based on account size and serving the diverse

needs of large and middle-market clients.

It also is in the process of concentrating its U.S. insurance placement activities within various placement hubs rather than 60 individual offices throughout the country. The hub system will place risks individually—avoiding aggregating clients' risks, Mr. Glaser said. Such aggregation led to abuses in the past. In addition, each hub will be organized by business line and provide customers with a consistent placement team, Mr. Glaser said.

Marsh's strong growth in the second quarter contributed to MMC's overall 9.4% rise in total revenues, to \$3.05 billion. Consulting revenues were up 12.8% to \$1.37 billion in the quarter, while risk consulting and technology revenues improved 12.9% to \$281 million, MMC said.

A noncash impairment charge of \$115 million taken in the second quarter relating to the realignment of Kroll Inc. gave way to a 63.3% drop in profits to \$65 million. That charge, in addition to the \$425 impairment charge taken in the first quarter relating to the same matter, resulted in a \$145 million loss for the first half of 2008 for MMC vs. a \$445 million profit for the same period in 2007.



'Although the news is good, we still have a long way to go before we can say business is where we want it to be.'

Dan Glaser, Marsh Inc.

Excluding the restructuring, impairment and other special charges, MMC's adjusted operating income grew 33.8% in the quarter to \$360 million, and 16% in the first six months to \$746 million.

Analysts reacted positively to the results.

"Impressive margin improvement at Marsh, even despite continued weak reinsurance results combined with still-solid consulting results, keeps us optimistic about the company's prospects as new management works to restore Marsh's earnings power and margins," Meyer Shields, an analyst with Stifel, Nicolaus & Co. Inc. in Baltimore, said in a report issued last week.

He noted that MMC's second-quarter earnings per share, at six cents higher than his estimate, provide "ample demonstration of management's ability to restore Marsh's margins even in the current soft-market environment."

"It is clear to us that Mr. Glaser's initiatives are taking hold quicker than anticipated and will likely result in continuing margin revisions to the upside," Keith Walsh, an analyst with Citi Investment Research in New York, said in a report.

AIG: Reports \$5.4B second-quarter loss

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tal Management Inc., which holds about 400,000 AIG shares.

Last Thursday, following AIG's earnings call, its shares slid 18%, the largest one-day drop for the company since 1970, according to Los Angeles-based Global Financial Data (see box).

Raising the stock price will require "heavy lifting," said Cliff Gallant, an analyst with Keefe, Bruyette & Woods Inc. in New York.

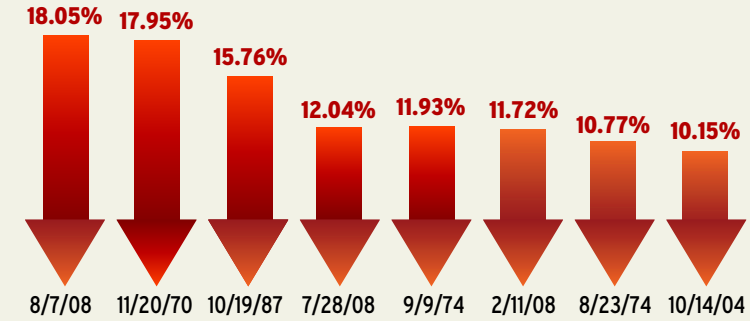
Substantial restructuring is likely to hit areas other than AIG's property/casualty operations, although those operations are likely to see cost cutting in light of a soft market and increasing expenses, Mr. Gallant said.

"I'd be surprised if there isn't some effort to rein in the cost on the P/C side," Mr. Gallant added.

While restructuring at AIG is necessary, the company continues to face difficulties that will remain until the housing market stabilizes, analysts said.

"None of us are smart enough to be able to say it's all done and none of us are smart enough to say what will it take for this to end," said

LARGEST DROPS IN AIG STOCK PRICE OVER THREE DECADES



Source: Global Financial Data

independent insurance consultant Myron Picoult.

Shedding underperforming business units would free up capital and reduce expenses although AIG's insurance operations are not expected to see major adjustments, Mr. Lane said.

"Pockets of business reductions" in certain lines are more likely, Mr. Lane said. But "I'm sure if the review is comprehensive, they will not be in every property/casualty business they are in today in six to 12 months."

AIG's asset management and financial services businesses are more likely targets than its core insurance operations, said Mr. Fitzpatrick.

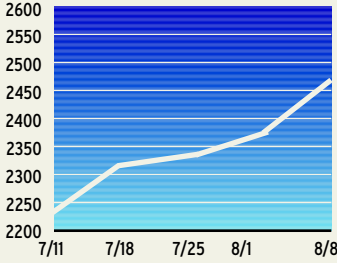
Operating income during the first six months of the year for AIG general insurance operations fell to \$2.16 billion, down 64.4% from the same period a year ago. Financial services operating income, in contrast, saw a \$14.68 billion loss during the first six months of 2008 while asset management experienced a \$1.57 billion loss.

Stock Index

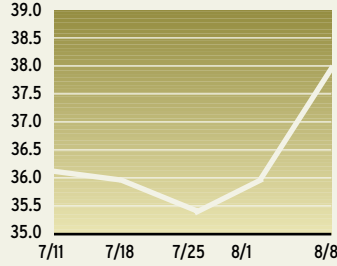
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Up-to-the-minute data for all 82 companies that comprise the BI Stock Index can be found at www.IndustryFocus.com.

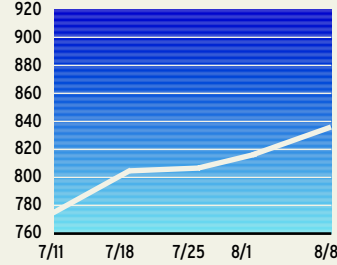
BI STOCK INDEX



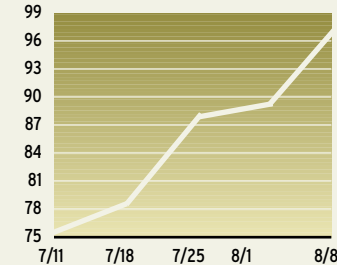
BI BROKERS INDEX



BI INSURER/REINSURERS INDEX



BI MANAGED CARE ORGANIZATIONS INDEX



Percentage change of BI Stock Index vs. key indicators

BI STOCK INDEX	▲
2453.62	3.45%
DOW JONES	▲
11734.32	3.60%
S&P 500	▲
1296.32	2.86%

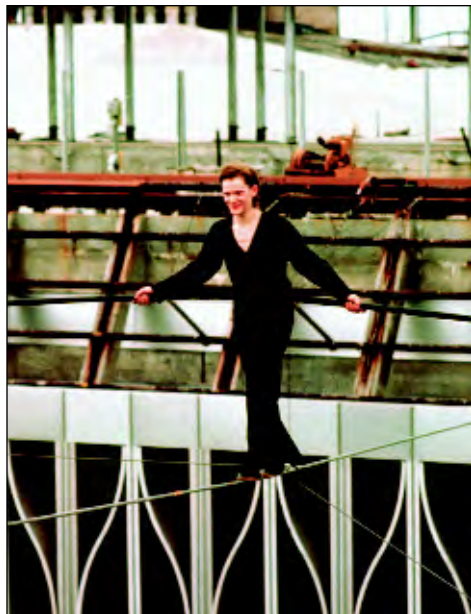
LARGEST GAINS

CIGNA Corp.	18.45%
AXA	15.62%
Ambac Financial Group	14.25%
MBIA Inc.	11.73%
Marsh & McLennan	10.54%

LARGEST LOSSES

Unitrin Inc.	-19.89%
Tower Group Inc.	-12.86%
AIG	-7.17%
Fairfax Financial Holdings	-4.86%
Baldwin & Lyons	-4.61%

Source: Financial Content Inc. <http://financialcontent.com>



AP PHOTOS
Philippe Petit in 1974 crossing between the almost completed Twin Towers.

Insurance official was inside man for Twin Towers high wire act

It took an "inside man" to pull off a high wire act more than 30 years ago.

Barry Greenhouse, former assistant director of research with the New York State Insurance Department, offered his ID and access to his 82nd floor office at

the then-under construction World Trade Center to help Philippe Petit pull off his tightrope walk between New York's Twin Towers.

Mr. Greenhouse made the offer after recognizing



Mr. Greenhouse

Mr. Petit as the same person he had seen perform twice previously in Paris, according to *nysidalumni.org*.

Mr. Petit's Aug. 7, 1974, crossings between the Twin Towers were filmed and are the focus of director Jim Marsh's new documentary "Man on Wire," which recently premiered at the Sundance Film Festival.

"There was, like, no security at all," recalled Mr. Greenhouse, according to news reports. "There was a guy who walked the entire 110 floors three times a year, and I joined him. And nobody ever stopped us."

The film not only provides viewers with footage of Mr. Petit's stunt, but also some nostalgia for the former towers. Mr. Petit was arrested after the walk, but later was released and reportedly given a lifetime pass to the WTC observation deck.

Since then, "the world has changed drastically," Mr. Petit said in a recent interview with New York's Village Voice. "In big cities, entering a secure building with equipment, I think you'd get shot first and asked questions later."

Business Insurance END PAGE



Workplace tantrum no bar to comp claim

A part-time United Parcel Service Inc. "unloader" claimed he broke his hand while pumping himself up for his day's work by punching things.

Even though the employer presented "credible evidence" that Joseph Lause injured himself while throwing a temper tantrum because he wasn't allowed to go home to attend to personal matters, UPS must pay nearly \$8,000 in workers compensation benefits, Iowa Deputy Workers' Compensation Commissioner James Elliot has ruled.

Mr. Lause "acted in a juvenile and immature manner" in April 2007 and broke his hand by punching a UPS trailer and some boxes, the hearing record states. Deputy Commissioner Elliot also found the "claimant is not a credible witness" because he lied to his employer about how he broke

his hand.

"His statements that he was trying to pump himself up by hitting objects at work, as well as his general demeanor, made his testimony generally unbelievable," Deputy Commissioner Elliot stated.

Though the workers "actions were inappropriate and showed a lack of maturity," the deputy commissioner still ordered Atlanta-based UPS to award Mr. Lause \$8,000 in temporary total disability benefits, interest and medical expenses.

There was no evidence that Mr. Lause intended to injure himself, as UPS argued in its attempt to deny benefits. "Misconduct with certain very narrow exceptions, does not act as a bar for the payment of workers compensation," the deputy commissioner ruled.

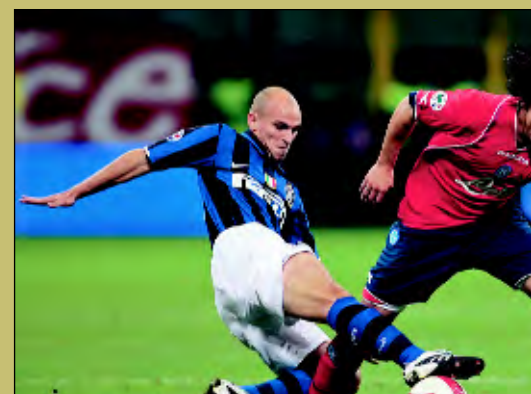
UPS is appealing.

Soccer fan sues team over angst

Fans of Italian soccer champions Inter Milan like to talk trash.

Inter Milan supporters displayed banners when Napoli came to town last October, poking fun at the southern Italian city's trash crisis and calling Naples the "sewer of Italy."

According to new reports, a court in Naples last week ordered Inter Milan to pay an unnamed Napoli fan €1,500 (\$2,335) for



REUTERS
Inter Milan's Esteban Cambiasso fights for the ball with Napoli's Ezequiel Lavezzi during an Italian Serie A soccer match where Milan fans held up signs mocking Naples' problems with garbage removal.

"existential damage" that the insults caused him as well as court costs. The man sued shortly after the game, claiming that he was "deeply hurt" by the banners displayed during the Oct. 6, 2007, match, according to news reports.

Another banner read, "Ciao cholera sufferers!"

Naples, which has suffered periodic trash crises for more than a decade, developed another bout of garbage-strewn streets when one of two area landfills was closed last year.

Prime Minister Silvio Berlusconi called in the army to help with cleanup efforts this year, appointed a "garbage czar," and said trash-fighting efforts would include incinerators and recycling.

As for the trash-talking lawsuit, the Naples court imposed the fine despite Inter Milan's argument that the court had no jurisdiction in the case.

Inter Milan, which won the October match 2-1, also was punished by the Italian soccer league, which ordered the sections of its home stadium, San Siro, from which the banners were flown closed for Inter Milan's next home game, according to news reports.

Workers laid low by Rx scam

If they weren't in pain before, they probably are now.

More than 50 people—mostly governmental employees in Miami—were arrested last week in a health insurance scam dubbed "Operation Copay" that involved the powerful prescription pain killer

OxyContin, according to authorities.

Among those accused are a Hialeah, Fla., police officer; a Miami-Dade County felony court clerk; numerous Miami-Dade County school employees; correctional officers; and bus drivers.

The alleged scam, which

Miami-Dade County State Attorney Katherine Fernandez Rundle said began in January 2003, involved six recruiters who "hired" workers to fraudulently obtain prescriptions through their government health plans. The employees sold the pills for cash to the recruiters, who

resold the drugs for much more on the street.

Authorities estimate more than 130 bogus prescriptions were filled to obtain 12,000 OxyContin pills with an estimated street value of approximately \$400,000.





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COVER FOCUS



REINSURANCE STRATEGIES

Considering the options

Though pricing remains soft, above average catastrophe losses thus far in 2008 are heightening industry efforts to explore cat capacity options. **Page 10**

Southward migration

Brazil's liberalization of its reinsurance regulations is prompting reinsurers from around the world to flock to the South American country. **Page 13**

An online avalanche

As the momentum grows for online placement of reinsurance, ceding companies, reinsurers and intermediaries are experiencing such benefits as increased efficiency, improved data quality and better buying decisions. **Page 16**

FEATURES

Sharing the success

Industry leaders tap each others' experiences at the Insurance Accounting and Systems Assn. conference in Seattle and the International Insurance Society seminar in Taipei, Taiwan. **Page 18**

SERFF's up

Leaders of the National Assn. of Insurance Commissioners are pushing a plan opponents say would constitute a hostile takeover of an online system for filing insurers' rates and forms. **Page 20**

InFocus: Analysts

A look at some of the top analysts covering the insurance business, along with their views on the year's prospects for insurers. **Page 22**

Building on ERM

A truly risk-based approach and appropriate systems can put companies in a position to comply more efficiently and effectively with governance requirements. **Page 23**



THREE QUESTIONS

Kim Weber of Zurich North America discusses the state of the market for environmental insurance.

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Crain



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The rewards far exceed any risk

I've been reading newspapers and magazines long enough to know this much: If you combine columnists and dogs, you're going to get columns about columnists' dogs.

I've been guilty of it myself on more than one occasion, and beg your indulgence once again.

In fact, our flat-coated retriever, Algren, figured prominently in the first of these pieces I wrote back in January 2004, in the inaugural issue of *Industry Focus*.

In that piece I pondered the relationship between breaking routine and fresh perspective, insight gained early one January morning after being forced to abandon a warm bed for a highly uncharacteristic pre-dawn walk with Algren. Thanks, Algren.

That column is just one of many things I'm grateful to Algren for. There are all the fine walks we enjoyed over the years, including long Saturday strolls in all but the worst weather to one of Algren's favorite places, 4Legs pet store on Clark Street—the canine equivalent, I guess, of taking the kids out for ice cream.

Then there are the laughs—believe me, there's nothing like watching your dog running around the yard, barking at a blimp. And, of course, the unconditional affection only a dog can provide. Whatever kind of day it's been, it gets a lot better when you hear that tail thumping on the floor as you turn the knob and step through the front door.

Like many good things, bringing a pet into your life involves a certain amount of risk. Not the least is exposure to heartache when the time comes to say goodbye to this creature you've chosen to bring into your family, despite the fact that its life span doesn't match up very well with your own. We chose to take that risk when we rescued Algren back in April 1997, and it was well worth it.

As I write this, it's been a bit more than a week since we said goodbye to Algren, and it still doesn't hurt any less. I know from experience, though, that in time it will, the pain replaced with the warm glow of the happy memories of our time together.

Algren had dodged a variety of health issues during his life, including an autoimmune disorder that nearly got him a few years ago. (Thanks here to Rob Dann and the others at Chicago's Blum Animal Hospital who saw Algren through that crisis, as well as subsequent maladies including a high triglyceride count and an irregular heartbeat.)

Of late, despite his youthful demeanor, we were well-aware that Algren had become a canine senior citizen, and knew the day would arrive sooner rather than later. Still, looking back, his decline over the last month seemed rapid, even for a dog of 13-plus years with his health history.

Algren always did love to walk. No matter how far we'd gone, he wanted to keep going. So, when age and illness made it an

WHATEVER KIND OF DAY it's been, it gets a lot better when you hear that tail thumping on the floor as you turn the knob and step through the front door.

increasing struggle for Algren just to get from his bed in the living room to his water bowl in the kitchen, and one evening we saw the look in his eyes that told us he'd finally walked as far as he could, as painful as it was, there wasn't really much question. We knew it was time.

That's part of the bargain we make when we decide to bring pets into our lives. We assume responsibility for their care and well-being, which includes the last nice thing we can do for them when the time comes, even at the risk of heartache.

So, to those of you who have pets, I'd just say treasure your time with them. And to those of you who don't, I'd say give it some thought. I think the rewards far exceed the risk.



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BY THE NUMBERS

WORLD INSURANCE PREMIUMS, 2007



Region	Premium volume (U.S. dollars, millions)	% change from 2006 (inflation adjusted)	Share of world market %
Americas	1,417,463	2.5	34.9
Europe	1,680,693	3.4	41.4
Asia	840,601	4.5	20.7
Africa	53,294	2.8	1.3
Oceania	68,818	3.9	1.7
World total	4,060,870	3.3	

Source: Swiss Reinsurance Co., sigma No. 3/2008

AIG Global raises limits, capacity on political risk

NEW YORK—AIG Global Trade & Political Risk Insurance Co. has increased its capacity on political risk insurance policies and trade credit insurance.

The unit of New York-based American International Group Inc. will now offer political risk policies with limits up to \$120 million per risk, up from a prior maximum of \$100 million per risk.

The increased capacity is also available in foreign currencies with maximum limits of €75 million, £60 million or 12.5 billion yen for any one risk.

AIG Global also increased its trade credit insurance limits to \$95 million from \$75 million, and its equivalent in euros, British pounds or Japanese yen.

The new limits apply to all classes of

political risk insurance. AIG Global's PRI covers a range of political perils that can affect foreign direct investments and assets, project finance, export or import transactions, or cross border financing to private or sovereign borrowers, whether for working capital, trade-related or capital market borrowings.

Onshore and local currency risk exposures in emerging countries also may be covered.

The higher limits are available for committed, noncancelable policy periods of up to 15 years, subject to AIG Global's normal underwriting criteria.

AIG Global's trade credit insurance covers both export and domestic credit risks. **IF**

New Zurich Web site an online resource for agents, brokers

SCHAUMBURG, Ill.—Zurich North America has launched an agent- and broker-focused Web site providing a central source for news, in-depth information and educational resources about the insurance segment related to technology builders.

The Web site, www.techinsurance.zurichna.com, features user-friendly navigation that enables insurance distributors to get access to tools and resources that can help them advise customers in the information technology, electronics, communications, factory automation and medical devices business segments.

According to Zurich, whose North American operations are based in Schaumburg, Ill., the Web site allows agents and brokers to use drop-down menus to find answers to various questions and issues associated with prospecting, writing and profiting from technology business.

Among the features of the new site are loss scenarios identifying real-life potential technology risks and exposures, a "knowledge hub" housing articles on technology topics written by industry experts and Zurich technology and risk management professionals, a "Go Global" section addressing technology companies' needs when doing international business and a "News and Trends" news aggregator tracking technology stories in the business media.

Zurich said it plans to continue enhancing the site by adding content on an ongoing basis and using Web 2.0 and other evolving applications. **IF**





The environmental insurance market offers considerable opportunity. But success requires scientific expertise and a keen understanding of local jurisdictions. Recently, Kim Weber, New York-based vp of distribution and market management in Zurich North America's environmental business unit, discussed the environmental insurance market and some of the keys to succeeding in it.

What is the state of the environmental market, and where does Zurich see some of the opportunities?

There's a ton of opportunity. There are certain customers that absolutely have to buy this product.

They're required to have financial assurance such as trust funds, payment or performance surety bonds, irrevocable letters of credit, self-insurance or insurance. More and more of these customers are utilizing insurance as their financial assurance of choice because of the increased awareness that insurance can be a great risk transfer.

On the nontraditional side, because of what's happening in the economy today, a number of customers are seeing this as a discretionary purchase and we need to assist and educate them about their actual or potential exposures.

The opportunities are more or less across the board, but I do think agricultural, many manufacturing operations and chemical blending are some key areas of growth.

Are there any emerging issues in the environmental market?

There are emerging pollutants like the MTBE or ethanol that's in the gasoline we buy today. Certainly global climate change is emerging as a major factor. Another concern is the number of "re-openers" of No Further Action letters that are occurring for a variety of reasons.

What are some of the keys to success in environmental insurance?

Zurich has been underwriting environmental risk for over 16 years and most of our environmental underwriters have a technical background with many of our employees working in private industry prior to joining our team. Because they have both the scientific and private industry experience, they have a much better understanding of our customers' concerns and environmental needs.

Another key piece is having a local presence so our field underwriters and risk management teams understand the local issues and work with our customers to assure that we are assisting them in dealing with their environmental concerns. We have offices across the country, because the issues that companies in California are dealing with can be different from those in Texas or in Illinois or New York.

One thing that we continue to see is the number of insurance carriers entering and then quickly exiting the environmental marketplace. Many insurance companies think that environmental risks are easy to underwrite, but they learn quickly the complexity of the exposures with potentially catastrophic and devastating results. The reason Zurich has been successful is that we are an underwriting company that is customer-centric and find ways to provide our customers underwriting solutions as well as a financially stable marketplace. **IF**

Site provides regulatory information clearinghouse

INDIANAPOLIS—A new online resource aims to provide a comprehensive clearinghouse for various resources addressing the issues surrounding insurance regulatory modernization.

The site, www.networksfinancialinstitute.org, includes more than 85 resources published by insurance industry leaders as well as other experts from government, trade associations, the news media and academia.

The Networks Financial Institute at Indiana State University launched the site, which provides a bibliography of

scholarly abstracts, research articles, journals, commentaries and proposals related to the state of the insurance industry. Political, academic and industry leaders are invited to suggest new sources of material and contribute to the site's content.

Topics currently discussed on the site include the case for interstate insurance choice, dual regulation and its impact on market competition, the implications of an optional federal charter, improving the efficiency and effectiveness of state regulation, rate regulation, terrorism

insurance, insurer insolvencies, health insurance reform and the U.S. Treasury Department's blueprint for modernizing financial services regulation.

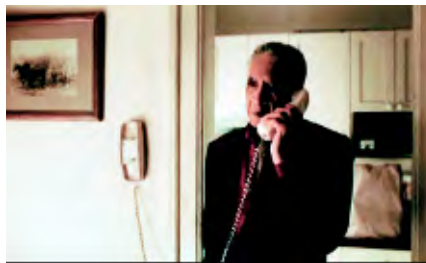
Headquartered in Indianapolis with offices on the ISU campus in Terre Haute, Networks Financial Institute at Indiana State University was founded in 2003 with a grant from the Lilly Endowment Inc. The nonprofit organization strives to facilitate a more effective national and international financial services marketplace through education, outreach and research. **IF**

Insurance companies among 'Best in Show'

CINCINNATI—The Hartford Financial Services Group Inc., Liberty Mutual Group and Farmers Insurance Group were the top winners in the Insurance Marketing & Communications Assn.'s 2008 Showcase Awards, each winning four "Best of Show" awards in the competition.

Liberty Mutual received this year's SAMMY Award for its television advertising on "Responsibility." The SAMMY award is presented each year to the Showcase Awards entry receiving the most votes from IMCA members attending the group's annual meeting.

The awards were presented during this year's IMCA meeting, which took place in June in Cincinnati. This was



Liberty Mutual's 'Responsibility' TV ads won the IMCA's SAMMY Award.

the 50th year of the IMCA's Showcase Awards, which recognize creative excellence in the insurance industry.

This year the IMCA presented awards in 34 categories, covering areas such as

advertising, sales promotion, multimedia campaigns, TV/radio, the Internet, employee communications, annual reports, e-commerce, community service campaigns and public relations.

The 2008 awards competition drew more than 325 entries from 60 companies, with 94 Best of Shows and Awards of Excellence presented to 35 different companies.

The IMCA is an international organization that aims to promote excellence in insurance marketing and communications, improve members' professional skills, foster the sharing of ideas and experiences and promote a positive image of the insurance industry. **IF**



THE QUOTE

'THE MOMENTUM has continued. We are now seeing monthly (online reinsurance) placements that are 10 times higher than they were this time last year.'

ALEX LETTS
CHIEF EXECUTIVE, RISK

ING, Everest team up to provide funeral planning resource benefit

MINNEAPOLIS—ING Employee Benefits has entered into a marketing agreement with Everest Funeral Package L.L.C. under which the companies will offer a comprehensive employee life insurance option providing plan members and their families funeral planning resources.

The service is intended to help covered employees, their families and the parents of employees and their spouses receive the information and planning resources needed to make informed decisions about funeral arrangements, according to Minneapolis-based ING Employee Benefits and Houston-based funeral planning and concierge service Everest.

Plan participants can get access to

funeral planning services both before the death of a family member and at the time the services are needed from Everest advisers.

Everest says it can potentially save clients thousands of dollars through services such as its PriceFinder, a proprietary database with comprehensive nationwide funeral pricing data.

Minneapolis-based ING Employee Benefits, part of ING Group, provides employer-based group life, disability income, stop-loss insurance and voluntary benefits products through its ReliaStar Life Insurance Co. and ReliaStar Life Insurance Co. of New York operations. **IF**

SRS starts health care industry practice

CONCORD, Mass.—Captive management and consulting services provider Strategic Risk Solutions Inc. has launched a health care industry practice.

The new practice will coordinate services to clients in the health care industry regardless of their domicile and captive structure.

In a statement, Brady Young, president and chief executive officer of Concord, Mass.-based SRS, said the health care industry represents a growing business sector for SRS, with the business not limited to the Cayman Islands.

"The creation of the industry practice recognizes a need to bring consistency of service and the cross-fertilization of ideas within SRS to better serve our clients in this industry," Mr. Young said.

Seamus Tivnan and Wayne Cowan, both directors of Strategic Risk Solutions (Cayman) Ltd., will head the new health care industry practice.

SRS currently manages health care captives in Cayman, Bermuda, Vermont and South Carolina. **IF**



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Exclusive Ranking: *Reinsurers Worldwide*

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Brian MacLean, chief operating officer and executive vp of Travelers Cos. Inc., has been promoted to president of the Hartford, Conn.-based company. Mr. MacLean has been Travelers' COO and executive vp since May 2005. He will retain his COO role.

Erie, Pa.-based Erie Indemnity Co. has named **Terrence W. Cavanaugh** president and chief executive officer. Mr. Cavanaugh comes to Erie from Chubb Corp., where he most recently was senior vp and COO of the insurer's surety business. John J. Brinling Jr., interim president and CEO since August 2007, will return to retirement after helping with Mr. Cavanaugh's transition.

American International Group Inc. has named **Robert B. Willumstad**, the company's chairman, to the additional post of CEO. Mr. Willumstad succeeds Martin J. Sullivan, who left the company and its board. Mr. Willumstad, who has been AIG's chairman since November 2006, is a co-founder of private equity investment firm Brysam Global Partners and former president and COO of Citigroup Inc.

David Cordani has been appointed president and COO of Philadelphia-based CIGNA Corp. Mr. Cordani will continue to be based in CIGNA's Bloomfield, Conn., office and will remain president of CIGNA

HealthCare, a position he's held since July 2005.

Andrew Horton has been named to succeed Andrew Beazley as CEO of London-based Beazley Group P.L.C. in September. Mr. Horton is currently the insurer's group finance director. Mr. Beazley will remain with the company as deputy chairman.



Mr. Cavanaugh

Garrett Hanrahan has been appointed CEO of the Global Aviation in North America division of Willis of New York Inc. Mr.

Hanrahan, who previously was executive vp of Aon Aviation, will be based in Dallas.

Kevin W. Conboy, former president and CEO of Acordia Inc., has been named CEO of Paramus, N.J.-based broker the NIA Group L.L.C.

Zurich Financial Services Group has appointed **Mario P. Vitale** to the newly created post of deputy CEO of the Switzerland-based company's global corporate business division. Mr. Vitale had been CEO of global corporate in North America. Separately, **John Parker** was

named chief marketing officer of Zurich's Schaumburg, Ill.-based North America Commercial business division. Mr. Parker most recently was a partner at consulting firm



Mr. Vitale

Katzenbach Partners L.L.C.

Ted Mathas has been named CEO of New York Life Insurance Co. Mr. Mathas will retain his title of president of the New York-based company. Mr. Mathas replaces Sy Sternberg, New York Life's chairman and CEO since 1997, who is retiring. Mr. Sternberg will remain nonexecutive chairman for a transition period. Separately, New York Life named **Mark E. Arning** general auditor. Mr. Arning, who has been senior vp and deputy general auditor of New York Life since 2006, succeeds Thomas Warga, who is retiring.

Jaimie Pickles has resigned as president and COO of Sacramento, Calif.-based InsWeb Corp. to start a new company focusing on helping young companies develop business within the insurance industry. **Hussein Enan**, InsWeb's founder, chairman and CEO, assumed Mr. Pickles' duties. Mr. Pickles had been the company's president and COO since 2007, and joined the company in 1999 to head its sales and client development functions.

Dallas-based managing general agency and surplus lines wholesaler U.S. Risk Insurance Group Inc. has named **J. Brian Hobbs** president of the company's Professional

Claims Managers Inc. subsidiary. Mr. Hobbs, who most recently was executive vp of Professional Claims Managers, replaces **Richard T. Schwartz**, who, after serving in a dual capacity as general counsel for the parent company and president of the third-party administrator subsidiary, will now focus solely on his general counsel duties.

Theodore A. Majewski has been named president and COO of Harleysville Life Insurance Co. in Harleysville, Pa. Mr. Majewski previously was senior vp and chief underwriting officer of CNA/Encompass Insurance Co.

Scott G. Stephenson has been appointed COO of the Jersey City, N.J.-based Insurance Services Office Inc. Mr. Stephenson previously was executive vp at ISO.

Bob Piller has joined Hamilton, Bermuda-based Ironshore Inc. as president of IronSelect, a newly created New York-based excess casualty facility. Mr. Piller previously was a senior vp at Zurich North America.

Houston-based HCC Insurance Holdings Inc. has named **Thomas G. Kaiser** president of its Houston Casualty Co. and U.S. Specialty Insurance Co. subsidiaries. Mr. Kaiser previously was executive vp and president of the Marine, Energy and Aviation Special Risks Division of Arch Insurance Group. **IF**



Mr. Stephenson



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PLAYING TO WIN



Reinsurance pricing remains soft despite catastrophe activity

By Meg Fletcher

While global catastrophes are affecting millions of people this year, insured losses so far in 2008 are above-average yet reinsurance pricing remains soft, sources say.

Reinsurers are struggling to maintain a disciplined response to ceding insurers' requests for competitively priced property catastrophe coverage.

Meanwhile, both reinsurers and ceding insurers are eyeing options such as catastrophe bonds as well as developments such as U.S. regulatory modernization proposals that may be approved later this year.

There were some 400 natural catastrophes worldwide in the first six months of 2008 that resulted in more than 150,000 deaths, according to a July report by Munich Re Group. The catastrophes caused about \$50 billion in overall losses, \$13 billion of which were insured.

A magnitude 7.9 earthquake in China's Sichuan Province and a cyclone in Myanmar were the largest catastrophes in the first half. The death toll from those two events was higher than in the full years since 2004, the year of Southeast Asia's tsunami.

The \$13 billion in insured losses in the first half of 2008 was higher than the full-year average the past 10 years, the report said.

As in previous years, the first half of the year was marked by a large number of weather-related catastrophes—about 300.

"To this extent, the year is following the long-term trend toward more weather catastrophes, which is influenced by climate change," said Torsten

Jeworrek, a Munich Re executive vp.

"The United States was hit by a large number of weather extremes in the first half of the year," according to a Munich Re statement. "There have never been so many tornadoes recorded in the first six month of the year; heavy rain and hail and subsequent flooding in Iowa and other Midwest states caused billion-dollar losses, which also had a significant impact on the insurance industry."

Overall losses caused by the floods on the Mississippi River and elsewhere are likely to be up to \$10 billion, with an insured loss "in the upper three-digit" million-dollar range.

"During the second quarter, the Midwest suffered its most severe floods since 1993," when insured losses were about \$600 million, according to the New York-based Insurance Information Institute.

"While flooding is not covered under standard home insurance policies, private insurers do cover flooded motor vehicles (provided the policyholder carries comprehensive coverage) and some businesses do purchase protection on commercial structures as well as business interruption and contingent business interruption losses," the III said.

Also, related crop losses are expected to be the most significant since 1993.

In addition, lightening strikes and California's driest spring since 1894 are combining to fuel fires that have destroyed more than 600,000 acres so far this year, according to the Boston-based catastrophe risk modeling firm AIR Worldwide Corp. Estimated total losses are \$50 million, with \$30 million insured, according to Munich Re's data.

Overall, U.S. insured catastrophe losses in 2008 already exceed the \$6.7 billion reported in 2007 and are on track to overtake the \$9.2 billion 2006, the III reported. The worst catastrophe loss year ever was 2005 when \$61.9 billion in losses were reported.

CURRENT MARKET CONDITIONS

While such losses make the first half of 2008 noteworthy as one of the worst in almost a decade, they "have not had an overall market impact," said Peter

Hearn, chief executive officer of Willis Re.

Yet, "they are stark reminders that we transact business in a world steeped in catastrophe risk," Mr. Hearn said. "With the brunt of the Atlantic hurricane season yet to arrive, the potential for further and more sizeable losses looms and reinsurers' 2008 profits are anything but assured."

"Current pricing trends seem to indicate that the market is giving little weight to the potential for extreme events," he said.

"June and July renewals have now demonstrated that the softening in the reinsurance market continues unfettered, but a disparity remains between reinsurance and primary pricing levels. While recent reinsurance pricing reductions have provided some relief for many cedents, these gains may quickly reverse in what is a deceptively tenuous environment," Mr. Hearn said.

"Reinsurance pricing is dropping off globally," said Howard Mills, director and chief advisor-insurance industry group for Deloitte & Touche USA L.L.P. in New York. The only exceptions are some areas of higher risk, including flooding in Australia and wildfires in the United States. "You are looking at a pretty depressed cycle."

"Global reinsurers posted solid profits in 2007 driven by very good underwriting results and benefited from a still-favorable, though softening rate environment, loss reserve releases and manageable catastrophe losses," according to a Fitch Ratings review. Reinsurers' experience in 2008 will deteriorate due to more modest underwriting profits, a lower net return on average equity, a diminishing earnings contribution from reserve releases and continued deterioration in rates, according to Fitch's global special report released in April.

"The reinsurance markets are soft," said Sean Mooney, New York-based chief economist with Guy Carpenter & Co. L.L.C., an affiliate of Marsh & McLennan Cos. Inc.

Property/casualty rates are softening 10% to 20% across all lines compared with a year earlier, he said.

Excess capital and the weakening

global economy are part of a "chain of causality" squeezing insurance and reinsurance markets as well as corporate profitability worldwide, Mr. Mooney said.

The competitive market is "causing much heartburn for reinsurers" that try to be disciplined and charge cedents risk-based rates, he said.

"For casualty lines, the reinsurance market is showing more discipline than the primary market. Major players in primary liability lines are pursuing market share aggressively. Sharp decreases in primary pricing, coupled with pressures on ceding commissions, are pushing some reinsurers to the sidelines," according to a July briefing paper Mr. Mooney co-wrote. "In several cases, reinsurers are seeking to switch from proportional cover to excess of loss, where they believe they have more control over the price of their product."

Some markets, such as Florida, need to be viewed individually.

Property-catastrophe pricing declined by about 15% on average for renewals on June 1, when the 2008 hurricane season started, Mr. Mooney wrote. The state-run Florida Hurricane Catastrophe Fund, which provides reinsurance property catastrophe cover, "continues to play an important role in most companies' overall reinsurance programs, and price decreases have been more dramatic for higher layers attaching above the FHCF," he said.

The fund is reviewing measures to increase its liquidity, which could lead to the purchase of reinsurance, but "this proposed purchase is not large enough to absorb the excess capacity in the reinsurance market," Mr. Mooney said.

In the market overall, Fitch said it "does not expect past severe underpricing to return in the near term."

It recommended observers monitor potential developments including "any shift in strategy toward growth at Swiss Re following its implementation of a 20% quota share with Berkshire Hathaway on new business and actions by Bermuda reinsurers, mainly entrants from the 2005 class, to more actively deploy capital and gain business in a continuing soft market."

COVER FOCUS

REINSURANCE STRATEGIES

"Looking to the future, two major factors can be expected to restore some stability to reinsurance markets," Mr. Mooney wrote. "As time passes and a record-shattering disaster does not occur, the fear of a natural megacatastrophe seems to rise. Further, the weak global economy is reducing equity valuations, thus putting pressure on securing profitability on the underwriting sector of the business."

The first quarter "was a very volatile one for investment markets, which were roiled by waves of bad news about credit markets, skyrocketing oil prices and economic weakness," said Robert P. Hartwig, president of the Insurance Information Institute.

In the United States, the industry's total investment gain dropped 18.8%, or \$2.8 billion, to \$12.2 billion during the first quarter of this year compared with the same period a year earlier, according to data from the Insurance Services Office Inc. in Jersey City, N.J., and the Property Casualty Insurers Assn. of America in Des Plaines, Ill.

ALTERNATIVES

Given these market conditions, "I think the trend we will see in the future is that insurers and reinsurers will invest in more transient alternatives" for reinsurance protection, Mr. Mills said. Such alternatives can include special purpose vehicles, sidecars, catastrophe bonds and exchange-traded securities, sources say.

Although the past two years have been quiet, the issuance of catastrophe bonds soared to more than \$7 trillion in 2007 from about \$2 trillion in 2005, according to the III.

Earlier this summer, Swiss Re obtained \$150 million of protection against North Atlantic hurricane, European windstorm, California earthquake, Japanese earthquake and Japanese typhoon risks through what the company says is the first natural catastrophe securitization to use a cash reserve account to enhance protection to note holders. The Swiss Re-sponsored Vega Capital Ltd. program protects the reinsurer on both a multievent and multiperil basis.

Cat bonds have dominated the mar-

ket for insurance-linked securities for the past decade. The next stage will be to structure such products using cat bonds, industry loss warranties and derivatives written on both, according to a Guy Carpenter briefing.

Some types of hurricane-related derivatives, such as futures and options, are becoming easier for companies to manage using indices that describe the potential for damage from an Atlantic hurricane.

For example, while observers tracked Hurricane Bertha last month, the Chicago Mercantile Exchange traded nearly \$60 million in Carvill Hurricane Index contracts, which can be purchased for six territories, said Patrick Gonnelli, the Bermuda-based president of Carvill Capital Inc.

An exchange-traded derivative product for catastrophic hurricane risk "is the natural progression to the convergence of the insurance markets and the broader financial community," said John Cavanaugh, joint CEO of Carvill.

In the United States, some interested parties are seeking regulatory-oriented solutions.

Consumers favor a government-sponsored solution to catastrophe-related reinsurance problems. In Florida, those goals led to the creation of a catastrophe fund to help ceding companies obtain affordable reinsurance and to the expansion of the state's market of last resort. Nationally, such goals resulted in a wide variety of proposals being discussed to change the National Flood

Insurance Program, establish backstops for catastrophic losses, improve building codes and encourage citizens to mitigate losses.

More progress has been seen in efforts to modernize reinsurance regulation by adopting proposals that would relax collateral requirements for non-U.S. reinsurers.

The National Assn. of Insurance Commissioners plans by year-end to formally adopt a proposal that would allow the most financially secure reinsurers to operate without having to post collateral equal to 100% of their share of their insured risks. Essentially, a sliding scale would determine how much collateral would have to be posted.

That sliding scale is essentially the same as those contained in similar proposals in New York and Florida. Insurance regulators in both states have drafted collateral-reduction plans that are awaiting review by state authorities, actions that have helped prod the NAIC to act, observers say.

New Jersey Insurance Commissioner Steven Goldman, who is overseeing the NAIC drafting effort, said he was encouraged by an NAIC legal opinion that indicates how a state-based program could address modernization issues that affect the country as a whole.

Fallout from the subprime crisis has raised a new concern about all three collateral reduction proposals, which rely on rating agencies to provide the financial strength ratings of the non-U.S. reinsurers.

The Securities and Exchange Commission last month criticized three major rating agencies following a 10-month study.

"We've uncovered serious shortcomings at these firms, including a lack of disclosure to investors and the public, a lack of policies and procedures to manage the rating process and insufficient attention to the conflicts of interest," SEC Chairman Christopher Cox said in a statement.

The SEC last month proposed comprehensive reforms to regulate the practices of credit rating agencies.

It remains to be seen to what extent rating agencies adopt those reforms and apply them to the rating of reinsurers. ■



Brazil ends nearly 70-year monopoly and welcomes foreign reinsurers

By Meg Fletcher

Global reinsurers are flocking to Brazil now that legislation has opened the door to private companies.

Reinsurers want to find opportunity and profit while meeting the increasingly sophisticated needs of the nation of 187 million people that has enjoyed a stable, growing economy for the past decade.

The arrival of non-Brazilian reinsurers—based on a law that went into effect in mid-April that ended a nearly 70-year monopoly—is likely to increase competition and may spur consolidations among insurers, including those that previously co-owned the nation's reinsurer, sources say.

But before reinsurers can begin underwriting ceding companies' risks, they must get formal government approval to operate as well as acclimate to the customs and culture of the former Portuguese colony. They also need to hire, or bring in, employees who have necessary technical skills.

In addition, foreign reinsurers must cope with short-term restrictions that shield local companies from stronger competitive pressures.

Forty private reinsurance companies are expected to be operating in Brazil by the end of this year, according to a published report of comments made last month by Armando Vergilio dos Santos, the head of the reinsurance regulatory authority Superintendencia de Seguros Privados Ministerio da Fazenda, or SUSEP. That number is "much more than our initial expectations," he was quoted as saying.

"The opening of the Brazilian reinsurance market...has revolutionized the Brazilian insurance market and, in tandem with the country's sustained economic development, has created new opportunities for insurers and reinsurers globally," according to an April



report by Rodolfo Nobrega, an assistant vp-analyst with rating agency Moody's Investors Service in São Paulo, Brazil.

International reinsurers have been waiting decades to enter Brazil's closed market, which had "constrained competition," said Andrew F. Giffin, a principal with Towers Perrin in New York.

Opening Brazil's reinsurance market has been a long time in coming, having suffered a false start a decade ago.

Beginning in 1939, the Brazilian insurance market operated with a monopolistic reinsurer. The government-sponsored reinsurer—now known as the Instituto de Resseguros do Brasil S.A., or IRB—was created to reinsure local insurers and to regulate the reinsurance market, Mr. Nobrega said.

Efforts to open the market began a decade ago when the IRB was included in a national privatization program. However, the Workers' Party challenged the move on constitutional grounds and the privatization program was suspended, he said.

Subsequently, several foreign reinsurers that had opened offices "either closed them or significantly reduced

their presence," Mr. Nobrega said.

In January 2007, the federal government—lead by the Workers' Party—passed Supplementary Law 126 in an effort to open the market, he said. In December 2007, SUSEP issued Resolution CNSP 168, which authorized the formal opening of the market in April 2008 to companies that comply with legal requirements, such as minimum financial strength ratings and escrow provisions.

CURRENT RULES

The regulation allows three types of reinsurers:

- **Local reinsurers:** Companies that can operate through a local incorporated and capitalized company. The companies may be independent Brazilian companies or subsidiaries of international firms, Mr. Nobrega said.

Munich Re Group, which said it had a representative office in Brazil for a decade, said it became the first foreign reinsurer to obtain a license to operate as a local reinsurer.

- **Admitted reinsurers:** Companies, which are based elsewhere, that can

COVER FOCUS

REINSURANCE STRATEGIES

operate directly in Brazil through a local representative office.

Lloyd's of London said it was the first to win approval to operate as an admitted reinsurer in Brazil.

■ **Occasional reinsurers:** Companies that are based elsewhere and that meet requirements for a local power of attorney but have no local representative office.

Reinsurers that are domiciled in tax-favored locations such as Bermuda are excluded under the new law because their income tax rate is less than 20%, but their subsidiaries that operate in higher tax-rate jurisdictions are not excluded from operating in Brazil, according to Mr. Nobrega.

While Brazil has welcomed foreign reinsurers, it has not thrown the door wide open.

In a short-term move to shield local reinsurers, the new law gives local reinsurers the right of first refusal for at least 60% of each reinsurance cession in the general market until January 16, 2010, and for at least 40% during the following three years, Mr. Nobrega said.

"It's a pretty common thing" for a nation at Brazil's stage of development to protect its local companies from competition from outsiders, said Mr. Giffin.

Another regulatory constraint is a requirement "that neither insurance companies nor reinsurance companies are allowed to cede more than 50% of total written premiums—except for credit, surety, and agriculture or rural insurance," Mr. Nobrega said.

"This requirement reduces the possibility of large intercompany cessions or pool arrangements and induces companies to maintain sound underwriting policies and controls at the local level," he said. It essentially prevents significant amounts of capital from leaving the country.

MARKET CONDITIONS

Brazil "has a large internal economy" that can fuel development, along with some natural resources such as oil, Mr. Giffin said.

"Despite an average annual growth rate of 20% in recent years, the Brazilian

insurance market comprises just 2.8% of the country's gross domestic product, which is considerably lower than more developed markets," Mr. Nobrega said.

"The insurance market is in a catch-up stage," Mr. Giffin said.

Opening the market will bring new capital, innovative products and reinsurance support for underdeveloped commercial lines of business as well as technical expertise, he said in an article he co-authored for a Towers Perrin publication.

Some companies—such as French reinsurer SCOR Group—hired veterans of the Brazilian insurance market to join their ranks. For example, the reinsurer hired Ronald Kaufmann, who has 37 years experience in Brazil's life insurance and reinsurance industry, to head its life office in São Paulo.

While reinsurers new to the market must learn local culture and customs, they should not encounter any language difficulties even though the country's official language is Portuguese, Mr. Giffin said. That is because nearly all reinsurance business globally is conducted in English, he said.

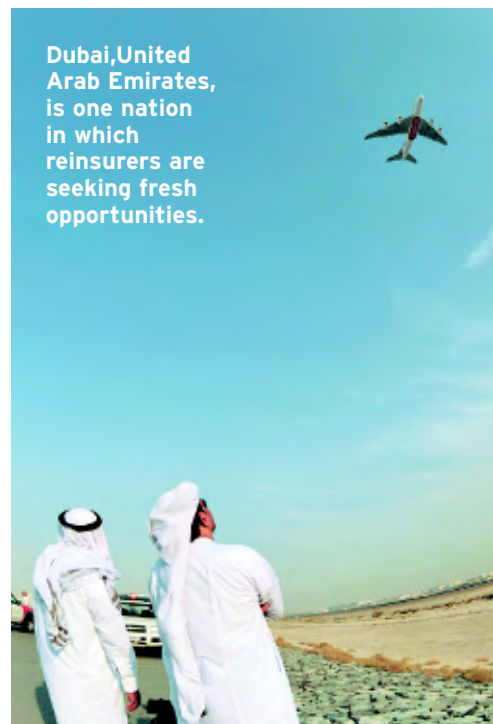
Foreign property/casualty reinsurers are expected to target large commercial and specialty risks. At the same time, local insurers may seek to develop niches in particular market segments, sources say.

For life/health reinsurers, the market is very open because the use of reinsurance is "almost negligible" for health business and "open pensions"—those not tied to a particular company or group of companies, Mr. Giffin said.

The former IRB "will need major structural and cultural changes to successfully tackle the intense competition from experienced profit-driven global reinsurers," but should be able to capitalize on its market knowledge, Mr. Nobrega said.

Mr. Nobrega anticipates that opening the reinsurance market also will foster consolidation among local companies "as the transition process may be difficult for some insurers, and greater market efficiency will likely marginalize insurers lacking competitive advantages." ■

Dubai, United Arab Emirates, is one nation in which reinsurers are seeking fresh opportunities.



Reinsurers tap emerging markets

By Meg Fletcher

Reinsurers that are seeking growth are casting their nets wider than in the past.

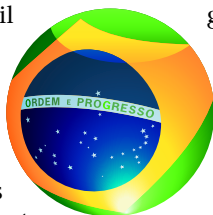
Demands for more competitive pricing and the fallout from the capital and stock markets is hurting reinsurers' profitability in many industrialized countries, sources say.

So large global companies are looking at less developed locations as a source of underwriting profits and future long-term growth—including China; Southeast Asia; India; and Dubai, United Arab Emirates.

"Reinsurers are just not having a good year," said Howard Mills, director and chief advisor-insurance industry group of Deloitte & Touche USA L.L.P. in New York. "There is an excess of capital chasing diminishing returns."

Two years of mild Atlantic hurricanes in 2006 and 2007 have spurred ceding insurers to ask for lower rates for risks subject to such exposures.

"Pricing is dropping off globally," except in markets that have been stressed by loss-causing events such as flooding in Australia or wildfires in the



'THE COMPETITION amongst life insurers will increase the pressure to develop new product ideas.'

WOLFGANG DROSTE

GEN RE'S LIFE/HEALTH BUSINESS IN THE ASIA-PACIFIC REGION

United States, he said.

Rating agency Standard & Poor's Corp. reported a "neutral" outlook for the reinsurance industry in June. "We view as a positive factor the relative modest valuations (on a price/earnings basis) of a number of reinsurers. Partly offsetting this is the ongoing competitive pricing environment, coupled with downward pressure that turmoil in the equity and fixed income markets may exert on this group."

"At the moment, everyone wants to go into the emerging markets," and many reinsurers are willing to sacrifice their bottom lines to establish operations there, said Ulrich Trumpp, Munich Re's chief executive for greater China and Southeast Asia.

China offers significant opportunities because consumer demand is growing, he said. It also provides significant challenges because of its "tremendous" need for natural catastrophe coverage, inadequate building code enforcement and general lack of data for analysis needed to understand exposures and determine appropriate pricing, Mr. Trumpp said.

Mr. Mills, however, recommended that reinsurers that look to China should remember that markets there are subject to greater regulatory control than in many industrialized nations and are very price-conscious, he said. Also, companies there "are not yet buyers of loss control," which can increase claims, he said.

Munich Re also is targeting the large Muslim populations of Indonesia, Malaysia and Thailand with Shariah-compliant life and nonlife products that reflect the beliefs of Islam, he said. The company also plans to offer microinsurance to individuals in emerging nations.

Other reinsurers are taking steps to expand their operations into these additional markets:

■ **India**

Hannover Re and India's govern-

ment-owned reinsurer GIC Re agreed in June to cooperate for at least five years in the joint development, marketing and underwriting of life reinsurance in India.

With a population of 1.1 billion and a growing middle class, India offers reinsurers immense growth potential for the medium-term, especially in the life insurance sector, according to the German reinsurer.

Hannover Re also is planning to establish a service company in Mumbai, although Indian business will continue to be underwritten from the company's home office in Germany, according to a company statement.

In addition, General Re Corp., a subsidiary of Berkshire Hathaway Inc., is opening a new liaison office for life/health reinsurance business in Mumbai.

"The competition amongst life insurers will increase the pressure to develop new product ideas, particularly in the field of living assurance products, such as health-related plans offering long-term value to customers," said Wolfgang Droste, head of Gen Re's life/health business in the Asia-Pacific region.

■ **Dubai, United Arab Emirates**

The Dubai Financial Services Authority licensed Gulf Reinsurance Ltd. in May.

Gulf Re is a specialist reinsurer equally owned by Gulf Investment Corp. and Arch Capital Group Ltd. The company expects to write property/casualty coverages for high-value oil and gas, industrial, utility and transportation risks primarily in the six member states of the Gulf Cooperation Council. **IF**

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Reinsurance placement increasingly electronic

By Rodd Zolkos

Increased efficiency, better data quality and the prospect of better decision-making both by buyers and underwriters are among the key factors driving a steady increase in online reinsurance placement.

The benefits of online placement are being realized by all participants in the reinsurance process: buyers, reinsurers and intermediaries, say several individuals involved with various aspects of placing reinsurance business online.

"The momentum has continued," said Alex Letts, chief executive of London-based online insurance and reinsurance exchange RI3K. "We are now seeing monthly placements that are 10 times higher than they were this time last year."

Mr. Letts described last year as a "watershed" for electronic reinsurance trading (*Industry Focus*, February). Looking at the market today, he said, "2007

was the watershed. You're way beyond the watershed now. This is the avalanche now."

As it has in other sorts of business, the reinsurance environment is definitely changing, according to Mr. Letts, with greater expectations of being able to do business online.

Indeed, Aon Corp.'s reinsurance operation announced earlier this year that 80% of its Jan. 1 treaty reinsurance renewals were placed electronically.

"It's really just to digitize the insurance market," said Ian Summers, director of change strategy for Aon Re Global in London, who last month also was named managing director of eBusiness and market reform for Aon U.K.

Paper-based reinsurance transactions historically have involved considerable rekeying of information, Mr. Summers said. "Rekeying the data we're talking about leads to inaccuracies and inefficiencies," he said.

By eliminating those inefficiencies,

and "getting the data moving around seamlessly between the broker and the underwriter and the buyer," the intermediary can direct its attention toward areas of the reinsurance buying process that can add the most value to the client.

For reinsurance brokers, online placement offers several potential benefits, according to Mr. Letts.

"Obviously, for them the superficial and easy quick one is a single point of distribution to multiple markets within a standard structural process," he said. "Secondly, a lot of them see the benefit of an audit trail in there." That electronic trail of the reinsurance transaction can improve the broker's errors and omissions profile, Mr. Letts said.

"Finally, the obvious win is straight-through processing capability," RI3K's chief executive said. Eliminating the need to rekey data by achieving straight-through processing reduces brokers' potential liability exposure, reduces the cost of transactions and reduces the risk that inaccurate information might create from an underwriter's perspective.

"One of the key drivers for us is around client service," said Aon's Mr. Summers. Digitizing the information associated with a reinsurance transaction allows the broker to make it available to the client more quickly, along with providing better quality of data, he said.

Among ceding companies, the American International Group Inc. companies, Chubb Corp. and ACE Ltd. are among the insurers that have made a major commitment to transacting reinsurance business online.

Igor Best-Devereaux, chief executive officer of eReinsure.com Inc. in Salt Lake City, said all parties to the reinsurance transaction are seeing benefits from electronic placement, but ceding companies are seeing a particular benefit from the control processes an electronic platform can provide. The presence of those control processes in the electronic placement platform can help companies comply with governance requirements imposed by measures such as the Sarbanes-Oxley Act, he said.

"I think the other thing we're begin-

ning to see now—having handled as many transactions as we have...is the information that our customers are able to manage on their past and their current transactions is very, very valuable to them,” Mr. Best-Devereaux said.

In the past, tracking reinsurance transaction information such as counterparty credit ratings could be complicated, and the lack of centralized information could make it more difficult for ceding companies to achieve the best reinsurance buying strategies.

For a number of customers, eReinsure has been able to provide integration between different systems, facilitating the flow of underwriting information and accounting messages, the company’s CEO said. An efficient flow of that sort of digitized information can offer a ceding company “a huge advantage,” he said.

And ceding companies, too, can benefit from eliminating the need to rekey data. “Whenever you’re rekeying data, you’re running a good risk of introducing errors,” Mr. Best-Devereaux said. “In a reinsurance or an insurance life cycle, the further downstream, the further into the process you discover an error, the more difficult and expensive it is to fix.”

Formed in 1999, eReinsure provides ceding companies an online platform for placing reinsurance. The company was recently granted a business method patent on its method of negotiating reinsurance online. “Now we have been able to get to a point with certain very large ceding companies that we have users in 55 countries,” Mr. Best-Devereaux said.

The company has 7,500 registered users on its system, and since 2001, eReinsure has seen ceding companies make more than 200,000 reinsurance submissions to either brokers or directly to reinsurers over its platform. The majority of the world’s reinsurance capacity has now been involved in transactions using the eReinsure platform, Mr. Best-Devereaux said.

There have been previous efforts to create an online reinsurance marketplace, of course, and some notable failures. In particular, many point to Lloyd’s of London’s Kinnect initiative, and Munich Reinsurance Co.’s and Swiss Reinsurance Co.’s joint Inreon effort.

“Some of them have had cultural problems. Others have had technology issues,” said Aon’s Mr. Summers.

Mr. Best-Devereaux said he thinks Kinnect was the victim of inflated expectations that stood in the way of producing something that could actually be adopted. “And ultimately, adoption is the key,” he said.

Meanwhile, Inreon may have suffered from the sense that its design was more the result of sponsorship from the reinsurance seller side rather than a focus on providing efficiency and ease of use for the reinsurance buyer, both critical elements of a successful electronic placement effort, he said.

Going forward, proponents of online reinsurance placement will try to move further along “the roadmap,” moving toward a point where the process is more efficient and buyers, intermediaries and reinsurers all will be in a position to make more effective use of the information the reinsurance buying process provides.

“That’s the roadmap, where you get to,” RI3K’s Mr. Letts said. That roadmap starts with structuring placement data and moving to standardizing reinsurance accounting data, and ultimately, a major goal is to get to standardization of the underwriting process, he said.

“Another big goal is to get to the place on the roadmap where you can accelerate the settlement process,” Mr. Letts said. “It’s a very, very important part of the roadmap, but it’s not delivered yet.”

Data standards promoted by the Assn. for Cooperative Operations Research and Development have been essential in advancing online reinsurance placement, according to Mr. Best-Devereaux and others.

Still, there are some hurdles some companies have yet to overcome.

According to Mr. Letts, “Some companies don’t have the firepower for investing in the systems to receive complex messaging in and move it into their system.”

From RI3K’s perspective as an electronic trading exchange, though, there are no significant hurdles, Mr. Letts said. “Obviously, we have to build better and better technology all the time to make the user experience better,” he said. “Every trading season that goes by you see things that can make the experience easier, better, faster for users.”

Aon’s Mr. Summers said the move toward online reinsurance placement isn’t an effort to subvert the roles of intermediaries or underwriters. Reinsurance, he said, is “obviously a person-to-person industry.”

“We’re not trying to change that,” Mr. Summers said, discounting suggestions by some that information technology proponents are “trying to get the broker and underwriter out of the chain.”

“That’s absolutely not true,” he said. “The hurdles we’re facing are cultural ones, not technological ones. The technology is fine.”

“Initially we’re going out and talking to all the underwriters and saying, ‘Please work with us. We’re trying to reach some cultural change,’” Mr. Summers said. “We’ve made a fantastic move forward.”

“The technology is clearly growing in importance, and over the next few years, more and more companies will be using this technology to speed the process,” Mr. Best-Devereaux said.

“The way we view it, you manage the process to manage the information to manage the reinsurance asset,” he said. Ultimately, that will allow ceding companies to use information more effectively and make better reinsurance buying decisions, he said. “That’s really where there are huge savings.” ■

‘IN A REINSURANCE or an insurance life cycle, the further downstream, the further into the process you discover an error, the more difficult and expensive it is to fix.’

IGOR BEST-DEVEREAUX, eReinsure.com

Insurers' tech spending reflects market reality

By Rodd Zolkos

SEATTLE—As they weigh business expansion, growth through acquisition and speed to market, insurance companies inevitably confront technology issues forcing them to weigh whether to build, buy or outsource solutions.

The answers often reflect the realities of companies' current technology environments and the amount they're willing to spend on needed technology upgrades, according to panelists examining the question of "When Speed Really Matters: Buy, Build or Outsource" in June at the annual conference of the Insurance Accounting & Systems Assn. Inc. in Seattle.

"Insurance carriers have to balance speed to market with the technology environment," said Paula Mertens, director, industry relations, in the property/casualty division of Austin, Texas-based Computer Sciences Corp., the session coordinator.

Doug Allen, vp and director of technology at Columbus, Ohio-based State Auto Insurance Cos., said his company confronted the technology question as it set a goal of doubling the size of the business by 2015. The company needed to have the technology to support that growth, he said, while at the same time making sure it didn't spend too much on technology.

In his company's case, the growth goals and questions of speed to market and ease of doing business, along with the expectations of the company's top executives, "all factored into our decision to go with a buy decision," Mr. Allen said.

The company had built its personal lines portal, but the process took two-and-a-half years. Wanting to move more quickly with the commercial lines portal, the company had to "break the

mindset that it should be built in-house," Mr. Allen said.

Ultimately, State Auto decided to buy technology to create a portal called BizXpress for its commercial agents. It succeeded in creating a positive buzz with those agents as it rolled the system out quickly, to 20 states within three months of it being delivered to the first agent.

"When all agents hear about BizXpress and within three months they actually see it, it really has an impact," Mr. Allen said.

In addition to positive buzz, State Auto's agency portal also provides "a tremendous number of operational efficiencies, too," while entering customer data at the point of sale improves data quality, Mr. Allen said.

Workers compensation insurer Accident Fund Insurance Co. of America in Lansing, Mich., had done business in Michigan exclusively until 2000, according to Mike Britt, the company's chief operating officer. Seeking a better spread of risk, the company sought to

diversify geographically, but to do so successfully, it needed to improve its speed to market and its business agility and the ease with which agents could do business with the company.

With that in mind, Accident Fund saw an agency front-end system as potentially offering the competitive advantage it sought.

Accident Fund chose a combination of build and outsource, though. "We really outsourced virtually everything once we got started and started moving into different states," Mr. Britt said.

As it grew, the company outsourced technology involved with such areas as policy issuance, underwriting, the agency front-end system, claims and premium audit.

The approach allowed the company

to move quickly into other states, achieving its goal of diversification and increased scale.

Atlanta-based MAG Mutual Insurance Co. writes medical professional liability extensively in the Southeast and other commercial lines such as workers compensation business owners policies, general liability and directors and officers liability.

Historically, MAG was a "build" organization, said Alan Mercaldo, a vp and chief information officer at the insurer. "However, life changes," he said. Y2K issues provided MAG its first push toward outsourcing, while the CEO's desire that MAG be the No. 1. or No. 2 writer of its lines of business in the states in which it operates provided further incentive. The company also wanted to find a way to integrate applications to gain efficiencies.

Because the company's business functions wanted the same applications to which they'd become accustomed, "We started looking at buying systems, but of course we had to customize them," Mr. Mercaldo said.

In looking to accomplish its goals, "We were able to accommodate by buying, and eventually moving to outsourcing," Mr. Mercaldo said. Considerations such as business changes driven by a soft market, new technologies and maturing solutions available from vendors offering desirable product features and delivery methods drove MAG's decision to move from buying to outsourcing many applications.

Mr. Mercaldo noted that outsourcing presents issues that must be overcome, among them resistance to change.

"I think that whole resistance to change hits IT as well as the business units," Mr. Mercaldo said.

There are also technology issues, such as data interfaces between in-house systems and the outsourced applications.

Once the company overcame those issues, it experienced productivity improvements, was able to tap into the knowledge and experience of its technology business partners and was able to take advantage of better information in order to make better business decisions, Mr. Mercaldo said. ■



The annual conference of the Insurance Accounting & Systems Assn. Inc. drew more than 2,000 industry professionals to Seattle in June.

Global success requires overcoming local hurdles

By Rodd Zolkos

TAIPEI, Taiwan—Global insurance players are increasingly seeking to tap what they see as rich opportunities in emerging markets, but doing so successfully means clearing a variety of hurdles including product design and distribution and securing the talent necessary to staff local efforts.

Speaking as part of an Executive Panel of World Leaders at the 44th Annual Seminar of the International Insurance Society Inc. in Taipei, Taiwan, Steve Chen, president of Taipei-based Fuban Insurance Co. Ltd., noted that “Over the past 20 years, the insurance industry has become increasingly global.”

He cited three “driving factors” behind that trend: deregulation, insurers’ leveraging core skills and assets and insurers’ search for growth.

Among the common characteristics of companies that succeed multinationally is an understanding of global trends and the ability to establish local sales forces and manage multiple distribution channels, Mr. Chen said. Successful multinational insurers also have world-class underwriting and pricing engines, comprehensive underwriting policies and deep pools of experienced underwriters, he said.

Companies that are successful doing business globally also have world-class adjusting skills, Mr. Chen said, and have depth in their claims and legal talent. And they have the ability to design and offer the right product for the market and to design innovative products for new and emerging markets.

In discussing his company’s decision in the 1990s to move into Asia, Mark Tucker, group chief executive of London-based Prudential P.L.C., said such moves must be seen in a capital allocation

context.

Insurance companies must make decisions about deploying capital by examining opportunities in parallel, rather than looking at those opportunities individually in sequence, Mr. Tucker said. And, as they move into new markets, building a franchise and managing that franchise must be considered together.

There are some particular considerations in emerging market countries.



The International Insurance Society Inc. held its 44th Annual Seminar last month in Taipei, Taiwan.

“Building a franchise in financial services takes time, so political stability and continuity are important,” Mr. Tucker said. In addition, the region’s economic prospects are a key consideration behind decisions to enter emerging markets. “The name of the game is to take a market-driven view to capital allocation,” Mr. Tucker said. And the three “golden rules” to achieving a market-driven approach are consistency between the product range and the market’s customer population, achieving low cost without sacrificing

quality of service and flexibility.

Underpinning all those efforts are a strong groupwide capital and risk management effort, designed to meet the company’s standards for solvency over time, Mr. Tucker said.

Mr. Chen also cited the importance of providing products and services that fit the local market. A globalization strategy cannot be fully implemented without considering customer needs in the local market, he said.

“On a local level, the foreign players should consider prioritizing customer-centric service concepts and plans to enhance their market position and the likelihood of success in the local market,” Mr. Chen said.

In India, “Distribution is a huge challenge,” said T.S. Vijayan, chairman of

Life Insurance Corp. of India in Mumbai. “What is applicable to one place may not be applicable to another place.”

“This is a very vast country with a very diverse population and languages,” Mr. Vijayan said. Designing products for those varied groups and individuals in various economic strata can be a daunting task, he said.

Success in the Indian market, he said, depends on companies’ ability to innovate and include all sections of the society in their portfolio. And companies must use different distribution channels in offering products to different segments of the Indian society.

Similar issues exist in Brazil’s growing insurance market.

Brazilian consumers prefer buying life insurance in person, but there are cost issues involved with face-to-face distribution, said Oswaldo do Nascimento, executive director, Banco Itau S.A. in São Paulo, Brazil. Online sales and other channels offer more cost effective means of selling life products, he said. “We have a tradeoff between preference and technology.”

For middle-income individuals, effective distribution channels can include the Internet, mobile phones, call centers and bank branches or automatic teller machines. But, to take the best advantage of various distribution channels, insurers must segment the market by customer preferences and behavior, Mr. do Nascimento said.

Efforts are also underway in Brazil, India and elsewhere to help low-income families with microinsurance techniques. Again, however, there are distribution issues. With the small premiums associated with microinsurance, to be effective, the distribution costs must be kept extremely low.

There are other challenges insurers are likely to face in any emerging insurance market, the speakers said, including a shortage of local insurance industry professionals and experts and difficulty retaining employees as companies “poach” talent from one another.

Brian Duperreault, president and chief executive officer of New York-based Marsh & McLennan Cos. Inc. and chairman of the IIS moderated the panel. ■

Stoked to carve SERFF

NAIC proposal called 'hostile takeover'

By Meg Fletcher

An online system that speeds insurers' filing of rates and forms and regulators' review of them seems an unlikely takeover target.

For the past 10 years, representatives of the industry and regulators have worked together to establish the System for Electronic Rate and Form Filing and encourage its adoption nationwide by insurers and state regulators alike.

But controversy simmers among members of the SERFF board of directors because leaders of the National Assn. of Insurance Commissioners proposed radically transforming SERFF bylaws, reducing the board's authority.

The conflict surfaced at the NAIC summer quarterly meeting when NAIC leaders proposed amendments that included demoting the SERFF board to an "advisory" group, eliminating board authority to approve operating budgets, fees and "changes to the SERFF technical architecture that would allow access through the SERFF system by non-SERFF users or the NAIC." Another major change would have eliminated SERFF's nonprofit status.

Minutes of a SERFF board meeting preceding that NAIC gathering show SERFF Board Chairman Roger Sevigny, the New Hampshire insurance commissioner and NAIC president-elect, acknowledging SERFF as an "extremely valuable" joint effort, but also arguing that the SERFF board "was created as an ad hoc group" by the NAIC, responsible "for providing guidance in the technical development of SERFF."

Andrew Beal, then the NAIC's second in command and chief legal officer, concurred, adding that the board did not exercise some of its bylaw-defined responsibilities, such as negotiating contracts.

At the time, Mr. Beal was the NAIC's deputy executive vp. Since early July, he has been the NAIC's acting executive vp and chief executive officer following the abrupt announcement on

July 3 that Catherine J. Weatherford was leaving those positions.

Many industry representatives, including several who participated in developing SERFF a decade earlier, unlike Messrs. Sevigny and Beal, strongly disagreed with the NAIC representatives' account of SERFF's history.

Mary VanSise, assistant vp-government relations for the Jersey City, N.J.-based Insurance Services Office Inc., said she was "appalled at the changes being suggested and considers them a highly disturbing breach of trust," according to SERFF meeting minutes. Such "changes cannot be made at the expense of promises made 15 years ago," she said.

"What the American Assn. of Insurers sees is no longer a partnership but a hostile takeover," said Tammy Velasquez, vp and director of state affairs for the Washington-based association, according to the minutes.

It was insulting to describe as "advisory" the role of board members who served in SERFF's early years, helped sell SERFF to other companies and used their companies' resources to hold meetings and educate the industry, said Sonja Larkin-Thorne, an ex-officio board member. She previously served as vice chair of the SERFF board before retiring as vp-government affairs for Hartford Financial Services Group.

In subsequent interviews, several industry representatives said they believe the NAIC is trying to seize control of the SERFF system now that it is widely used, profitable and attractive as a potential vehicle for other NAIC revenue-generating services.

Confronted with those charges, Mr. Sevigny said in an e-mail, "According to the SERFF license agreement, the NAIC is the owner of SERFF and has always had the rights of title in SERFF and in any development and future licensing of SERFF. Each industry user of the SERFF system has agreed to be legally bound by this license agreement."

Told of Mr. Sevigny's response, Larry

Mirel, an attorney and ex-officio SERFF board member, said, "That may be true, but that's not relevant to this issue."

"The license agreement says who owns it but doesn't address how it is to be used," said Mr. Mirel, who was SERFF board chairman while serving as the District of Columbia's insurance commissioner. He left in 2005 to practice law at Wiley Rein L.L.P. in Washington.

MODEL OF COOPERATION

Industry observers see irony in the SERFF controversy because the system had been considered a model of industry and regulator cooperation.

According to SERFF's Web site, the partnership has been successful because the "unincorporated group of interested states and companies...with the mission to fund and oversee the development of the SERFF application from its beginning" enables both the states and the industry to participate directly in SERFF's development and use.

Bylaws for the 13-member SERFF board, which consists of seven regulators and six industry representatives, were written to require a supermajority of 10 to approve the budget and make other major changes, sources said, preventing either group from dominating decisions on important issues.

SERFF has had "tremendous growth," according to the Web site. The number of filings has grown more than 10,000%, from 3,694 in 2001 to 381,377 in 2007, according to SERFF data. Nearly all U.S. jurisdictions accept SERFF filings—including more than a dozen that mandate it—for some property/casualty, life and health products.

At a December 2007 SERFF board meeting, the NAIC provided financial data through Oct. 31, 2007, that showed nearly \$2.46 million in SERFF revenues and nearly \$1.29 million in operating expenses, resulting in a profit of about \$1.17 million, according to an industry source.

Also at that meeting, NAIC leaders informed the SERFF board that the NAIC was considering leveraging the system as a vehicle for premium tax filings, a source said.

But on June 1, the NAIC announced a new online premium tax filing sys-

tem, called OPTins, without the SERFF board ever discussing or approving it.

"At a time when the SERFF (board) members are suggesting that, based on SERFF's healthy financial condition, we should consider lowering the SERFF transaction fees that are charged to industry for each filing, the NAIC is proposing changes to the bylaws which might eliminate any industry participation in discussions about SERFF fees," an industry source said.

A key change in the NAIC-proposed amended bylaws would be eliminating a requirement that SERFF be a nonprofit entity, although proponents of the change have not emphasized that point.

"Removing that (nonprofit) requirement makes the most fundamental change of all in the operation of SERFF," said Lenore Marema, vp-government affairs for the Surety & Fidelity Assn. of America in Washington, in a June letter to the board. "A good first step in this discussion is the (SERFF) board's recent request for full financial disclosure of SERFF revenues and expenses and an audit of SERFF."

SERFF financial data had been reported separately from the NAIC's since its inception, but the NAIC incorporated it into its budget in 2008. SERFF board members subsequently asked that the NAIC resume reporting SERFF data independently, an industry source said.

NAIC'S POSITION

Messrs. Sevigny and Beal have presented several reasons for amending the bylaws, although industry representatives challenged those points.

Both have said that "SERFF is a product, not an entity," so there is no entity over which the SERFF board has purview.

Michael Lovendusky, vp and assistant general counsel of the Washington-based American Council of Life Insurers, said "there is a difference of opinion about that."

Mr. Mirel said it "doesn't make sense" to say SERFF is not an entity.

The applicable legal theory and precedents say the NAIC is a continuing organization and "its predecessors' agreements are still valid," he said.

Also, Mr. Sevigny has said "the pow-

ers and duties of the SERFF board come from an authority granted by the NAIC." The group does not have, and has never had, independent authority.

Mr. Lovendusky said that statement contradicts SERFF's bylaws.

While the NAIC's Executive Board may oversee of some SERFF-related matters such as the operating budget, Mr. Mirel said that doesn't mean the SERFF board should be "summarily dismissed as irrelevant."

He suggested that the NAIC propose amendments in accordance with the SERFF's existing bylaws.

Messrs. Sevigny and Beal have made conflicting statements at various meetings about industry board members' potential liability for any possible legal actions brought against SERFF.

According to Mr. Beal's description in the minutes, "If the members of SERFF's board believe that they are indeed a board of directors and that they exercise direction and control over SERFF, then they are putting themselves at risk for liability associated with SERFF."

There is no guarantee the board wouldn't "be dragged into any litigation," he said, adding that SERFF board members aren't covered under NAIC insurance for damage claims, leaving them and their companies potentially liable for litigation expenses.

"It was shocking to hear (and) perceived as a threat," Mr. Mirel said.

"It was a scare tactic," said Ms. Larkin-Thorne. "You don't talk to a group of insurance industry employees and tell them that they have no insurance protection."

Ms. Larkin-Thorne and other board members challenged Mr. Beal's statements about board member's liability protection, especially since the issue had been addressed in the bylaws which state that "No personal liability shall accrue to any of the directors or officers for any obligation of SERFF."

The bylaws also authorize the NAIC to purchase insurance on behalf of any director, officer, employee or agent of SERFF covering all their activities and responsibilities.

In July, Mr. Sevigny said: "The SERFF board members are not covered by any of the NAIC insurance policies. The cur-

rent bylaws provide that the NAIC, under certain circumstances, shall indemnify any director for expenses and attorneys' fees actually incurred."

Industry representatives have asked the NAIC for a written legal opinion on the liability issue.

The overall discussion at the NAIC meeting was "one of the most contentious that I have ever attended," Mr. Lovendusky said. The situation became "bizarre" because at a private meeting the next day, Mr. Sevigny was "extremely conciliatory," he said.

Mr. Sevigny "reversed what Andy Beal had said the day before on nearly every major issue," Mr. Mirel said. "It was mind-boggling."

FUTURE

The outcome of the NAIC's effort to take over SERFF remains unsettled.

Some think that in the short term, the NAIC will be more concerned about replacing its executive director than revising SERFF's bylaws.

Mr. Lovendusky said since those heated exchanges, "the temperature has cooled down" and now there is a "new candor" in talks.

"Board members are cautiously optimistic that the ship has been righted" and that SERFF may be able to continue operations as normal, he said.

Yet Mr. Sevigny said in July that the NAIC "would like to develop a set of guiding principles that reflect the role and responsibilities of the board and how the group has functioned over the last 10 years."

He added that "the NAIC membership values the input of the SERFF board and desires to continue to leverage the important contributions of the board. We are hopeful that the board members can help us craft a final set of guiding principles."

Some noted the use of the term "guiding principles"—instead of "bylaws," which was the term the NAIC used in the proposed amendments for the "advisory board."

The proposed amendments contained a note stating that the term bylaws was not used "because the SERFF board was not a legal entity, and therefore, could not be governed by a set of bylaws." ■

For insurance industry executives concerned with how shareholders and potential shareholders view their companies, the opinions of the analysts who scrutinize the industry for various banks and investment firms are critically important. Here's a look at some of the top analysts covering the insurance business, along with some of their thoughts about what they expect from the industry's performance this year.



JAY COHEN

MERRILL LYNCH & CO.

MANAGING DIRECTOR

AGE: 42

YEARS ANALYZING THE INSURANCE
INDUSTRY: 17

2008 INDUSTRY OUTLOOK/PREDICTION: "We expect underwriting margins to come under increased pressure and top-line growth to be minimal or negative."



JAY GELB

LEHMAN BROS. INC.

SENIOR VP

AGE: 37

YEARS ANALYZING THE INSURANCE
INDUSTRY: 9

2008 INDUSTRY OUTLOOK/PREDICTION: "We anticipate property/casualty insurance stocks performing in line with the S&P 500 in 2008 barring unforeseen events. Property/casualty insurers continue to suffer pricing pressure driven by our estimation of \$75 billion of excess industry capital. Recent investment market shocks will restrain capital growth, but are not significant enough to cause a cycle turn without substantial industry underwriting losses."



ADAM KLAUBER

FOX-PITT KELTON COCHRAN
CARONIA WALLER

MANAGING DIRECTOR

AGE 43

YEARS ANALYZING THE INSURANCE
INDUSTRY: 15

2008 INDUSTRY OUTLOOK/PREDICTION: "2008 will be relatively stable depending on catastrophes, but we worry about material deterioration in 2009. Returns in 2008 should hold in the mid to low teens as reserve releases remain substantial and accident year losses (excluding catastrophes) remain favorable on a historic basis. However, we expect deterioration in 2009 with returns moving closer to the 10% or below level."



MARK LANE

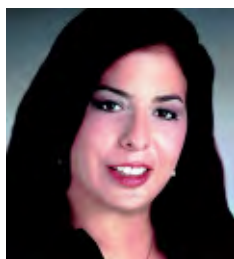
WILLIAM BLAIR & CO.

PRINCIPAL & RESEARCH ANALYST

AGE: 38

YEARS ANALYZING THE INSURANCE
INDUSTRY: 16

2008 INDUSTRY OUTLOOK/PREDICTION: "In 2008, we expect premium growth and accident year underwriting profitability to continue to come under pressure. We do not expect lower prices to abate until profitability deteriorates significantly and public companies start to miss earnings expectations, which we expect some time during 2009, or potentially in late 2008."



SUSAN SPIVAK BERNSTEIN

WACHOVIA CAPITAL MARKETS L.L.C.

DIRECTOR

AGE: 41

YEARS ANALYZING THE INSURANCE
INDUSTRY: 18

2008 INDUSTRY OUTLOOK/PREDICTION: "P/C stock price performance has been limited by increasingly competitive market conditions and a more difficult investment environment. Most P/C stocks are now trading at or below book value, yet balance sheets are strong and returns remain robust at 15% plus. Despite these above-average results, we see limited near-term catalysts to drive stocks higher other than the growth in book value."

ERM creates a stable base for Sarbanes-Oxley compliance

Sarbanes-Oxley isn't new. But judging by the way most CFOs still treat financial controls, you'd think the ink wasn't even dry on the Sarbanes-Oxley Act. CFOs have had years to adapt, but still face big risks of material financial misstatements.

A bottom-up, control-based approach usually results in excessive costs, massive inefficiencies, a false sense of security and a major distraction from business.

Companies must pioneer a true risk-based approach and sidestep the controls and compliance-focused approach most use today. And they must do it quickly, with a comprehensive enterprise risk management system that ensures a repeatable, sustainable risk-based methodology and process. That system can reduce external audit hours by 30% to 60% while improving corporate decision making.

If the early-filers' history repeats itself, more than 11% of companies with financial reporting and compliance programs will be found to have material weaknesses. And about 86% of material weaknesses will be discovered not by management or consultants but by external auditors.

The consequences are real. Companies affected see more than a 4% drop in stock price; their CFOs face a 62% likelihood of being replaced; and a 150%-plus jump in ongoing external audit fees.

COMPLIANCE

Risk management tips for CFOs and CROs

- Apply ERM to all areas including financial reporting.
- Define core processes representing the business.
- Use classification categories to roll up all risks by root cause.
- Establish a standard five-step process—identify, assess, evaluate, mitigate and monitor—to manage all risks.
- Use standardized evaluation criteria to score risk across the enterprise.
- Use an ERM approach to SOX.
- Consolidate assessments on a common platform to eliminate duplication.
- Make ERM approach available to external auditors, who have difficulty understanding the intricacies of a company sufficiently to apply effective scoping.

As problems like these mount, CFOs are beginning to realize that an ERM-based SOX effort works much better than a controls-based SOX effort or an ad hoc approach to risk. The problem with the SOX compliance approach used by most organizations is that it focuses on controlling symptoms of material weakness rather than the root cause of problems.

That results in the destruction of business value as a byproduct of compliance.

The chorus of calls for a consistent risk-based approach is growing.

The Public Company Accounting Oversight Board's Audit Standard 5 guidance prescribes a risk-based approach. But simply talking about risk is not enough. The financial reporting compliance process and systems most organizations use must be overhauled to be truly successful.

You need to do more than just adopt an ad hoc risk-based approach. The only way to realize all the benefits of a risk-based approach is with a formalized ERM governance framework.

Multiple but distinct levels of top-down risk assessments can best qualify and quantify the scope of activity.

For example, five levels address entitywide controls, significant accounts and disclosures, ranking of process risks, separate risk-based scoping of information technology general and application controls, and comprehensive assessment of risk by process owners.

Activities determined to have low significance in each of the successive five levels suggest where internal and external scope of work can be reduced, while providing systematic and objective documentation to justify decisions. Robust scoping leads to a more effi-



Steven Minsky is chief executive officer and founder of LogicManager Inc., a Boston-based provider of enterprise risk management software for governance, risk and control.

cient and effective control environment.

Most companies have sophisticated general ledger accounting systems to manage the effects of risk. But most lack ERM systems to track risk's root causes and to connect these root causes to the effects in their financial systems.

The right technology infrastructure makes it easy to present results of robust analyses of five different levels, rolled up into one consolidated "bang for the buck" number. Sustaining these kinds of analyses simply would not be feasible using spreadsheets alone.

Chief financial and risk officers must choose a platform that integrates SOX alongside business activities, while managing the diverse set of risks under a single enterprisewide risk management umbrella. This enables management to compare SOX risks to other risks on the same scale, improving overall business. **IF**



DARREN PIERCE is director of business development-insurance at Raleigh, N.C.-based First Research Inc.

Client relationships key in soft market

A soft market consequently means a highly competitive environment, price wars and slower business. But is a softening market a weakness or an untapped opportunity? What if a producer could win more business from competitors without lowering prices?

The industry is ever changing. New players such as banks and stock brokers have entered the space and new niches are being discovered. Large insurance agencies are leveraging advantages in name recognition, connections with more insurers, and offering complex insurance packages. Small agencies are competing by specializing in a product, industry or market. But is there opportunity elsewhere?

Regardless of the size of an agency facing a volatile market, the lifeblood of success will be defined by a producer's ability to differentiate and add more value to client relationships.

We have seen the traditional insurance market expand into a new consultative role. Seasoned producers are using consultative selling to build stronger relationships, to retain existing clients and to win new business. And if implemented properly, consultative selling and relationship building form the cornerstone that agencies need to retain current clients and build a strong book of business.

But this doesn't happen with a simple snap of your fingers. In order to be effective, producers must implement a few strategies throughout the lifecycle of their business relationships. Very simply, every time they contact a prospect or client, they must provide value. They must become problem solvers. They must become their clients' or prospects' first source for advice. Let's take a look at a few best practices.

LAY THE GROUNDWORK: A prospect is looking for sound advice and someone to depend upon. If producers do their homework, they can have a positive impact on a client's or prospect's bottom line. In so many words, a well-informed producer means security in the eyes of a client. In an era of economic turmoil, it is essential that a producer has the client's complete confidence and trust.

IDENTIFY OPPORTUNITIES AND RISKS: Producers must delve into the industry in which they are selling to truly understand the critical issues their clients or prospects face. They must make a stake that their service is an

essential element for any business.

Case in point: a prospect in the trucking industry is closely tied to the overall health of the national economy. During periods of low activity, trucking profits are disproportionately hurt because fixed costs are fairly high. A producer might identify the opportunity to use longer combination vehicles, a potential cost saver for the trucking business.

Offering such advice shows a client the producer understands their business. They have solved a problem, presented themselves as a trusted consultant and now are positioned to win more business.

PREPARE, PREPARE, PREPARE: What is top of mind for a client or prospect? What issues do they face? What are their business pain points? A producer must become an investigator, a consultant and an advisor to make every call count.

For instance, businesses in the agriculture crop production industry are particularly concerned with government regulation and

THE TIME IS NOW for producers to take the transition from salesperson to consultant a step further.

volatile crop prices. Producers need to ask questions on a call to provoke solutions.

Here is an opportunity to suggest new technology available to track crop production. Understanding the issues and opportunities before meeting with a client or prospect will help producers differentiate themselves and build their books of business.

It's becoming increasingly important to differentiate service in a soft market. And most insurance professionals don't have an easy way to understand their clients' critical business issues; they focus on selling a product or service instead of presenting value and eventually fade into the "insurance salesperson" crowd.

The time is now for producers to take the transition from salesperson to consultant a step further. They need to dig deeper into their product or service, offer valuable solutions and articulate strategic business know-how. The answer in a highly competitive marketplace is quite simple. Focus on the fundamentals and build mutually beneficial relationships that last. ■

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