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# Business Insurance

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August 12, 2002

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\$4

## Aon faces SEC questions



Mr. Ryan

By SALLY ROBERTS

**CHICAGO**—Dark clouds gathered over Aon Corp. last week, as the world's second-largest insurance brokerage announced dismal second-quarter results, scrapped plans to spin off its underwriting unit and revealed that it is in discussions with the U.S. Securities and Exchange Commission over accounting matters.

The news sent Aon's share price down 30% on Wednesday, to close at \$14.77, down \$6.43 for the day and down \$30.03 from its 52-week high of \$44.80. Adding to Aon's woes, the sharp drop was closely followed by the filing of a shareholder suit. Aon's share price closed at \$15.38 on Friday.

Aon expects to resolve the issues with the SEC early this week, however, Chairman and Chief Executive Officer Patrick G. Ryan said.

"The clear message is...this is a normal review

that occurs when you file a transaction with the SEC," Mr. Ryan told *Business Insurance* late last week, referring to the proposed spinoff of the Combined Specialty underwriting operations.

Aon, he pointed out, is among more than 100 large publicly traded companies that the SEC has announced have received comment letters from the SEC's Division of Corporation Finance, which reviews company filings. "We're very comfortable with the issues and no matter what the resolutions are, they will not change our shareholder equity of \$3.5 billion," he said. "We're confident that we will resolve all of the issues early in the week because I am going to certify our financials along with our CFO Harvey Medvin on Wednesday."

Under new SEC requirements, CEOs of large companies must certify and accept personal responsibility for the accuracy of financial state-

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### Late News

#### Two WTC insurers seek single-occurrence ruling

Two insurers representing \$482.6 million of the World Trade Center's \$3.55 billion in property insurance limits have filed new motions asking a federal judge to rule that the complex's destruction was a single occurrence. Allianz Insurance Co. and Royal Indemnity Co. contend that the specific language of policies and binders they issued precludes the argument of WTC leaseholder Silverstein Properties Inc. that the Sept. 11 attack on the twin towers constituted two separate events triggering two \$3.55 billion payouts. In addition, Allianz contends that the loss should be regarded as one occurrence under the "vandalism and malicious mischief" wording in its policy.

#### HHS releases final medical privacy rule

The Department of Health and Human Services has issued its final medical records privacy regulation. Among other things, the rule states that patients must give specific authorization before entities covered by the regulation can disclose protected information under most circumstances, including releasing information to an employer. The measure covers personal medical information maintained by certain health care-related entities.



PHOTO: NOAA

#### Gray storm team scales back forecast

The hurricane forecasting team headed by Colorado State University Professor William Gray has revised down its storm forecast for the 2002 hurricane

See LATE NEWS/next page

## Patient protection down but not out

By MARK A. HOFMANN

**WASHINGTON**—Although its chances look slim, it's still too early to administer last rites to patient protection legislation in this Congress, say many lobbyists and consultants.

That's despite a breakdown in negotiations between supporters of a Senate managed care regulation bill and the White House shortly before the Senate recessed for its August break. Senate Majority Leader Tom Daschle, D-S.D., followed his announcement of the impasse by naming senators to a House-Senate conference committee designed to iron out differences between the chambers' approaches to the issue. But with the House already in recess, House conferees probably won't be named until af-

See PATIENT RIGHTS/page 14

## Graying of America challenges employers

By MICHAEL PRINCE

Americans are aging. This may not surprise those who feel older, but as a society, the U.S. population—and its workforce—is graying.

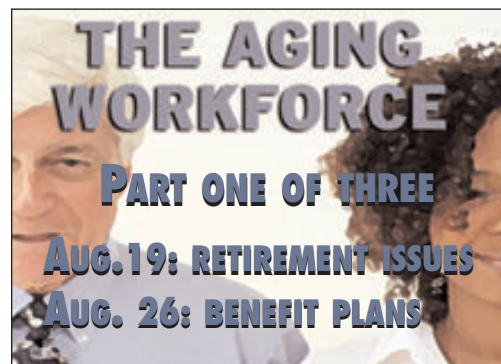
In the next several years, as the millions of people born between 1946 and 1964 enter their 50s and 60s, this group will push up the overall age of the population.

If demographics are destiny, as many social scientists say, the costs will land on employers.

The problem is the U.S. population is losing its shape. Demographically, the population has historically resembled a pyramid; there have been greater numbers of younger individuals at the base of the structure than older individuals at the top.

In 1990, for example, the four most-populated age groups, broken into five-year increments, were between the ages of 20 and 40, and the least-populated groups were those over the age of 45, according to U.S. Census Bureau data.

By 2000, those 20- to 40-year-olds became



30- to 50-year-olds. The over-50 population still remained the smallest.

The pyramid shape continues to exist today, but by 2025, the U.S. population will look vastly different. By then, the demographic shape will look like a rectangle with a point on its top. Just small differences will exist between the number of 70-year-olds and the number of newborns. Only the population above the age of 70 will shrink noticeably.

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**Benefits Management Take-Out**  
**GLOBAL BENEFIT TRENDS**



**LARGEST BENEFIT CONSULTANTS**

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## Inside

### WTC leaseholder, insurer at impasse

Negotiations to settle the property insurance dispute between World Trade Center leaseholder Silverstein Properties Inc. and property insurer Swiss Reinsurance Co. have broken down, and the two sides appear headed to trial. **Page 4**

### Learning how to talk the talk

In Commentary, Senior Editor Dave Lenckus offers a few words of advice for risk managers who are considering a move to the brokerage world. **Page 6**

### COBRA subsidy plan worth a try

Providing federal subsidies for COBRA health care premiums is an experiment that is well worth conducting, one of this week's editorials says. **Page 8**

### Comp prices rising in wake of Sept. 11

The cost of workers compensation coverage will rise because of the Sept. 11 terrorist attacks, especially if efforts to create a federal terrorism coverage backstop fail, Thomas Cleary writes in Perspectives. **Page 10**

### HSE not immune to rail crash claims

The United Kingdom's health and safety regulator does not have statutory immunity from claims arising out of the fatal 1999 Ladbroke Grove train crash, the U.K. High Court says. **Page 17**

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### REPORTING WEEKLY ON CORPORATE RISK, EMPLOYEE BENEFIT AND MANAGED HEALTH CARE NEWS

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### CONTINUED FROM PAGE ONE

season, predicting below-average activity. The team predicts that only nine named storms—four of which will become hurricanes—will form in the Atlantic and Gulf Coasts this hurricane season. In December 2001, the team predicted an above-average hurricane season but has reduced its estimates with each subsequent report.

### EEOC finds discrimination at Xerox sales offices

The U.S. Equal Employment Opportunity Commission says there is reasonable cause for allegations of widespread discrimination against black employees in Xerox Corp. sales offices throughout the United States. The EEOC's Aug. 2 determination letter about Xerox "revealed to us that there is a top-down problem in the sales force," said James Vagnini, an attorney with Leeds Morelli & Brown in Carle Place, N.Y., who is representing plaintiffs in a discrimination suit filed against Xerox.

# Late News

who now receive pension benefits from the PBGC but lack health care benefits.

### Military service counts toward FMLA eligibility

Employers must count the active military duty time of called-up reservists and National Guard members in calculating Family and Medical Leave Act leave eligibility, the Labor Department says. Under the FMLA, an employee can take up to 12 weeks of unpaid, job-protected leave each year for a variety of family and health-related reasons. To be eligible, though, the employee must have worked for his or her employer for at least one year and must have completed at least 1,250 hours of work during that time.



PHOTO: KRT

### Perdue settles dispute over pensions, wages

Perdue Farms will settle a class-action lawsuit brought on behalf of more than 60,000 employees by paying back wages and adjusting pension contributions. The \$10 million settlement will end a wage and hour dispute. Chicken processing assembly-line workers alleged that they were required to work "off the clock," forgoing compensation and retirement plan contributions for time spent removing protective clothing.

### Outsourcing boosts Hewitt revenues

Buoyed by double-digit growth in its outsourcing business, Hewitt Associates Inc. reported higher revenues in its first quarter as a publicly held company. Total revenues for Hewitt's fiscal third quarter, which ended June 30, were \$438.6 million, a 15.3% increase over the comparable prior-year period. For the nine-month period,

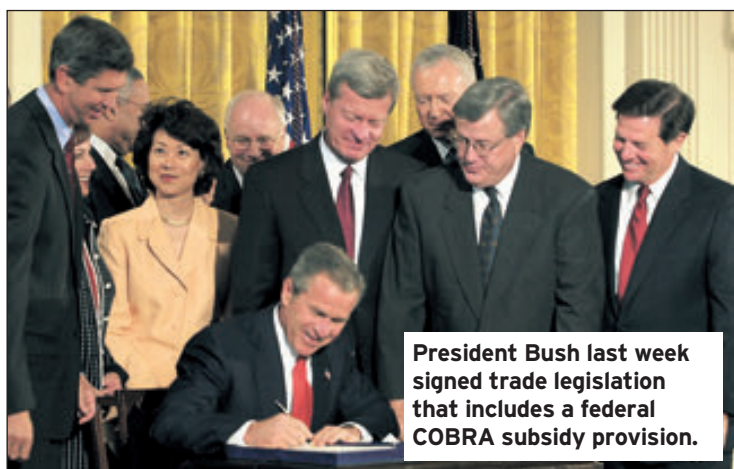


PHOTO: AFP

President Bush last week signed trade legislation that includes a federal COBRA subsidy provision.

### Bush signs COBRA subsidy measure

President Bush signed trade legislation that will provide direct federal subsidies for the purchase of COBRA health care coverage to eligible beneficiaries. Under the new law, the federal government will subsidize 65% of the COBRA premium for individuals who lose their jobs due to foreign competition. The subsidy also would be available to retirees age 55 to 64 whose pension plans were taken over by the Pension Benefit Guaranty Corp. and

## Check out Businessinsurance.com

To get breaking news as it occurs, visit *Business Insurance's* free online Daily News, at [www.businessinsurance.com](http://www.businessinsurance.com). Sign up for your daily e-mail of breaking news. All the material in the Late News column, as well as other content in this week's issue, is generated from Daily News postings that appeared on the *BI* Web site in the previous week.

### Online this week:

- The new **Directory of Benefit Consultants** is now available, along with other searchable directories.
- The **Datebook** calendar lists upcoming industry meetings and events and lets you add your own.
- New **Commentary** from Dave Lenckus joins the writing of other regular columnists, including Dr. George Head.
- The **Online Forum** lets readers exchange ideas and information.

## House's loan-based approach would have higher annual outlays: Report

# Costs of terror backstop plans compared

By MARK A. HOFMANN

**WASHINGTON**—A loan-based federal backstop for terrorism insurance favored by the House of Representatives could cost the government more than would the cost-sharing approach endorsed by the Senate, a study says.

The study, prepared for the American Insurance Assn. by Tillinghast-Towers Perrin and circulated on Capitol Hill, projects that the House approach, as laid out in H.R. 3210, the Terrorism Risk Protection Act, would cost the federal government \$3.81 billion each year it was in place. The Senate approach, set

forth in S. 2600, the Terrorism Risk Insurance Act of 2002, would cost \$1.76 billion in its first year and \$1.44 billion in its second.

The study used the Congressional Budget Office's Nov. 19, 2001, cost estimate of H.R. 3210, which assumes that annual insured losses from terrorism would reach \$4.5 billion. The study also factored in a 1% chance that terrorism-related losses would be \$40 billion in a single year. In addition, Tillinghast made assumptions about the individual company retentions and assumed that the mix of lines affected would be: 50% property, including business interruption; 20% workers

compensation; 15% liability; and 15% aviation. That breakdown is consistent with CBO analyses, the report states.

The study cites two major reasons for the disparity in the bills' projected costs. The House bill has a lower insurer loss trigger than does its Senate counterpart. In addition, once losses hit the threshold, the House bill would provide payments on a first-dollar basis rather than through the cost-sharing approach approved by the Senate.

The report notes that the House measure would require repayment of the loans but limit the size of surcharges and assessments that can be

levied against insurers and policyholders in any given year. The report also points out that the House bill would give the Treasury secretary "considerable latitude regarding the timing and administration of any assessments and surcharges."

### CNA records growth in first-half premiums

CNA Financial Corp. reported \$113 million in net income for the first half, compared with a \$1.47 billion loss for the comparable period a year ago. Last year's first-half results reflect a \$778 million boost in reserves for asbestos, environmental and mass tort claims. CNA reported \$3.58 billion in property/casualty net premiums written for the first half, a 44.7% increase.

### Arch Capital sees gains following changes

A reshaped and richer Arch Capital Group Ltd. has posted gains in the first half of 2002. The Bermuda-based insurer and reinsurer reported net income of \$23.2 million for the first six months of 2002, compared with \$16.4 million for the comparable period a year ago. Arch posted first-half 2002 net premiums of \$503.7 million, compared with \$9.6 million in 2001. In October 2001, Arch announced it had raised \$750 million, bringing its total capital to \$1 billion. The capital infusion followed acquisitions of a U.S.-licensed insurer, a U.S. surplus lines insurer and rent-a-captive facilities in Bermuda and the Cayman Islands.

### Briefly noted

The **Pension Benefit Guaranty Corp.** has taken over and terminated two GS Technologies Operating Co. pension plans with a total of \$44 million in unfunded liabilities. The Kansas City, Mo.-based company is a subsidiary of GS Industries Inc., a bankrupt producer of steel rod products....President Bush repeated his call for a **federal terrorism insurance program** in his weekly radio address on Aug. 3. "Both houses must reach a consensus on final terrorism insurance legislation, to spur building projects and create construction jobs," he said. Both chambers recently named the conferees who will work out differences between widely divergent House and Senate measures.

The study, "Estimating the Budgetary Impacts of the Proposed Federal Terrorism Risk Insurance Program: HR 3210 and S 2600," can be accessed at [www.aiadc.org](http://www.aiadc.org).

# Political risk capacity may tighten

## Economic turnaround may strain market's capacity, some say

By MICHAEL BRADFORD

Most buyers of political risk insurance are finding the coverage they need at reasonable prices—for now.

Although capacity has shrunk and many insurers are not as eager to write the coverage for long periods, political risk insurance remains affordable in most parts of the world. Rates have risen moderately in regions that are governed by stable regimes and somewhat more sharply in volatile regions. And, as a

lackluster U.S. economy slackens overseas investments, fewer buyers are tapping into the capacity that is available.

Ironically, though, the marketplace could become much more restrictive if the U.S. economy recovers. When that happens, experts point out, U.S. investments overseas will pick up and businesses looking for political risk insurance will begin to strain the shrunken coverage capacity.

Financial services companies

could be among the first to experience a tightening if that scenario develops.

"If the economy does turn around and banks look at more project financing, then there could be a crunch because capacity has declined so dramatically," said Christina Westholm-Schroder, chief underwriting officer with Sovereign Risk Insurance Ltd. in Bermuda. Sovereign, a joint venture between ACE Ltd. and XL Capital Ltd., writes political risk insurance for commercial lenders and other clients.

"I think that's very true," said Pat Skold, senior vp and worldwide manager for Chubb Corp. in Warren, N.J. "The coverage, obviously, chases investors and traders work-

ing overseas," she noted, and with less foreign investment, there has been little reason to increase capacity.

Mark Thomas, a director with the London broker Cooper, Gay & Co. Ltd., said cutbacks at Lloyd's of London have contributed to the shrinkage of capacity. Syndicates generally are offering to write coverage for only three years, he explained, as reinsurers have restricted the amount of risk they are willing to assume.

Ken Horne, senior vp at Marsh Inc. in New York, pointed out that other insurers have also been forced to shorten contract durations. "The trend had been for longer policy periods, up to 15 years in some cases," he said. "That's been a change in

the last nine months," with many insurers now offering five to seven years of coverage.

Bradley R. Wood, vp of risk management at Marriott International Inc. in Bethesda, Md., said that finding insurers willing to write long-term policies is "a real challenge. It's kind of a disconnect between the needs of the policyholder and the insurers."

"Normally, what you do is put the coverage in place at the time the project is developed for as long a term as possible, so that you don't have to renew," Mr. Wood explained. "It's not like what you would find" in typical insurance policies for other exposures, he said.

Unistrat Corp. of America has al-  
See **POLITICAL**/page 18



PHOTO: ZUMA PRESS

A firefighter pauses at the northern edge of the Winter-Tool Box fire in Fremont National Forest in south-central Oregon in late July.

## Fires could burn Ore. policy limits Unique cover faces tough renewal

By ROBERTO CENICEROS

**SALEM, Ore.**—With two months of the wildfire season still to come and several fires currently raging throughout the state, Oregon's risk manager is concerned that firefighting costs could blow through the limits of the state's unique forest fire insurance policy.

If that were to happen, renewing Oregon's forest fire extra-expense policy for 2003 would be very difficult, said David Hartwig, administrator for Oregon's Risk Management Division in Salem.

Renewing the state's coverage for 2002 was cumbersome and costly enough, said Mr. Hartwig, noting that the state had tapped its insurers for about \$7 million in losses during 2001.

This year's losses could be much greater.

Oregon's forest fire policy protects the state's treasury by paying firefighters' wages. The lead

underwriter is Wellington Underwriting P.L.C. in London. The policy also pays for feeding and sheltering firefighters and for equipment provided by contractors. It covers materials such as fire retardant and the use of aircraft in battling blazes, as well.

Several other Western states also are experiencing a severe fire season. But risk management and forestry officials in Colorado and Arizona—two states that recently have seen devastating fires—have not purchased such coverage.

An official for the state of Washington, though, said that his state has begun a preliminary review of Oregon's insurance policy to determine whether such coverage is worth buying.

Washington state spent \$118 million from 1992 to 2001 to suppress wildfires on state and private land, said the official, who asked not to be identified. Typically, Washington taps its

See **FIRE**/page 16

## Right to deny liability upheld for reinsurer of film-finance losses Court takes focus off AXA

**LONDON**—AXA Corporate Solutions has no liability for reinsurance claims on \$31 million in film-financing losses paid by the defunct HIH Casualty & General Insurance Ltd. on money-losing made-for-TV movies, a London appeals court has ruled.

Affirming a lower court order, a two-justice panel of the Court of Appeal found that AXA never waived its right to deny liability on the grounds that producers made fewer films than was initially agreed, even though AXA was aware of the reduced number of films and made no objection at the time (*BI*, Jan. 14).

"Conduct from which it might be inferred that AXA thought they were still on risk does not of itself amount to a representation that they would not enforce a right or rights," the justices concluded.

The case involves reinsurance of policies under which HIH guaranteed production loans for two slates of TV films to be made by Flash-



point Ltd. in association with two other companies, 7.23 Productions L.L.C. and Rojak Films Inc. Although 16 films were supposed to have been produced under the deals, only 12 were actually made.

In earlier rulings, London courts found that producers' representations about the number of movies to be made constituted warranties, and they agreed with AXA that the breach of these warranties voided HIH's 80% quota-share reinsurance cover. HIH had already paid \$31 million in claims and argued that it would also have denied liability if it had known of the position AXA

and other reinsurers would take.

A lower court also rejected HIH's contention that AXA knew of the reduced number of films and did nothing, therefore waiving its right to deny liability later on the breach-of-warranty grounds. The Court of Appeal panel affirmed that conclusion in its ruling.

Although AXA required regular reports on the film risks and though its officials were notified of the reduced number of 7.23 and Rojak films, "AXA's conduct is best characterized as silence or inactivity," the appeals judges found.

Citing an earlier case, the court noted that "although a promise or representation may be made by conduct...it is difficult to imagine how silence and inaction can be anything but equivocal." Unless the law took this view, mere failure to assert a contractual right could lead to its loss; and the courts have on a number of occasions rejected this clearly undesirable conclusion."

—By Douglas McLeod

## California high court rules on tobacco immunity period

By MEG FLETCHER

**SAN FRANCISCO**—Observers representing tobacco companies and plaintiffs disagree about the impact of a pair of California Supreme Court decisions issued last week.

Representatives of two tobacco companies involved in the cases said they generally welcome the decisions, which they see as aiding appeals in other cases. Meanwhile, a plaintiff's attorney said she believes the decisions open the door for more lawsuits by smokers.

In *Myers vs. Philip Morris Cos. Inc.*, the state's high court ruled 6-1 that tobacco companies are not shielded



from product liability lawsuits that fall outside 1988-97, a 10-year immunity period the Legislature created and subsequently rescinded.

The Repeal Statute, which was effective Jan. 1, 1998, "contains no express retroactivity provision," the

majority found. "The liability of tobacco companies based on their conduct outside the 10-year period of immunity is governed by general tort principles," the court ruled.

In *Naegle vs. R.J. Reynolds Tobacco Co.*, the high court overturned the San Francisco County Court of Appeals' previous ruling that "the Immunity Statute covers all conduct by tobacco companies acting as manufacturers or sellers of tobacco products, except conduct resulting in manufacturing defects or breach of express warranty."

Instead, the high court in a 5-2 decision stated: "We, however, con-

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PHOTO: NY PHOTO PRESS

## Swiss Re, WTC leaseholder settlement talks break down

By **DOUGLAS McLEOD**

**NEW YORK**—Negotiations to settle the property insurance dispute between World Trade Center leaseholder Silverstein Properties Inc. and insurer Swiss Reinsurance Co. fell apart almost as soon as they began last week, and the two sides are now planning to go to trial in November.

A New York federal judge had ordered the two sides to submit settle-

ment offers to the court last Thursday, but the offers were so far apart that an agreement is unlikely, a spokesman for Silverstein said.

"There's no settlement in the cards, it appears," the spokesman said. "They will be going to the courtroom now, which in a way is quite unfortunate, because the delay could certainly delay the rebuilding of the downtown area."

Silverstein has argued that the Sept. 11 destruction of the twin

towers represented two separate events, entitling it to two payouts under the \$3.55 billion property program written by Swiss Re and more than 20 other insurers. Swiss Re counters that the policy wording to which it agreed clearly bars the two-event theory and that the attack triggered only a single payout.

"The property was destroyed just once," said Swiss Re America Holding Co. Chairman and Chief Executive Officer Jacques Dubois. "You don't collect twice if your house burns down."

Two other insurers, Allianz Insurance Co. and Royal Indemnity Co., last week asked the federal judge to rule that the attacks were one event (see story, page 1).

The settlement offers were "billions of dollars" apart, a Swiss Re spokesman said, as were estimates of the WTC loss offered by the two sides before Thursday's hearing.

In its estimate, Swiss Re pegged the loss at \$2.4 billion on a present-

**Swiss Re's estimate of the value of the WTC property claim 'has no bearing on the reality of the cost of building in New York City.'**

*Marc Wolinsky  
Wachtell, Lipton,  
Rosen & Katz*

value basis, based partly on a review by Pearson Partners Inc., a New York real estate investment bank.

The Zurich-based insurer estimated the actual cash value of the WTC complex at \$2.16 billion. Under the coverage terms Swiss Re says it agreed to, though, Silverstein can not collect the actual cash value unless it decides not to rebuild on the site. If Silverstein takes on the rebuilding job, it may seek to recover the replacement cost of the buildings as the work progresses over eight or nine years, an amount Swiss Re says would approach a single \$3.55 billion policy limit.

Discounted to present value, that claim is worth \$2.4 billion, the insurer says. The policy limit would also be used to cover business interruption losses and thus would not be fully available to pay for rebuilding, the insurer notes.

The Swiss Re estimate is a fraction of the figure Silverstein announced after consultation with Deloitte & Touche L.L.P. and Tishman Construction Co. Silverstein contends that the loss amounts to more than \$8.2 billion, including \$5.7 billion for the actual cash value of the twin towers and connected retail property and more than \$2.5 billion in business interruption losses.

The Swiss Re estimate is "ridiculously low," said Marc Wolinsky, a lawyer with Wachtell, Lipton, Rosen & Katz in New York, who is representing Silverstein. "It has no bearing on the reality of the cost of building in New York City."

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What can we do to help you?

## BI calls for Best of the Web entries

*Business Insurance* is seeking entries for its second annual Best of the Web competition.

The Best of the Web Awards were created by *Business Insurance* to recognize and promote excellence in Internet-based services for corporate risk and employee benefit executives.

Web sites that are designed primarily—though not necessarily exclusively—to serve buyers of commercial insurance services may be submitted for consideration.

Web sites will be judged on their functionality, interactivity, design, innovation and relevance to the buyer of commercial insurance services (i.e., risk managers and employee benefit managers).

To be considered, a site must fit into one of eight specified contest categories: insurance services, claims services, risk management services, benefits management services, health plan services, claims services, legal services and educational/pro-

fessional services.

Detailed information about the eight categories and rules and entry forms for the competition can be downloaded from the Datebook section of [www.businessinsurance.com](http://www.businessinsurance.com).

The deadline for submitting completed entries to *BI* is Aug. 19.

Web site sponsors from anywhere in the world may enter, though the sites must be accessible via the World Wide Web and should be understandable to English-speaking judges.

Any site that is not open to the general public must provide the judging panel with a sample account, user ID and password—or other means of access, as needed—for the duration of the judging process to be eligible for consideration. The access will be used only for judging purposes and will remain confidential.

All contest entries will be screened by a panel of *BI* editors to

ensure that they fit the specific contest categories for which they are entered and that they meet the criteria for entry.

A panel of independent judges—knowledgeable in various aspects of risk management, benefits management, insurance and technology—will then score the entries and select the highest-scoring candidates in each category as *BI*'s Best of the Web.

The panel has the option to present additional Awards of Excellence in any category.

Those companies that won awards in the 2001 competition—and were profiled in the Oct. 8, 2001, issue of *Business Insurance*—are eligible to submit entries for this year's competition.

The winners of the 2002 competition will be announced and profiled in the Nov. 4 issue of *Business Insurance*.

To obtain an entry form and rules for the competition, visit [www.businessinsurance.com](http://www.businessinsurance.com) or send an e-mail with "Best of the Web" in the subject line to: [pwinston@crain.com](mailto:pwinston@crain.com).



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## Commentary

### A basic guide to broker bonhomie

A risk manager and friend informed me recently of her decision to move into the insurance brokerage field.

In discussing her plans, she was excited but a bit concerned about something. As a risk manager, she said, she had been fair but frank and tough in her business dealings. As a broker, her integrity would serve her well with risk managers, but she felt that she needed to soften her demeanor.

So, as a gift to a friend and as a service to our risk management readers who may be eyeing an eventual career move into the brokerage field, I've conducted intensive research on some of the sticky situations in which a broker may get trapped.

From that, I've worked out some diplomatic commentary for the broker who may have to fight an urge to make an indelicate remark at the wrong time.

What you should say in welcoming a visiting risk manager who never has renewed coverage during a hard market: "Please, have a seat."

Say that when you mean: *Sit down, because I don't want you falling down and suing me after I tell you how much more you will be paying for a fraction of the coverage you have now.*

What you should say to a new risk manager who has not done his or her homework before your meeting: "That's an interesting possible approach, but consider this...."

Say that when you mean: *That's the most moronic idea I can imagine anyone has ever proposed in the history of risk management. Here's what you need to do.*

What you should say to a tough risk manager who is facing a huge, uninsured claim: "We're getting a little push-back from the insurer on your claim."

Say that when you mean: *You're not covered, and we knew about it at your last renewal but didn't explain it to you. To elaborate, here's our general counsel.*

What you should say to a client's boss who finally finishes a rambling analysis of the market: "I couldn't have said it better."

Say that when you mean: *I couldn't have said it better, but I couldn't have said it any worse, either, because I have no idea what you said.*

What you should say after an important underwriter has just finished a lame and long anecdote that you thought would never end:

"Heh heh. That's one fun-n-y story."

Say that when you mean: *Don't ever waste my time like that again. Ever.*

What you should say to either a plaintiff's or insurer defense attorney who has just laid out a client's weak case and ridiculous demands: "Why don't we break and tackle this after we've freshened up a bit?"

Say that when you mean: *Get out of my office.*

What you should say when visiting state lawmakers to weigh in on pressing industry concerns: "As a resident of this state, I appreciate the budget shortfall we face, the implications for our

citizenry and the pressures that all of this puts on you. May I share a few thoughts with you?"

Say that when you mean: *As a person with a brain, I appreciate the fact that state lawmakers and/or the governor lack the political spine or just have no clue about how to responsibly balance the state's budget.*

So, instead, you're taking the easy path of raiding industry resources designated as a safety net for insurance buyers. What are your plans after the next election?

What you should say to a risk manager who is renewing directors and officers liability coverage, after you have just reviewed the organization's recent financial statements: "I have to tell you, we're going to have a l-i-i-i-i-ttle work ahead of us."

Say that when you mean: *Do I have to call securities regulators and the police, or would your senior management prefer to turn themselves in?*

What you should say to any visitor: "Would you like a cup of coffee?"

Say that when you mean: *Would you like a cup of coffee?*

Sometimes, you just have to talk straight.

A personal note to any Texas judge who sees this week's issue and agrees with a recent state appellate court ruling that allows public officials to sue a weekly paper for libel over a satirical article: I just want to express my admiration for the body of case law that has come out of Texas.

Senior Editor Dave Lenckus' commentary appears periodically in *Business Insurance* and on [www.businessinsurance.com](http://www.businessinsurance.com). He can be reached by e-mail at [dlenckus@crain.com](mailto:dlenckus@crain.com).



Dave Lenckus

**WHEN WAS THE LAST TIME YOU  
HEARD SOMEONE SAY "TRUST ME"  
AND YOU ACTUALLY DID?**



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## Editorial

# Consider true backstop cost

FIRST IMPRESSIONS can be deceiving, as a recently released study on the costs of competing terrorism insurance bills indicates.

As we report on page 2, the American Insurance Assn. commissioned Tillinghast-Towers Perrin to estimate the costs to the federal government of two terrorism insurance bills. The bill passed by the House would allow the government to lend money to insurers to cover future terrorism-related losses, and insurers would have to pay back the money. The Senate bill would allow the federal government to share costs, with no payback provisions.

At first glance, a payback program would appear less expensive than a cost-share program. But the Tillinghast study found that just the opposite seemed likely. Because the House plan would kick in at a much lower loss level than would the Senate plan and because questions remain about how quickly loans would be repaid, the Senate plan could cost considerably less, according to the assumptions used in the study. In fact, the study projected that the Senate plan would be more than \$2 billion a year less costly than the House plan, given the

study's assumptions about the extent of losses from terrorism, the duration of the programs and a variety of other factors.

While we realize that assumptions such as those made in the study are always subject to question, we think it's worth noting another cost not examined by the study. A loan program requiring full repayment, regardless of how long insurers had to repay the government, could hamper capital accumulation. That means less coverage at a higher price. The purpose of a government terrorism insurance backstop is to make coverage more available and more affordable; a pure loan program appears likely to accomplish just the opposite.

That's a point that shouldn't be lost on House and Senate conferees as they try to work out differences between their bills in coming weeks. While a pure payback approach may have surface appeal, legislators would do well to look beneath the surface and choose the approach that better guarantees that policyholders' interests would be served should another terrorist outrage occur.

# COBRA plan worth trying

PROVIDING FEDERAL subsidies for COBRA health care premiums is an experiment well worth conducting.

As we reported last week, a new trade law calls on the government to provide—for the first time—direct subsidies of COBRA premiums. The subsidies will be available to individuals who lose their jobs due to foreign trade, such as steelworkers and others in competitive industries. In addition, they will be offered to retirees age 55 through 64 whose pension plans are taken over by the Pension Benefit Guaranty Corp. and who lack health insurance.

Under the new law, the government will subsidize 65% of the COBRA premium through a tax credit, which will also be available for use in certain other insurance plans, such as special state coverage pools for the uninsured.

There is no question that the tax break will make the cost of COBRA coverage much more affordable for the laid-off employees and early retirees to whom it applies. Today, only about 20% of eligible beneficiaries opt for COBRA, because the cost—which easily can be \$700 a month for family coverage—is a significant deterrent.

Given the high cost, it is not surprising that those who purchase coverage are, in many cases, individuals who have major health problems or who anticipate making heavy use of medical services. Those in good health have a tough time justifying paying the stiff premiums.

And that is employers' major gripe with COBRA. Because of adverse selection, COBRA beneficiaries' claims costs typically outstrip the premiums they pay by 50%. As a result, COBRA coverage is a money-loser for employers.

But if COBRA premiums were much more affordable—as they would be under the federal subsidy program—it is possible that greater numbers of healthier individuals also would purchase coverage, reducing adverse selection.

If the problem of adverse selection were greatly reduced, premium income might cover claims costs, improving the situation for employers.

Whether this will happen remains to be seen. But the potential benefits are such that the COBRA subsidy approach should be tried and the results carefully analyzed.

## Schillerstrom



• CONFERENCE NEGOTIATIONS CONTINUE... •

## Letters to the Editor

### Insurers should be wary of losing good customers

To the editor: Your July 8 editorial, "Let the Sellers Beware," was timely and on point.

You were right that in the ever-tightening market we've experienced the past few years, we have come to expect greater premiums and scrutiny of our entity risks. However, the "overkill" which you spoke of from underwriters and the opportunity to significantly raise rates without considering both the positive and negative sides of the risk will find insurers and reinsurers losing their best customers when it comes to alternative markets and risk financing options. Relationships that have been important to many buyers will become less important when they feel they are not being provided the respect and consideration from the sellers that are due.

This is not the first bad cycle many of us have encountered in our careers, but it seems that some of the insurers/reinsurers have forgotten the market share and profitable business that they lost in the mid-'80s when we saw similar capacity limitations and scrutiny of coverage forms. I can't speak for private industry, but without question that downturn became an opportunity for public entities to embark on self-funding and pooling of risks, and in some cases all but eliminated commercial insurance as a necessity. I am aware of one insurer that boasted of having more than 50% of the school market share in California in 1986, and today has less than 5%.

One of the most significant challenges we face with the tight market today are the "margin clauses" in our property forms, which limit replacement coverage to 105% to 125% of stated values by individual buildings, rather than to a school campus or a district. While we may be paying premium on a \$40 million campus, the "new form" in many cases now will bring the replacement coverage down to the stated value of an individual classroom.

These new restrictions will prove to be challenging for a period, but our efforts to overcome this and other limitations will find us even stronger in the future. In 1986, the schools in our local county had a professional risk management staff of one; today, it is 14. This growth ratio in risk management professionals serving our state and national public entities is common, and your editorial was a good reflection of the thoughts and efforts that have already begun by these individuals.

We will not lose respect for those who provide us coverage and protection, but the "equilibrium return" you spoke of could soon be overdue, and without it we will just need these same providers less in the future. Thanks for your wisdom and perspective, as gravity eventually will overcome the rise of any motion.

**Joe Myers**  
 Executive Director  
 Redwood Empire Schools'  
 Insurance Group  
 Santa Rosa, Calif.

“Courage is  
resistance to fear,  
mastery of fear –  
not absence of fear.”

Mark Twain



## 9/11: AFTERMATH OF A TRAGEDY

The attacks on New York, Washington, DC and Pennsylvania affected every person, company and industry in this country – few more dramatically than the insurance industry. On September 9, *Business Insurance* will look back at the day that changed America, and our business, forever.

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A photograph of a man with dark hair, wearing a light blue dress shirt and a patterned tie, holding a sleeping baby in a white hammock. The man's eyes are closed, and the baby is resting its head on his chest. The background is a bright, slightly blurred outdoor setting.

**Making everyone feel better.**

## Absorbing the risk of job-site terrorist acts

By Thomas Cleary

**W**atch out, employers—higher costs for workers compensation insurance are coming your way in the aftermath of the Sept. 11 tragedy, especially if efforts fail to have the federal government provide a backstop of insurance protection in the event of another terrorist attack.

The assaults on the World Trade Center and the Pentagon—as well as the anthrax panic that followed—have prompted a permanent change to American life and business, and the insurance industry has felt these repercussions as acutely as any. While the staggering losses suffered by property/casualty insurers are apparent, a less obvious but no less significant impact has disrupted the marketplace for workers comp.



Even before the attacks, the market for workers comp was proving more difficult and, sometimes, more costly for

employers. Rising medical costs in recent years, combined with unsustainably cheap insurance pricing, led to red ink for many workers comp insurers. Those losses, in turn, led to significant increases in premiums paid by employers, beginning in 2000 and continuing through 2001. Then came Sept. 11, and the market has become even tougher, as workers comp insurers have been forced to incorporate the risk of terrorism as a new underwriting factor—and one with potentially staggering costs.

An act of terrorism that affects a workplace creates losses

### The workers comp market is reeling as it faces a new and threatening exposure.

that are covered by workers comp insurance. With an average workers comp death benefit of approximately \$200,000 per employee, it's easy to understand how a terrorist act involving a large workplace could create alarming losses. As repugnant as it is to consider, it is not hard to imagine that a terrorist-caused catastrophe in an area of concentrated employment could easily generate billions in workers comp losses. An act of bioterrorism or an explosive detonated in an area of concentrated employment are examples of the new risks faced by workers, employers and workers comp insurers.

The workers comp industry is now absorbed with these new and threatening exposures and is asking questions of policyholders that were previously considered either irrelevant or inconceivable, such as how close are worksites to possible terrorist targets? Previously, premiums were based solely on the type of work an employee performed and on the employer's past record of workers comp claims. Now, in this uncertain era, the past offers only partial guidance.

The specter of potentially ruinous claims isn't the only problem. The cost and availability of workers comp coverage is tightening even further because of a compounding factor—the escalating cost of reinsurance, and, in some cases, its complete unavailability. Most insurers buy reinsurance as

means of limiting their own risk. The large reinsurers, though, are now often declining to write new coverage, raising rates dramatically, and, in some cases, specifically denying coverage for acts of terrorism.

Laws in most states prohibit workers comp insurers from using such exclusions, meaning that insurers are left holding a negative exposure that could quickly bankrupt even the most well-capitalized insurance company. As a result, workers comp insurers are becoming increasingly selective about whom they will underwrite. Employers that represent heightened risks and who have less-than-ideal claims histories are increasingly encountering exorbitant premium increases or the threat of being dropped by their insurers. Because workers comp insurance is mandatory, employers then must turn to other insurance sources at the worst possible time for seeking a new policy.

Fortunately, employers have a guaranteed alternative in the form of state workers comp insurance funds. But even that guarantee has limits.

State insurance funds now find it difficult, if not impossible, to secure affordable reinsurance against a future terrorist act. Unlike private insurers, which have the option of simply declining to write policies for at-risk businesses, state insurance funds must serve all comers, regardless of risk. And coming they are: Most state funds are currently writing an unprecedented volume of new business for employers forced to seek alternative sources. The fact is, state funds are absorbing more risk at the very time it would be prudent to accept less. But by law, tradition, and a long-standing commitment to serve all of their state's employers, state funds continue to issue new policies. The only real solution today lies in federal action.

President Bush has repeatedly implored Congress to move forward with legislation that would help stabilize the

**Continued on next page**

August 12, 2002

# Comings & Goings: Buyers

**W. Michael McDonald** has joined Danka Business Systems P.L.C. as director of risk management.

Mr. McDonald replaces **Valerie Rosser**, who left the company. He reports to Tony DeLuca, executive vp of operations.

In his new position, Mr. McDonald is responsible for global property/casualty exposures, as well as safety, security and claims, at St. Petersburg, Fla.-based Danka.

He previously served as director of risk management at Walter Industries Inc. in Tampa, Fla.

Mr. McDonald holds a bachelor

of arts degree in economics from North Carolina State University in Raleigh. He has earned the Associate in Risk Management designation from the Insurance Institute of America.

He is a deputy member of the Risk & Insurance Management Society Inc. and has served as a member of the RIMS executive council.

**Jonathan Elks** has been named senior vp of risk management and assurance at Cablevision Systems Corp. in Bethpage, N.Y.

Mr. Elks assumes the newly created position after most recently serving as senior risk management and assurance officer at Melbourne, Australia-based Telstra Corp. Ltd. He reports to Andrew Rosengard, executive vp of finance at Cablevision Systems.

In his new position, Mr. Elks oversees Cablevision's internal audit and risk management divisions. He will integrate the two divisions into a single function.

Mr. Elks earned a bachelor's degree in business and accounting

from Swinburne University in Hawthorn, Australia. He completed the advanced management program at Wharton School of Business in Philadelphia and is a fellow of the Institute of Chartered Accountants in Australia.

**Keith Wilcox** has been promoted to senior vp of risk management at National Express Corp., an Austin, Texas-based public transportation company.

Mr. Wilcox has responsibility for all risk management programs, negotiates insurance coverages, develops company policies in such areas as drug and alcohol testing, establishes employee benefits and handles other duties in the newly created position.

He reports to Larry Durham, chief executive officer of National Express.

Since joining the company in 1986, Mr. Wilcox has held several risk management positions, including, most recently, vp of risk management.

Mr. Wilcox studied engineering at Highline College in Midway, Wash., and the University of Washington in Seattle.

*We'd like to report on staff changes in your risk management, safety and employee benefits departments. Contact Michael Bradford, Business Insurance, 473 Fairfield Ave., Gretna, La. 70056; phone: 504-364-1908; fax: 504-364-1337; e-mail: mbradford@crain.com.*



Mr. McDonald

## Perspectives

**Continued from previous page** insurance markets by providing a federal backup insurance plan in the event of future terrorism. The House and Senate have separately approved different versions of legislation and must work out their differences. Absent this long-overdue federal solution, state funds face potentially catastrophic exposure. State funds were created and structured to underwrite the risks that occur in a normal work setting, not to bear the risk of terrorist warfare.

The market for workers comp insurance will eventually regain some equilibrium, as underwriters become more comfortable and experienced with the new risk factors they face. But the market will never completely recover without the protection of a federal backstop should the unthinkable occur again.

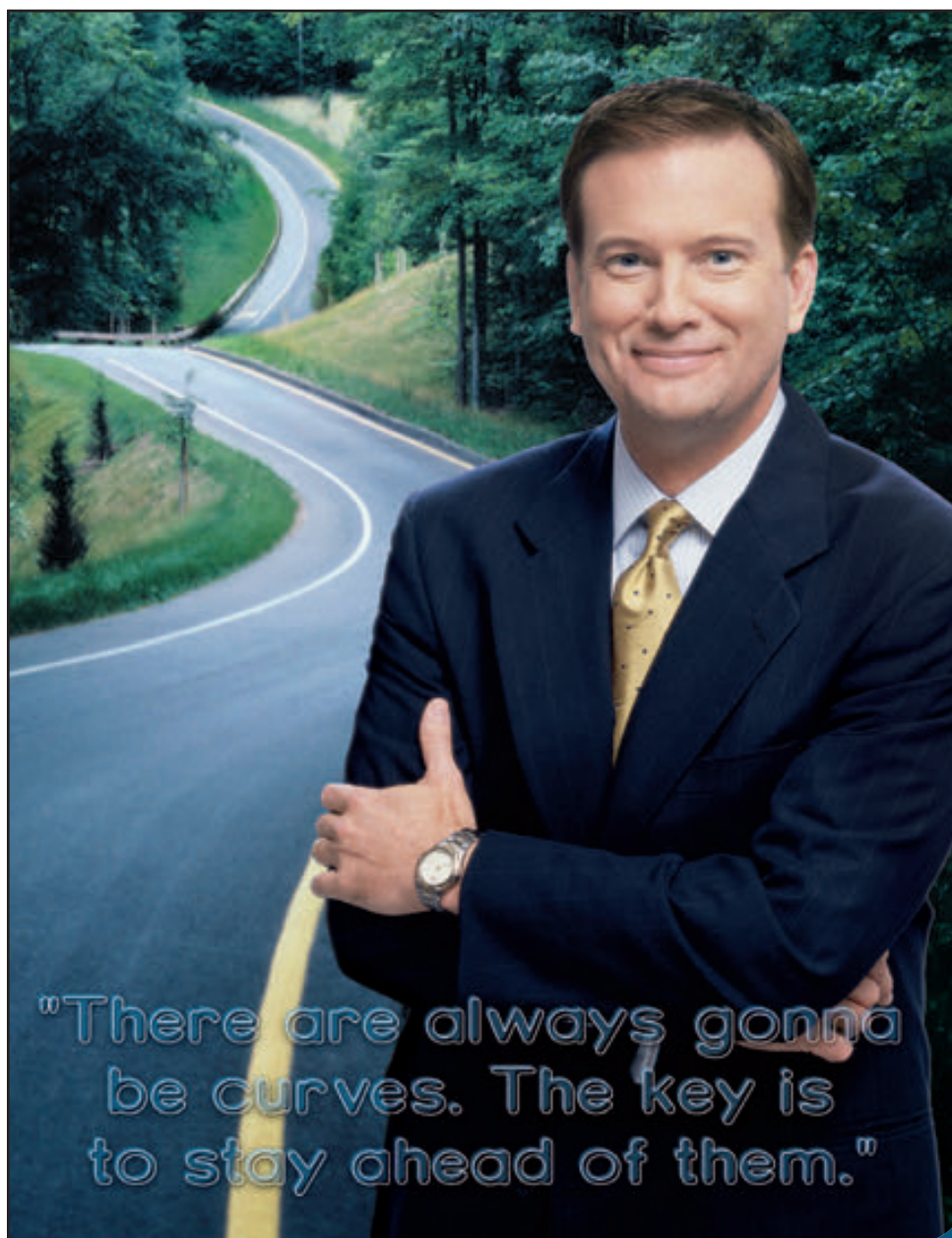
*Thomas Cleary is executive vp-corporate services at the Towson, Md.-based Injured Workers Insurance Fund. The IWIF provides workers compensation insurance to nearly one in five Maryland employers.*

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## Comings & Goings: Industry



Ms. Boudreaux



Ms. Carlson



Mr. Spencer-Arscott

### Insurers:

**Gail Boudreaux** was named president of Blue Cross & Blue Shield of Illinois, effective Sept. 9, 2002. Ms. Boudreaux previously was senior vp in charge of Aetna Inc.'s Group Insurance business unit in Hartford, Conn. She replaces Michael F. Seibold, who left the company last year.

**Dr. Jesse Samuels** joined Health Net of the Northeast Inc. in Shelton, Conn., as medical director for Connecticut. Before joining the managed care company, he worked for MedSpan, Oxford Health Plans, and was director of the Emergency Department at Veteran's Memorial Medical Center, now Mid-State Medical Center, in Meriden, Conn.

**Jeanne Carlson** was promoted to senior vp and chief operating officer of Detroit-based Blue Care Network, Michigan's largest health maintenance organization. She previously was vp at Blue Cross & Blue Shield of Michigan, Blue Care Network's parent company.

Warren, N.J.-based Chubb & Son, a division of Chubb Corp., has promoted the following individuals to senior vp:

- **Timothy D. Buckley**, vp and worldwide property and casualty product manager in the Department of Financial Institutions at Chubb Specialty Insurance.

- **Philip W. Fiscus**, vp and executive specialist underwriter-life sciences at Chubb Commercial Insurance.

- **Kristen A. Holden**, vp and international operations services division manager.

- **John J. Kennedy**, vp and assistant home office manager, accounting.

- **Andrew N. Lagravenese**, vp and senior information technology area manager.

- **W. Brian Barnes**, vp and Chubb Commercial Insurance head actuary/pricing manager.

- **Keith R. Spalding**, vp and Chubb Personal Insurance head actuary/pricing manager.

### Reinsurance:

**John H. Haley** has joined the legal department of New York-based Folksamerica Reinsurance Co. as senior vp and associate general counsel. Prior to joining Folksamerica, he was an attorney at law firm of Edwards & Angell in New York.

**Sean Whelan** has joined reinsurance intermediary Willis Re Inc.

as executive vp in New York. He previously was worldwide specialty leader for professional liability at Guy Carpenter & Co. Inc.

### Brokers:

**Michael Oster** has been named executive vp at Summit Global Partners Insurance Services Inc. in San Francisco. Mr. Oster previously was an executive vp at Aon Risk Services in San Francisco.

### Other suppliers:

**Robin Spencer-Arscott** has been named Bermuda representative of Axco Insurance Information Services Ltd., a London-based provider of international insurance information services. Mr. Spencer-Arscott, founder and chairman of the Bermuda Insurance Symposium and a longtime unofficial ambassador of the Bermuda market, until the mid-1990s was chairman of Aon Corp.'s Bermuda operations.

**Kenneth R. Hopkins** was named president of Berkley Risk Administrators Co. L.L.C., a third-party administrator and alternative risk program management unit of W.R. Berkley Corp. in Greenwich, Conn. He joined Berkley in 1988 and most recently was chief operating officer of Berkley Risk Administrators.

**Linda Bergthold** joined Watson Wyatt & Co. in Los Angeles as national practice leader on policy, legislation and compliance for the group and health care practice. Ms. Bergthold, who served on President Clinton's health reform task force in 1993, has recently served on the Central Coast Alliance for Health, Stanford University's Center for Health Policy and the Centers for Medicare and Medicaid Services.

### Surplus lines:

**Joanne Roe** has joined Farmington Hills, Mich.-based wholesaler Burns & Wilcox Ltd. as technical services manager in the firm's Special Risk Division Operations group. Ms. Roe previously served as assistant vp at Meadowbrook Insurance Group in Southfield, Mich.

**Scott Holman** joined Howard James/Burns & Wilcox in Los Angeles as branch manager.

**John S. Diem** was named president of Berkley Underwriting Partners L.L.C., a unit of W.R. Berkley Corp. in Greenwich, Conn., that oversees managing general underwriter program business. He was senior vp of Kemper Alternative Risks.



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# Patient rights: Legislation is down but not out

Continued from page 1  
ter Labor Day.

Sen. Daschle's moves came a year after the House passed its version of a patient rights act and even longer since the Senate had given its OK to a similar measure in June 2001. Both bills would, among other things, require various forms of internal and external review of coverage disputes and guarantee access to certain specialty care and emergency room services.

Although most employer groups have steadfastly opposed any managed care regulation, claiming it would accelerate rising health care costs at a time when the uninsured population is growing, they particularly loathed the Senate bill. That bill, sponsored by Sens. Edward Kennedy, D-Mass.; John McCain, R-Ariz.; and John Edwards, D-N.C.; would subject health care plans—and, in some cases, the employers that sponsor them—to legal liability over certain coverage denials.

President Bush made clear even before the Senate passed its patient protection bill that he opposed any measure that encouraged what he

called "unnecessary or frivolous litigation," and the president made equally clear that he thought the Senate bill would do just that (*BI*, Feb. 12, 2001). The White House and senators then began months of on-again, off-again negotiations that finally sputtered to a halt on Aug. 1.

The latest maneuverings have done nothing, though, to persuade employers to lower their guard.

"The significance of the 'break-down' was it was an effort by Sens. Daschle and Kennedy to change the subject, which was the failure to pass a Medicare prescription bill," said James Klein, the president of the American Benefits Council, an employer-backed lobbying group in Washington. Mr. Klein noted that the Senate-White House discussions had not "been very intensive" of late.

"Having said that, I've said all along that a patients' bill of rights will be a viable piece of legislation until the final gavel drops adjourning this session of Congress. The president wants a bill—there's a possibility of a deal right up until

the very end," he said.

"I am fully bracing myself for an October surprise," said Kate Sullivan, director of health care for the U.S. Chamber of Commerce in Washington. "I have never thought (patient rights) was dead. It's crucial

**'A patients' bill of rights will be a viable piece of legislation until the final gavel drops adjourning this session of Congress. The president wants a bill—there's a possibility of a deal right up until the very end.'**

James Klein  
American Benefits Council

for employers to be out there and continuing to say, 'Here's my situation, how much my costs are going up this year,'" she said. Ms. Sullivan added that employers who live in states that are experiencing a medical malpractice insurance crisis

should stress to lawmakers that situation's impact on health costs, too.

"When (House members) return from recess and they get conferees named, there's always the potential for something to happen at the last second," said Neil Trautwein, director-employment policy for the National Assn. of Manufacturers in Washington. "So, while, more likely, this is a signal that this has moved from Washington to the fall campaigns, we will have to remain vigilant until the last light goes out on this conference."

Joe Martingale, national leader for health care strategy at Watson Wyatt Worldwide in New York, said that patient protection could well become a campaign issue. He echoed Mr. Klein's remarks that the Senate's failure to pass Medicare prescription drug legislation could prompt action on patient rights.

"It may be that the Democrats, in particular, want to do something so they can see some movement. If they can't brag about what they have accomplished on Medicare drug benefits, this would be something they could use" on the cam-

aign trail, regardless of whether patient rights legislation passes.

But Mark Hamelburg, an attorney in Mercer Human Resource Consulting's Washington office, considers the matter finished as far as this Congress is concerned.

"I think it's dead for the year. It's really astounding to see how close the two sides have come when you compare the two bills side by side; the similarities are just breathtaking compared to where they started. Clearly, if they wanted to, they could easily have a deal," he said. "This was the signal that they weren't able to breach those last few inches."

Mr. Hamelburg said Sept. 11 and the declining economy have "really changed the momentum of the (patient protection) discussion dramatically. Many in the business community had thought (passage) was inevitable, but when all of this happened, I think people in the business community and insurance industry thought, 'Maybe this isn't inevitable; we can still fight it.' I think that's really what changed the dynamics."

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## LEGAL NOTICE

NOTICE OF SANCTION OF SCHEME OF ARRANGEMENT IN THE HIGH COURT OF JUSTICE CHANCERY DIVISION COMPANIES COURT No 6636 of 1999 IN THE MATTER OF BAI (RUN-OFF) LIMITED (formerly The Builders Accident Insurance Company Limited) and IN THE MATTER OF THE COMPANIES ACT 1985

NOTICE IS HEREBY GIVEN that by order of Mr Justice Neuberger dated 22 July 2002, the scheme of arrangement dated 7 June 2002 pursuant to Section 425 of the Companies Act 1985 ("the Scheme") between BAI (Run-off) Limited and its Scheme Creditors (as defined in the Scheme) was sanctioned. An office copy of the order made on 22 July 2002 was delivered to the Registrar of Companies for registration on 22 July 2002 and the Scheme accordingly became effective on that date.

Should you have any questions regarding this notice please address them to:

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PricewaterhouseCoopers, Plumtree Court,  
London EC4A 4HT, United Kingdom  
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# Aging: The graying of America challenges employers

Continued from page 1

In other words, where today the biggest segments of the population are between the ages of 30 and 50—traditionally the prime working years—in 25 years, there will be almost as many people in their 60s as in their 20s. Society will long for the days of the pyramid.

This demographic shift will pose both a challenge and an opportunity to employers. For example, older workers typically put more emphasis on employee benefits, use more health care and have different values than do younger workers. Older employees, though, often are hard-working and loyal to their employers.

"The burden will fall on corporate America, but it's a bigger burden than they can carry alone," said Randall Abbott, senior consultant for Watson Wyatt Worldwide in Philadelphia.

As the saying goes, demographics are destiny.

Not only are the baby boomers aging but the generation behind them has far fewer people.

Starting in 2012, there is projected to be a drop in the number of people in the workforce, said

Marc Drizin, employee loyalty specialist for Walker Information Inc., a marketing research company in Indianapolis.

Experts say, though, that it will be difficult to predict which industries will be most affected by this lack of workers.

"The workforce shortage will be surprising where it hits," said Sally Hass, manager of benefits education at Weyerhaeuser Corp. in Federal Way, Wash.

Helping to ease the situation somewhat is the likelihood that older people will want to continue working. According to a survey by AARP, 80% of the baby boomers surveyed plan to work in their retirement years.

But employers will have to pay for these workers, and the expected common currency will be employee benefits.

"We will have a shrinking workforce, unless employers make better contact with older employees," said Eric Lofgren, global director of the benefits consulting group for Watson Wyatt Worldwide in Philadelphia.

Often these workers don't need to work but they want to work, Mr. Drizin explained. While

workers who need to work tend to focus on their level of pay and paths to promotion in selecting an employer, those who want to work have a different set of values and place importance on other aspects of their jobs.

**'We will have a shrinking workforce, unless employers make better contact with older employees.'**

Eric Lofgren  
Watson Wyatt Worldwide

In particular, older employees place greater emphasis on employee benefit programs than do their younger peers, benefit experts say.

"The demographics of the aging of America is such that we will run out of workers, so you need to try ways to attract these people," said Gary Breitbart, the president and chief executive officer of Prudential Working Solutions, a unit of Prudential Financial Inc. in Newark, N.J.

While employers today are strained by soaring costs, adding in the aging population "will snap the system," predicted Eric Wurzel, a partner with Travers, O'Keefe & Associates Inc., a benefits consulting firm based in New York.

"The issue is dramatic," Mr. Wurzel said. If major changes do not take place, some employers will look at dropping health care benefits, he said.

Health care costs are two to three times greater for a male between the ages of 50 and 54 than for a male who is age 34, Mr. Abbott said.

Older workers visit doctors more frequently, undergo more high-cost procedures and use more prescription drugs, health care experts note. The only solution in the long term is a dramatic change in the way health care is delivered, experts say.

If nothing changes, "we're going to have a huge problem just affording to pay for the care," said Dr. Vince Kerr, director of health care management for Ford Motor Co. in Dearborn, Mich.

Dr. Kerr said that the health care system must become more

efficient in order to combat rising costs. He noted that studies by RAND Corp. and others indicate that between 25% and 30% of all medical care is unnecessary. If employers squeeze out this waste, they will be better positioned to pay for health care in the future, Dr. Kerr said.

"As long as we stay on the current track, most employers will find it difficult to offer benefits as we know them today," Dr. Kerr said. "Something has to change."

Another solution proposed by Mr. Wurzel is based on the new types of health plans that put "the emphasis onto the consumers," he said. Under such consumer-based plans, the responsibility would rest with employees to control health care costs by empowering them to make purchases based on cost and quality.

"The benefit plans you see today will be gone" in 10 to 20 years, Mr. Wurzel predicted. He said he also sees employers offering, in addition to regular health care plans, more specialty health care products, such as cancer care, long-term care or transplant care, because older workers will demand more of those services.

At the same time, rising health care costs will present an opportunity for employers, said Gary Kushner, the president of Kushner & Co., a benefit consultant in Kalamazoo, Mich.

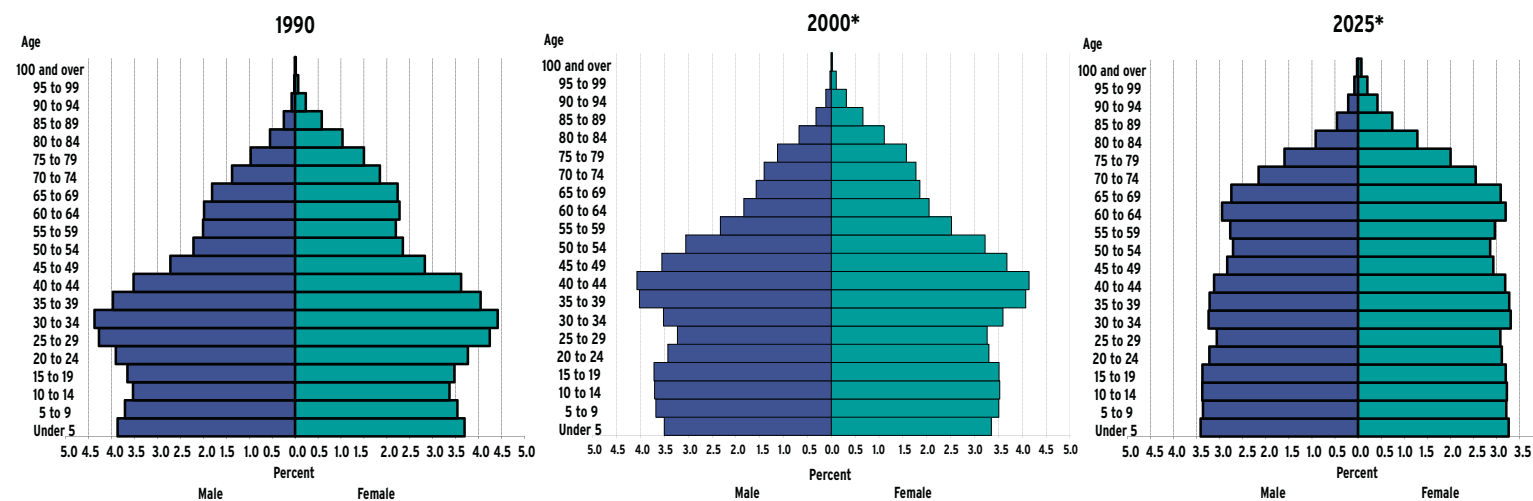
Mr. Kushner explained that if some employers charge workers vast sums for health care and others drop coverage altogether, those that are willing to retain more costs should be able to attract and retain older workers.

Regardless of how the health plans eventually look, employers should start looking at the issue, experts say, or they will find that rivals are luring away their workers.

"Employers today are in a reactive mode," Mr. Wurzel said. "Sophisticated employers are well aware that they have a serious snowball effect from an aging population."

## THE AGING U.S. POPULATION

The U.S. Census Bureau predicts that, by the year 2025, the U.S. population will have almost as many people in their 60s as in their 20s.



\*Projected resident population  
Source: National Projections Program, Population Division, U.S. Census Bureau, Washington, D.C. 20233

# Fire: Bad season burning through Ore. policy limits

Continued from page 3

general fund to pay those costs. But with tight budgets, protecting the general fund from unexpected expenditures has new urgency, the official said. Still, he said, the state is a long way from determining whether it will buy a policy similar to Oregon's.

In Oregon, fires this year have scorched more than 500,000 acres, as of last week, according to a spokeswoman for the Oregon Department of Forestry, who noted that several fires continue to burn out of control.

In comparison, the spokeswoman said, 265,000 acres burned during 1987, which previously was considered the state's worst fire season in recent memory.

Conditions are ripe for still more fires this year, the spokeswoman noted. August usually sees the most activity in a fire season that typically ends in September but can stretch into October.

"It looks like we are going to have continued high costs of fire suppression, unusually so this year," the spokeswoman said. The cost of fighting Oregon's fires has totaled about \$1.2 million a day and, as of last week, added up to \$44 million, according to the spokeswoman.

How much of those costs the state will ultimately incur, though, remains to be determined, Mr. Hartwig said. The Federal Emergency Management Agency typically reimburses the state for some of its costs.

To protect itself, the state purchases \$43 million in coverage limits after retaining the first \$10 million in losses. Above Oregon's retention, various insurers participate in three layers of coverage, starting with a \$12.5 million layer. Above that amount, insurers provide a \$20.5 million second layer of coverage, with the remainder in the third layer.

Oregon's broker has notified Mr. Hartwig that if the state pierces the second layer of coverage above its retention, underwriters will take a "big look" before providing capacity for 2003.

But it is possible the state will have to tap its entire policy, he said, depending on the amount of FEMA's reimbursement.

"We don't know how much is going to be reimbursed, but we are concerned we will get into the second layer," Mr. Hartwig said.

Due to fire losses sustained in 2001 and general market hardening stemming from Sept. 11, Oregon's premium for the coverage in 2002 increased 42% over the year before, to \$3.4 million. This jump came after a period in which premiums were relatively stable.

In addition to the higher cost, finding the same capacity was tougher than in the past, though for 2002 the state was able to match the limits it purchased the year before.

Some underwriters were not willing to provide the same limits they did for 2001, but others filled in,

Mr. Hartwig said.

"We had to work pretty hard through the broker to hold (insurers) together and shuffle the limits between them," he said. "But they held on, and we had the policy for this year. But we are worried for next year."

Because Oregon enjoyed a substantial winter snowpack and a cool spring, all indications were that fires would not be a substantial problem this year, said Gil Henderson, managing director of Marsh Inc. in Portland, Ore., who is the Oregon program's broker.

But several weeks of dry lightning spread fires across the state, he said.

"This is what we dreaded," Mr. Henderson said. "I think it's truly a catastrophic year for them."

# High Court says HSE not immune to claims for deadly rail collision

By CAROLYN ALDRED

**LONDON**—The United Kingdom's health and safety regulator could face liability for personal injury claims as a result of a recent High Court ruling.

The court found that the government regulatory agency, the Health and Safety Executive, was not protected under statutory immunity from claims arising out of the 1999 Ladbroke Grove train crash.

And in a separate development, the HSE is appealing a May court ruling that could make it more difficult to prosecute companies for violating safety regulations.

In the train crash ruling, the High Court rejected the HSE's attempt to dismiss a claim by Thames

Trains Ltd. seeking contributions from the HSE to compensate victims and families of the Ladbroke Grove crash. The crash occurred when a Thames Trains train ran a red signal and hit a Great Western Trains Co. Ltd. in London, killing 31 people and injuring hundreds. St. Paul International Insurance Ltd. was the liability insurer for both train operators.

Thames Trains, the operator of the train that crashed, claims that the HSE has specific responsibility for the safety of the U.K.'s railway infrastructure.

The rail company also argued that the HSE has a statutory and common-law duty of care, and an assumed duty of care toward rail-

See HSE/next page



PHOTO: AFP

The 1999 Ladbroke Grove rail crash killed 31 and injured hundreds.

## World Updates

### Loss reserve boost leads to RSA loss

London-based Royal & SunAlliance Group P.L.C. reported a loss of £291 million (\$443.6 million) for the first half of 2002, compared with a loss of £340 million (\$481.2 million) for the same period in 2001. The 2002 results reflect a £100 million (\$152.4 million) reserve addition for business interruption losses related to the Sept. 11 terrorist attacks. RSA also recorded £371 million (\$565.5 million) in short-term investment losses in the first half of 2002. Nonlife net premiums fell 6% to £4.27 billion (\$6.51 billion).

### Investments dampen PartnerRe profits

Pembroke, Bermuda-based PartnerRe Ltd. reported that its profits fell 12.9% to \$129.8 million for the first six months of 2002. The drop in profits stemmed in part from net realized investment losses of \$14.2 million in the first half of this year. The reinsurer reported realized investment gains of \$14.6 million in the comparable period last year. Gross premiums written increased 36.4% to \$1.41 billion in the first half.

### Outlook negative on U.K. life insurers

Moody's Investors Service said it is maintaining a negative outlook on the U.K. life insurance industry and may issue rating downgrades. In a report issued last week, the ratings agency said its outlook remains negative because of declines in the stock market, uncertainty over regulatory changes and growing pressure on company profits. Moody's added that the U.K. life insurance market continues to have strong premium growth. Standard & Poor's Corp. late last week downgraded its insurer financial strength ratings of three U.K. life insurers. S&P lowered its ratings on: Royal & SunAlliance Life & Pensions Ltd., to BBBpi from Api; Britannic Assurance P.L.C., BBBpi from Api; and Alba Life Ltd., to CCCpi from Bpi.

### Briefly noted

**American International Underwriters**, the international property/casualty unit of American International Group Inc., has named Julio A. Portalatin as president of AIU's Accident & Health Division. He previously was president of AIU's Personal Lines Division. Raymond Lee, former regional vp of personal lines for AIU's Far East region, succeeds Mr. Portalatin...A.M. Best Co. has downgraded its financial strength rating of Bermuda-based **Scandinavian Reinsurance Co. Ltd.** to B from B++. Best cited concerns about the reinsurer's reserves and capital adequacy.

## Claim will exhaust reinsurance program's annual limit Lloyd's to make first claim on Central Fund's cover

By CAROLYN ALDRED

**LONDON**—Lloyd's of London will claim the full £350 million (\$549.2 million) annual limit on its Central Fund reinsurance program for 2001 to help pay losses arising from the Sept. 11 terrorist attacks.

The Central Fund reinsurance program is a five-year policy that took effect Jan. 1, 1999. The program responds after the Central Fund pays out more than £100 million (\$156.9 million) in any one year and provides coverage of up to £350 million a year, and an aggregate of £500 million (\$784.5 million) over the five years. Lloyd's claim for 2001 marks the first time the reinsurance has been tapped, a Lloyd's spokesman said.

The Central Fund is a Lloyd's security fund available to meet claims that exceed syndicates' funds and cash calls. All syndicates pay 1% of

their annual capacity into the fund, plus 2% of any premiums written.

The coverage is led by Zurich-based Swiss Reinsurance Co. Other companies participating on the risk are: Employers Reinsurance Corp. of Overland Park, Kan.; The St. Paul Cos. Inc. of St. Paul, Minn.; Hannover Re Group of Hannover, Germany; XL Capital Ltd. of Hamilton, Bermuda; and Chubb Re, a unit of Chubb Corp. based in Bernardville, N.J.

Negotiations to secure reinsurance coverage for the Central Fund after the current policy expires at the end of 2003 have begun, the Lloyd's spokesman said. However, reinsurance requirements may decrease as Lloyd's hopes to increase the cash element of the Central Fund to £700 million (\$1.09 billion) from \$450 million (\$706.1 million) by the end of next year through the Central Fund levy imposed on syndicates,

See LLOYD'S/next page



Lloyd's of London will make its first-ever claim on the reinsurance program for its Central Fund.

# ACE slashes capacity of Lloyd's syndicate

By CAROLYN ALDRED

**LONDON**—ACE Ltd., one of the largest corporate capital providers at Lloyd's of London, will reduce its underwriting capacity at Lloyd's by more than one-quarter for 2003, as Hamilton, Bermuda-based ACE expands its operations in the London company market.

In 2003, ACE Global Markets, ACE's London operations, will reduce the capacity of its composite syndicate 2488 by 27%, to £652 million (\$1.02 billion), the company said.

The insurer "has been reviewing the most appropriate operating platforms for the conduct of its business" in London, ACE said in a statement issued last week.

In its statement, ACE said it is "committed to increasing the business that we write in the London market next year."

In addition, ACE noted that its Lloyd's operation will "write those specialty business lines most suited to the Lloyd's franchise on an ongoing basis," which likely will include aviation and

marine.

Meanwhile, Lloyd's announced that it will hold its first capacity auction for 2003 capacity on Sept. 17. Two further auctions will be held on Oct. 1 and Oct. 10.

The auctions will allow Lloyd's members to

transfer their rights to underwrite on particular syndicates.

The Lloyd's auction matching process determines the amount of capacity to be transferred between members and the price paid for the capacity.

### ACE'S SHARE OF LLOYD'S TOTAL CAPACITY

All figures in millions of British pounds.

	Capacity of ACE syndicate 2488	Lloyd's overall capacity	% of Lloyd's capacity
2000	£600	£10,065	5.6%
2001	£725	£11,063	6.5%
2002	£900	£12,500*	7.2%

\* Six-month restatement  
Source: ACE Ltd., Lloyd's of London

## HSE: Not immune to claims

Continued from previous page

way passengers and workers as a result of its knowledge of the Ladbroke Grove junctions.

The HSE had argued that it has a statutory immunity from personal injury claims and petitioned the judge to dismiss the case.

In a preliminary ruling, the judge ruled that while the HSE owed no general duties arising out of the Health and Safety at Work Act 1974 or as a result of its position as the safety regulatory body for railways, it could owe a common-law duty because of the particular facts of the Ladbroke Grove train crash.

Railtrack P.L.C., which manages the United Kingdom's rail infrastructure, introduced new signaling systems between Paddington station and the Ladbroke Grove junction in two phases; the first was completed in January 1995 and the second in October 1996. Although Railtrack sought HSE approval for the system, no approval was given, yet trains continued to run in and out of Paddington for three years after the completion of the project.

In the ruling, the judge noted that the HSE had detailed knowledge of the dangerous state of the

signaling system at Ladbroke Grove for three years.

The ruling is important because it could broaden the liability of the HSE in cases where it had expert knowledge of a safety hazard yet failed to address the problem, said Mark Tyler, a partner specializing in health and safety issues with the London law firm of CMS Cameron McKenna.

**'To require the prosecution to prove their case will neither send out the wrong message nor compromise the promotion of health and safety in the workplace.'**

Judge Patrick E. Robertshaw

"However, it should be noted that this decision is limited to the judge's refusal to strike out the claim against the HSE before trial. Whether or not the HSE will be held to have owed a duty of care or be ordered to contribute to the damages of the victims remains to

be seen," Mr. Tyler said.

In a separate case, the HSE is appealing a Sheffield, England, Crown Court ruling that reverses, in favor of the defendant, the burden of proof in safety violation prosecutions brought by the HSE.

Section 40 of the Health and Safety at Work Act 1974 provides that when a health and safety offense relates to a company failing to comply with a duty or requirement that is reasonably practicable, the onus is on the company to prove that it was not practicable.

Judge Patrick E. Robertshaw ruled, though, that Section 40 of the HSWA, in order to comply with Article 6 of the European Convention on Human Rights, which provides that "everyone charged with a criminal offense shall be presumed innocent until proved guilty according to law," should be interpreted so that the defendant need only "give sufficient evidence to raise the issue" of whether the duty or requirement is practicable.

"To require the prosecution to prove their case will neither send out the wrong message nor compromise the promotion of health and safety in the workplace," Judge Robertshaw ruled.

## Lloyd's: Cover tapped

Continued from previous page

the spokesman noted.

Meanwhile, some Lloyd's members and agencies are raising concerns over a renewed surge in open years of account at Lloyd's.

Under Lloyd's three-year accounting system, syndicates—which are one-year ventures—estimate their losses at the end of each year and purchase reinsurance-to-close coverage for those losses. If, however, there is too much uncertainty over the level of the losses, the underwriting year remains open until losses can be more accurately estimated.

Open years up to 1992 are reinsured by Equitas Ltd., but dozens of syndicates have open years of account for underwriting years since 1992.

Lloyd's currently is considering reforms that would end the three-year accounting system, but some observers say that the reforms will not adequately deal with the open-year problem and that the problem will grow as more years are left open following the losses in 2000 and 2001.

The Chairman's Strategy Group reforms propose to allow Lloyd's members to resign only in runoff

years.

The group also is looking to "facilitate prompt closure of the 1996 and prior years of account through a reinsurance-to-close policy covering all these years" and to "develop a structure to facilitate the equitable and prompt closure of the later years," according to the document.

"Unfortunately the proposals... are limited, and, at this early stage, appear to be of little practical benefit to reducing this problem," according to a bulletin issued by Greenwich Insurance Holdings Ltd., which is a Lloyd's managing agency.

As of Dec. 31, 2001, there are 75 runoff years of account, with the losses on the 2000 and 2001 years of account "likely to cause a further increase in the number of runoff years," the underwriting agency notes.

A spokesman from Lloyd's noted that a project "looking into the way open years can be closed" had been instigated in May but that no solution to the issue yet had been identified.

"Clearly, there is much still to be done in this area," the Greenwich bulletin notes.

## Political: Risk capacity may fall

Continued from page 3

ways offered terms of up to five years, and while buyers sometimes wanted longer policy periods in the past, today most buyers are content with three- to five-year contracts, said Bernard Labadie, Unistrat's New York-based chief executive officer.

"There seem to be fewer long-term projects," Mr. Labadie noted. "Our average is within three years," and there are plenty of buyers looking for those terms, he said. Unistrat bucked the trend of shrinking capacity by increasing its available limits to 50 million euros (\$49.4 million), up from 30 million (\$29.6 million) last year.

Capacity for political risk coverages has declined after growing significantly in the mid-1990s. Unistrat estimates that worldwide capacity was at \$350 million in 1995 and reached \$1.55 billion in 2000.

It's difficult to estimate how much capacity has shrunk in the last two years because of the "musical chairs" of insurers leaving and entering the marketplace, Mr. Labadie said. While syndicates writing the insurance at Lloyd's have discontinued the coverage, other insurers have popped up in Bermuda to begin offering the coverage, he explained.

Mr. Horne of Marsh estimated that since reinsurance treaties were renewed at the beginning of this year, there has been about a 30% reduction in aggregate capacity.

Another change among political risk insurers has been their willingness to work together, Mr. Labadie said. "There is more and more cooperation among the private market," he said. Unistrat has worked

with other political risk-takers, such as American International Group Inc. and Chubb, to share risks. And, Mr. Labadie added, there is increasing participation among insurers and government-sponsored political risk insurers, such as the Overseas Private Investment Corp.

Mr. Thomas said that large insurers have begun to cooperate as Lloyd's willingness has declined. "The Lloyd's market's inability to underwrite for more than three years has made a cartel of the insurers that can write for more than three years," he said.

Rates, meanwhile, have, for the most part, edged up only modestly in a marketplace that has been spared some of the wild price gyrations that afflict other coverages in hard and soft market cycles.

"There has not been as much volatility in the political risk market" since the mid-1990s, when pricing for property/casualty coverages softened, then spiked, in the most recent hardening, said Mr. Horne. The big price swings that marked other exposures haven't vexed most buyers of political risk insurance, he confirmed.

That's good news for risk managers, banks and others with foreign exposures who find themselves purchasing coverage this year. Industry sources say prices for many coverages, such as those for contract frustration and confiscation of assets, are up just 10% to 20% over the past year in countries considered politically stable. In more volatile regions, where capacity is a problem, prices are somewhat higher but not drastically so.

The exception to the pricing stability is found in coverage for politi-

cal violence, which covers losses from terrorism and war risks. In some countries, particularly those with large Muslim populations, prices for political risk insurance is up from 25% to 100% compared to what was paid a year ago, according to industry sources.

Ms. Westholm-Schroder pointed out that "rates are very much market-specific or country-specific" but, overall, have not risen drastically. She pointed out that because there is less overseas investment activity, there is some competition among insurers to write coverage for "the good projects out there."

"It really depends on where your individual company is developing," said Mr. Wood. "If you are (only) in some of the hot areas, it's at a crisis stage for you."

Companies such as Marriott that have operations in diverse locations, though, probably have political risk insurance problems in only a small percentage of the countries in which they have investments, Mr. Wood noted. "If you are in 50 to 60 countries, it's probably a problem in 15% of them and the rest is not an issue."

Underwriters and brokers say there probably will be few, if any, new political risk products coming to the marketplace in the current economy. Among the latest to be introduced was a policy for middle-market policyholders written by New York-based AIG Global Trade & Political Risk Insurance Co. The coverage, made available last January, offers limits of up to \$500,000 in 100 countries for a one-year period. AIG also offers other political risk coverages, with policy periods of up to 12 years.

## Tobacco: Immunity statute clarified

Continued from page 3

clude that the Immunity Statute's protection is not so broad and that it does not extend to allegations that tobacco companies, in the manufacture of cigarettes, used additives that exposed smokers to dangers beyond those commonly known to be associated with cigarette smoking."

"This is a victory for fundamental fairness," according to a statement by Charles A. Blixt, executive vp and general counsel for R.J. Reynolds. "We are pleased that the California Supreme Court refused to rewrite the rules after the facts. In 1988, the California legislature recognized that products like tobacco, which have well-known, inherent health risks, should not be subject to personal injury claims."

"I think it was a good outcome for us. We are basically pleased," said H. Joseph Escher III, an attorney who argued the case for R.J. Reynolds. Mr. Escher is a partner in the San Francisco law firm of Howard, Rice, Nemerovski, Canady, Falk & Rabkin P.C.

Mr. Blixt said he plans to seek reversal of the verdict in a case involving another smoker, which included claims related to actions during the immunity period.

In addition, William S. Ohlemeyer, vp and associate general counsel for Philip Morris Cos., said the court's action might help the company argue for the reversal of three cases now on appeal.

Meanwhile, plaintiffs attorney Madelyn J. Chaber said that "the doors are open" now for plaintiffs

to file more lawsuits. "I'm glad to see that the tobacco companies were not given the broad immunity they hoped for," said Ms. Chaber, who argued the *Naegele* case. She is currently of counsel with The Wartnick Law Firm in San Francisco.

*The two California Supreme Court cases, which were both decided Aug. 5, 2002, were: Myers vs. Philip Morris Cos. Inc., No. S095213; and Naegele vs. R.J. Reynolds Tobacco Co., No. S090420.*

### ADVERTISER

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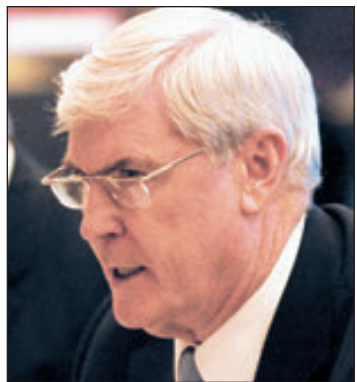
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August 12, 2002

# For the Record

This roundup of news from the previous week is generated by *BI's* Daily News reporting. To get breaking news as it occurs, log on to [www.businessinsurance.com](http://www.businessinsurance.com), or sign up online for free *BI* Daily News by e-mail.



AP: WIDE WORLD

**Gov. Guinn signed a bill to cap medical malpractice damages.**

coverage crisis in the state, also caps at \$50,000 civil damages in cases stemming from the treatment of trauma patients.

## Virginia to hold hearing on comp premiums

The Virginia State Corporation Commission plans to hold a Nov. 20 hearing regarding the National Council on Compensation Insurance's request to adjust workers compensation rate levels for most classes of coverage. The NCCI has requested no change in the

overall rate level for industrial classifications in assigned-risk plans. It did, though, ask for a 1.5% increase in voluntary market loss costs for industrial classifications. It is also seeking increases for both voluntary market loss costs and some assigned-risk rates.

## Anthem profits increase 44%

Anthem Inc. posted net income of \$206.0 million for the first half of 2002, a 44.1% increase over the comparable period last year. Total operating revenue increased 11.8%, to \$5.59 billion, the Indianapolis-based health insurer announced. "Solid performance across each of our operating segments has resulted in the highest consolidated operating margin in Anthem's history," said Larry C. Glasscock, Anthem's president and chief executive officer.

## Anthem

## Nevada enacts med mal tort reforms

Nevada Gov. Kenny Guinn has signed tort reform legislation that limits the financial liability of doctors and hospital employees in cases of medical malpractice. The measure, A.B. 1, caps noneconomic damages in malpractice cases at \$350,000 per defendant, except in cases of gross negligence or "exceptional circumstances," according to the bill. The legislation, introduced in response to a medical malpractice

## Online Poll [ 8/5 - 8/9 ]

**Should Congress make passage of asbestos liability relief legislation a priority when it returns from the August recess?**

**Yes 65.2%**      **No 34.8%**

Take part in our weekly poll at [www.businessinsurance.com](http://www.businessinsurance.com).

## Fitch predicts exits from traditional comp market

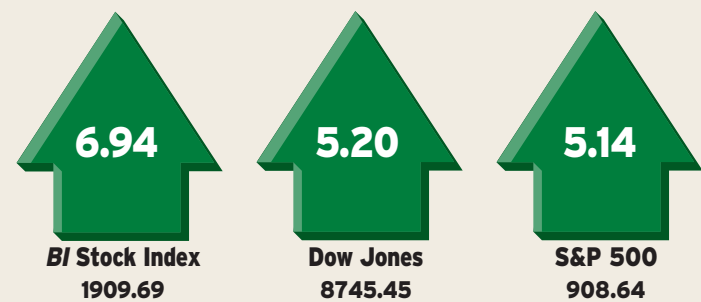
More commercial policyholders are likely to exit the traditional workers compensation insurance market, as insurers strive to increase rates, according to a report by Fitch Ratings. Adverse loss development

from previous years and a reduction in investment income as a result of declining stock prices will hurt workers comp insurers' results, the rating agency said. Insurers' drive to improve results will likely lead more policyholders to self-insure or to use other alternative risk programs to curb their costs, the report says.

## BI Stock Index [ 8/5-8/9 ]

Up-to-the-minute data for all 87 companies that comprise the *BI* Stock Index can be found at [www.businessinsurance.com](http://www.businessinsurance.com).

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



### Largest gains

Gainsco Inc.	20.00%
Fremont General Corp.	18.45%
Trenwick Group Ltd.	16.88%
AXA-UAP Group	15.71%
PXRE Corp.	15.22%

### Largest losses

Aon Corp.	-31.55%
ESG Re Ltd.	-26.53%
SCPIE Holdings Inc.	-15.11%
Baldwin & Lyons Inc.	-6.71%
ProAssurance	-5.57%

### Weekly change by market segment

Brokers	-0.88%
Insurers/Reinsurers	3.57%
Managed Care Organizations	3.28%

Source: CNET Investor ([investor.cnet.com](http://investor.cnet.com))

# Aon: SEC questions accounting

Continued from page 1

While Aon said it believes its SEC filings have been in compliance with generally accepted accounting principles, the SEC has questioned Aon on several items, including financial statements for Combined Specialty, the timing of some charges and reinsurance recoverables and matters related to various limited partnership investments.

Aon said that, depending on the outcome of its talks with the SEC, the company may have to restate earnings for the past three years.

For the second quarter of 2002, Aon reported zero net income, compared with net income of \$29 million in the second quarter of 2001. Despite an 11% increase in gross revenues for the quarter, "second-quarter bottom-line results were the worst in Aon's history," Mr. Ryan said in a statement.

"We have been taking steps to improve underperforming units, including management changes in U.S. retail brokerage and managing underwriting. We must do a better job of controlling expenses and improving margins by leveraging our resources, scale and distribution," he said in the statement.

For the first six months of 2002, Aon reported a 10.8% increase in brokerage and consulting revenues, to \$3.01 billion. Corporatewide revenues, which include its underwriting operations, rose 13%, to \$4.21 billion, while profits in the first half rose 117%, to \$104 million.

First-half results include \$149 million in earnings charges, as well as a \$56 million pretax adjustment related to the cumulative impact of noncash "impairment losses" for certain investments in 1999, 2000 and the first quarter of 2001, which negatively affected six-month earnings, Aon said.

Of the \$149 million in charges: \$8 million relates to expenses incurred for the planned spinoff of underwriting unit Combined Specialty Group Inc.; \$15 million for the establishment of a litigation reserve; \$90 million for potentially uncollectible reinsurance for World Trade Center claims; and \$36 million for losses stemming from an alleged breach of contract by National Program Services Inc., an independent managing general agency.

Aon, which originally planned to complete the spinoff of Combined Specialty earlier this year but delayed it (*BI*, June 3), scrapped those plans, citing difficult market conditions, and said it would sell the underwriting unit.

"We canceled the spinoff plan, but we are committed that Aon will not be in the underwriting business, so we are considering the sale of all or part of Combined Specialty," Mr. Ryan told *BI*. "There will be a backup plan that we would spin off part of it, if it was deemed appropriate. We're confident that before year end we will be out of the underwriting business."

While Combined Specialty comprised underwriting life, accident

and health and warranties on consumer goods products, it expanded into the property/casualty insurance and reinsurance side of the business when Aon named former President and CEO of ACE USA Dennis B. Reding as CEO of Combined earlier this year.

Combined Specialty has "an opportunity to grow and expand in this marketplace, and we've held them back because of basic conflicts," he said. "It's very difficult for them to do business with other brokers because they are owned by Aon."

Mr. Ryan maintained that the financial problems will not diminish the broker's service to clients. "Aon is in very strong financial condition and its ability to serve clients has never been at a higher level of capability," he said. "We're very enthusiastic about what Aon is doing and will continue to do for its clients."

Analysts and other observers view the SEC inquiry as a negative for Aon but vary in their level of concern over the matter.

"Frankly, they are not particularly troubling, but there certainly is more than one immaterial issue," said Jay Cohen, an analyst with Merrill Lynch & Co. Inc. in New York. "While none should result in any major earnings hit at all, there are still a lot of issues."

"Any sort of involvement with the SEC in this environment is clearly a negative," Mr. Cohen said.

Other observers say they are concerned about the SEC inquiries, especially those about Aon's limited-

partnership investments.

In the fourth quarter of 2001, Aon sold most of its limited-partnership portfolio, valued at \$450 million, to a special-purpose entity called PEPS 1. The common stock interest in PEPS 1 is held by a limited liability company, which is owned by an Aon unit and a charitable trust not controlled by Aon, according to the company's annual report. About \$171 million of securities were sold by PEPS 1 to unaffiliated third parties. PEPS 1 then paid Aon's underwriting subsidiaries the \$171 million in cash. PEPS 1 is not included in Aon's consolidated financial statements.

The SEC has asked Aon to support the sale accounting treatment of the PEPS 1 deal. If the SEC were to find the accounting method was improper, Aon said it would consolidate the limited partnerships back onto its balance sheet at Dec. 31, 2001, and all periods going forward.

"Clearly, it's an off-balance-sheet item, and that's something the SEC is very sensitive to these days," said Adam Klauber, a managing director at Cochran, Caronia Securities L.L.C. in Chicago. "I am concerned, because moving a private equity portfolio back onto the balance sheet would not be favorable to the stock."

"The worst possible outcome is to have questions with financial accounting today, particularly with off-balance-sheet issues," said John Wicher, of insurance investment bank John Wicher Associates Inc. in San Francisco.

"Clearly, Aon is in a worse position than many of its competitors," said Matthew T. Coyle, a credit analyst with Standard & Poor's Corp. in

New York. "It's the best market we've seen in a long time, and Aon is still not generating the margin improvements that competitors are," he said. "This has been a recurring theme for the organization."

This "clearly has to do with the recent transformation plan Aon felt it needed to put in effect," he said.

Aon began implementing its business transformation plan in late 2000. While the transformation is largely complete, it has cost the broker \$330 million to implement through 2001.

"This has to be very disturbing for large commercial buyers who feel strongly they want options in terms of brokers with a global reach," Mr. Wicher said. "They want Aon to be successful. They have to be concerned."

S&P last week revised its outlook on Aon Corp. to negative from stable, and Moody's Investor Services Inc. downgraded Aon's senior debt rating to Baa1 from A3. The ratings remain on review for further possible downgrade, Moody's said.

The day after Aon's announcement, New York law firm Milberg Weiss Bershad Hynes & Lerach L.L.P. filed a shareholder lawsuit against Aon, Mr. Ryan and Mr. Medvin in the U.S. District Court for the Northern District of Illinois. The suit, which seeks class-action status, alleges that the defendants violated the Securities Exchange Act by issuing a series of material misrepresentations to the market between May 4, 1999, and Aug. 6, 2002, thereby artificially inflating the price of Aon securities.

"We think it is clearly without merit," Mr. Ryan said of the suit.



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*Special Take-Out Section*

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# Canada: Benefits bring unique, familiar challenges

Continued from previous page  
employers are self-insured for the health care benefit plans.

## Debate over reforms

But the Canadian health care system is beset with problems, including the same rising cost trend that has plagued U.S. health care payers. And there are additional problems inherent within the Canadian system itself, including long waiting periods for some elective surgeries and for scheduling doctor's office visits. The wait for elective orthopedic surgery, for instance, can take

months.

The Canadian system has historically managed costs by limiting access, said Mr. Schmidt. A hospital will save money by eliminating a bed or letting go of nurses, but that results in longer waits, he pointed out.

These issues have generated a national debate over the issue of greater private-sector involvement in Canada's health care system. Private clinics now offer non-primary care services, such as diagnostic services like magnetic resonance imaging and some elective procedures, such as plastic surgery.

Some observers of Canada's health care system see increased privatization of medical care as a solution to the long waiting times, but others contend that any reform that permits wealthier patients to pay for their own medical services violates a basic tenet of the Canada Health Act.

The five basic principles incorporated into the Canada Health Act are public administration, comprehensiveness, universality, portability and accessibility.

Many Canadians have taken these principles to heart. As a result, while a host of federal and

provincial commissions have been studying possible health care reforms, dramatic changes are not likely to be adopted in the near future.

"I don't think we have the political willpower right now to implement meaningful change," said Mr. Schmidt.

Larry Jackson, manager of Buck Consultants Inc.'s health and welfare consulting practice in Toronto, agreed. "Whatever changes do happen, I think, are going to be more of a tweaking of the current system."

Roy Romanow, head of the fed-

eral Commission on the Future of Health Care, which is scheduled to issue its final report to the Canadian Parliament in November, has stated that the "Medicare house needs remodeling but not demolishing."

## Controlling rising costs

Rising costs remain a primary concern, though Canadian employers' total health care bills are dramatically lower than what U.S. companies pay because of the absence of doctor and most hospital bills.

Cost shifting by governments has aggravated employers' cost situation. As health care costs have risen, federal government financing has also declined, and provinces have responded by cutting back on the health care services they will cover.

Beginning in January, for instance, British Columbia stopped paying for physiotherapy, chiropractic, naturopathy, massage therapy and nonsurgical podiatry for all but low-income residents. The province had previously paid for up to 12 visits.

In many cases, employers have assumed the cost of these benefits because their plans typically are designed as secondary payers for medical services.

**'Everybody that has a health care plan for their employees saw their rates increase 15% to 20%, and that was done across the board.'**

Andrew Block  
Delta Pacific Benefit Brokers

Employers may find themselves picking up the cost of these "delisted" services because their contract language often does not prevent provincial cost shifting, said Rick Holinshead, managing partner for the Ontario region of Morneau Sobeco in Toronto, a pension benefit consulting firm. He encourages employers to "build in some inflation proofing" into their benefit plans.

Telecommunications company Aliant Inc. sometimes is able to set coverage limits on the delisted benefits, though "we're often left holding the bag," said Paul Churchill, project manager, pensions and benefits, for the 10,000-employee company based in St. John's, Newfoundland.

He said employers should do a better job trying to influence government decisions on this issue "rather than trying to come at it after the fact."

In the meantime, Canadian employers are seeing double-digit increases in their health care benefit costs.

"Everybody that has a health care plan for their employees saw their rates increase 15% to 20%, and that was done across the board," said Andrew Block, presi-

See CANADA/page T6

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# Expatriate cover, service can make a world of difference

## Health services for global travelers grow increasingly sophisticated

By JERRY GEISEL

Health insurance coverage and services for expatriates and international business travelers have reached a level of sophistication that few could have imagined when the programs commenced more than three decades ago.

Even before expatriates leave for their foreign destinations, they can, for example, find out online which health care providers are in their insurer's network and make appointments with those providers.

With the click of a mouse, expatriates or other business travelers can find out the names of hospitals in the cities to which they are going, their phone numbers, Web addresses, street addresses and medical services offered.

Some of the more-advanced services offered include translation guides to enable an expatriate to type in the names of the medications the individual is taking and find out the local brand name of the prescription for the country to which he or she is going.

"If an employee is taking Lipitor, we want them to be able to get the translation," says David Assenza, vp-human resources with Swiss Re Capital Partners in New York.

Just as services are growing in sophistication, so are insurance plans. Aside from standard policies, insurers also can customize policies to reflect the varying medical and billing practices in foreign countries.

In Switzerland, for example, physician fees are included in a pa-

tient's hospital bill, notes Wouter Reggers, director of international benefits at Van Breda & Co., an Antwerp, Belgium-based administrator and consultant for more than 140 multinationals. As a result, a plan design with separate co-insurance for inpatient doctor and hospital charges would be inappropriate.

At the same time, the expatriate insurance market, while small, is growing, noted Liz Partyka, a consultant with Hewitt Associates Inc. in Lincolnshire, Ill.

Blue Cross & Blue Shield Assn., for example, will enter the market this fall.

"We have heard from multinational employers that they want something more customized and simplified for their (expatriate) employees," said Reed Melton, director in Chicago of Blue Cross & Blue Shield's expatriate program, which will be available to all Blues' plans.

While CIGNA International Expatriate Benefits, a unit of CIGNA Corp., and Aetna Global Benefits, a subsidiary of Aetna Inc., are the largest U.S. based insurers of expatriates, United Kingdom-based BUPA International says it is the biggest expatriate insurer in the world, with 250,000 enrollees in 190 countries.

BUPA is poised for further growth through a recent alliance with United Healthcare Corp., the Minneapolis-based managed care giant, to give expatriates access both to BUPA's international provider network outside the United States and United Healthcare



network's in the United States.

It isn't only insurers that play a significant role in the expatriate and international business traveler market. For example, HTH Worldwide, a Radnor, Pa.-based provider

**'What good is insurance if you can't find a doctor you can trust and can't negotiate a health care system in another country?'**

Angelo Masciantonio  
HTH Worldwide

of international health plans and online health and security information, has assembled what it calls an "elite" community of 2,500 physicians in more than 130 countries in its provider network, as well as,

among other things, medical translation guides and health and security information for countries outside the United States.

"What good is insurance if you can't find a doctor you can trust and can't negotiate a health care system in another country?" asked Angelo Masciantonio, HTH's chief executive officer.

To be sure, the expatriate market is small relative to domestic markets. "It is a niche market," said Jacques DuChamp, head of business development for North America for GMC Services, a unit of the Paris-based broker Henner Group.

According to research conducted by Mercer Human Resource Consulting, 350,000 to 500,000 U.S. employees are out of the country at any one time and would be considered expatriates. Typically, expatriate assignments are anywhere from one to three years, says Tony An-

zolvar, a consultant in Mercer's Boston office.

Expatriates' health insurance needs are very specialized, according to Tom Dolan, a senior vp with Aon Consulting in Somerset, N.J. Because of time differences, expatriates need around-the-clock access to help and claims offices staffed by people who have multilingual capabilities.

"If I am in the Philippines and need to find medical assistance, I may need an answer now," said David Green, director of international health care for XN Holdings, a Boca Raton, Fla.-based managing general agency that writes coverage for expatriates and other business travelers.

In addition, unlike in the United States—where the level of reimbursement depends, in the case of HMOs and preferred provider organizations, on whether medical services are delivered in or out of network—such arrangements do not exist for expatriates, because the volume of business they generate is too low for insurers to win discounts for providers. Typically, coverage is provided much like traditional indemnity plans.

What insurers and plan administrators have done, though, is to work out direct payment arrangements in which health care providers around the world will recognize participants' insurance cards as proof of coverage rather than demanding immediate payment from patients, said Imran Qureshi, a consultant with Watson Worldwide in Chicago.

Coverage levels in expatriate plans tend to be rich, with very low deductibles or co-insurance levels. In addition, plans typically provide coverage for transportation-related expenses if an employee has to be evacuated for medical treatment in another country.

## Service hooks up expat with satisfactory medical care

For U.S. expatriates, one of the biggest challenges of working and living abroad can be obtaining the right medical care, especially in non-English-speaking countries.

One example, provided by Alice McClain, human resources representative in the benefits department at Bombardier Aerospace in Wichita, Kan., illustrates the real-world medical care problems faced by expatriates and how having access to an English-speaking, Western-trained provider network can solve those problems.

According to Ms. McClain, the wife of a Bombardier employee based in a remote part of Taiwan had problems negotiating the

Taiwanese medical system. The woman had a variety of medical conditions, including diabetes, migraine headaches and cardiac problems, for which she needed certain prescription drugs.

Because of the language barrier, the woman had trouble communicating with local providers to ensure that the prescriptions they wrote were appropriate for her conditions.

"She felt she wasn't getting the care she needed," Ms. McClain said.

The woman's frustration was so great that she periodically went back home to Kansas for treatment.

When Bombardier—a manufacturer of aircraft, rail transportation equipment and

recreational products—found out about the problems the woman was having getting satisfactory care, it contacted HTH Worldwide, a Radnor, Pa.-based provider of international health plans and online health and security information. Bombardier uses HTH to provide a variety of international business traveler and expatriate-related services.

HTH investigated the problem and located for the woman an English-speaking, Western-trained doctor in Taiwan.

The woman was so comfortable with the care she received from her new doctor that she no longer had to return to the United States for treatment, Ms. McClain said.

—By Jerry Geisel

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Because of the language barrier, the woman had trouble communicating with local providers to ensure that the prescriptions they wrote were appropriate for her conditions.

"She felt she wasn't getting the care she needed," Ms. McClain said.

The woman's frustration was so great that she periodically went back home to Kansas for treatment.

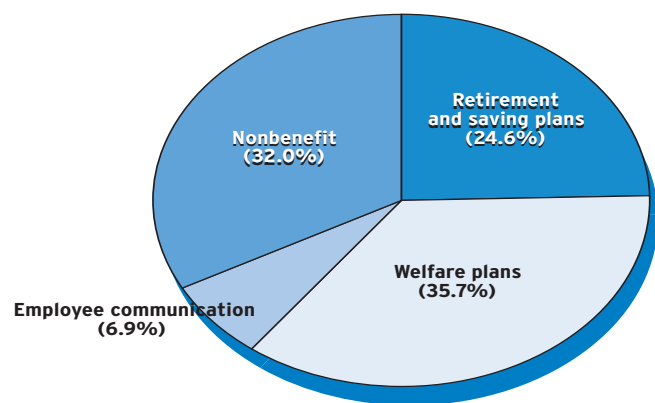
When Bombardier—a manufacturer of aircraft, rail transportation equipment and recreational products—found out about the problems the woman was having getting satisfactory care, it contacted HTH Worldwide, a Radnor, Pa.-based provider of international health plans and online health and security information. Bombardier uses HTH to provide a variety of international business traveler and expatriate-related services.

HTH investigated the problem and located for the woman an English-speaking, Western-trained doctor in Taiwan.

The woman was so comfortable with the care she received from her new doctor that she no longer had to return to the United States for treatment, Ms. McClain said.

—By Jerry Geisel

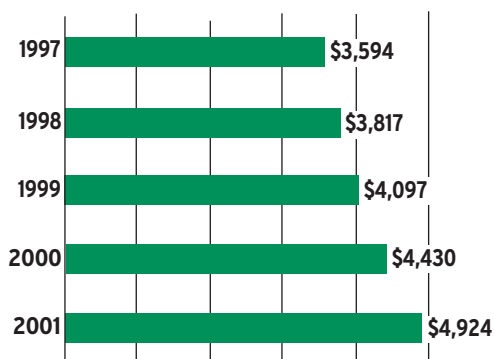
**BREAKDOWN BY SERVICES**



Source: BI Survey

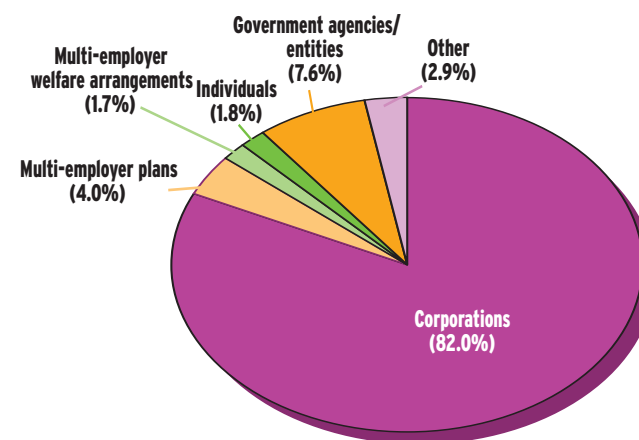
**TOTAL HEALTH CARE COSTS**

Per employee



Source: Mercer Human Resource Consulting

**BREAKDOWN BY CLIENTS**



Source: BI Survey

# World's largest employee benefit consultants

Ranked by worldwide benefit consulting revenues\*

Rank	Company/Address	Phone/Fax/Web site	Gross revenues from benefit consulting			% of benefit consulting	Locations		Staff			Officers
			2001	2000	% change		U.S.	Non-U.S.	Benefit staff	Professionals	Officers	
<b>1</b>	Mercer Human Resource Consulting 1166 Ave. of the Americas New York, N.Y. 10036	212-345-8522 Fax: 212-345-7414 www.mercerhr.com; www.merceric.com	\$1,467,000,000	\$1,382,000,000	6.15	68.0	40	102	11,000 <sup>1</sup>	8,000 <sup>1</sup>	Peter Felton, chairman	
<b>2</b>	Hewitt Associates Inc. 100 Half Day Road Lincolnshire, Ill. 60069	847-295-5000 Fax: 847-883-9019 www.hewitt.com	\$1,300,000,000 <sup>2,3</sup>	\$1,152,999,936	12.75	89.0	26	65	NA	NA	Dale Gifford, CEO	
<b>3</b>	Towers Perrin 335 Madison Ave. New York, N.Y. 10017	212-309-3400 Fax: 212-309-3660 www.towersperrin.com	\$1,030,449,000	\$959,910,000	7.35	70.4	40	39	5,247	4,681	Mark V. Mactas, chairman/CEO	
<b>4</b>	Buck Consultants Inc./ Mellon HR Solutions 1 Pennsylvania Plaza New York, N.Y. 10119-4798	212-330-1000 Fax: 212-695-4184 www.buckconsultants.com	\$838,000,000 <sup>4</sup>	\$403,000,000	107.94	96.0	34	26	4,944	4,944	Joseph A. LoCicero, chairman/CEO, Buck Consultants Inc.; Jude Metcalfe, president/CEO, Mellon HR Solutions	
<b>5</b>	Watson Wyatt Worldwide 1717 H St. N.W. Washington, D.C. 20006	202-715-7000 Fax: 202-715-7700 www.watsonwyatt.com	\$810,000,000 <sup>5</sup>	\$755,000,000	7.28	85.0	32	55	NA	NA	John J. Haley, president/CEO	
<b>6</b>	Aon Consulting Worldwide 200 E. Randolph St. Chicago, Ill. 60601	800-438-6487 Fax: 312-381-0240 www.aon.com	\$780,000,000	\$725,000,000	7.59	83.0	78	67	6,300	5,600	Donald C. Ingram, chairman/CEO	
<b>7</b>	PricewaterhouseCoopers Human Resource Services 1301 Ave. of the Americas New York, N.Y. 10019	646-471-4000 Fax: 646-471-4100 www.pwcglobal.com	\$540,000,000 <sup>6,7</sup>	\$885,000,000	-38.98	60.0	27	59	3,000	2,750	John Caplan, Human Resource Services U.S. leader	
<b>8</b>	Deloitte & Touche - Human Capital Advisory Services 10 Westport Road Wilton, Conn. 06897-0820	888-361-9960 Fax: 213-688-5330 www.deloitte.com	\$471,680,000	\$462,000,000	2.10	35.0	130 <sup>1</sup>	680	2,889	2,626	Ainara Aijala, global managing director	
<b>9</b>	Ernst & Young L.L.P. - Global Employment Solutions 1225 Connecticut Ave. N.W. Washington, D.C. 20036	202-327-6000 Fax: 202-327-6714 www.ey.com	\$270,000,000	\$260,000,000	3.85	80.0	16	13	1,000	1,000	David Robinson, global director	
<b>10</b>	Milliman USA 1301 Fifth Ave. Seattle, Wash. 98101-2605	206-624-7940 Fax: 206-340-1380 www.milliman.com	\$190,000,000	\$170,000,000	11.76	30.0	32	5	360	275	Bradley Smith, chairman	

\* Excludes revenues from claims administration, compensation consulting, insurance commissions and other nonbenefit consulting.

<sup>1</sup> Estimated; <sup>2</sup> Fiscal year ending 9/30; <sup>3</sup> Estimate; <sup>4</sup> 2001 revenues include the Unifi Network division purchased from PricewaterhouseCoopers; <sup>5</sup> 2001 and 2000 revenues are calendar year; <sup>6</sup> Fiscal year ending 6/30; <sup>7</sup> 2001 revenues do not include the Unifi Network division sold to Buck Consultants Inc. (Mellon Financial Corp.).

The full Directory of Employee Benefit Consultants is available online, in the Directories area of [www.businessinsurance.com](http://www.businessinsurance.com). The searchable directory allows users to locate employee benefit consultants by company name, number of clients, number of staff and services provided, among other information. The online database is free to subscribers of *Business Insurance*. PDF copies of the directory can be purchased online.

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# Consultants: Keeping busy

Continued from page T11

eat away at dwindling profits this year.

"We're just at the beginning of companies dealing with rising health care costs," Mr. Ingram said.

Rather than leap at any idea, though, employers are taking a measured approach.

"Companies are operating in a less-rash way than some might have anticipated," said Howard Fluhr, president and CEO of The Segal Co. in New York. "They're taking a thorough, analytical approach to looking at where the costs rises are coming from, as opposed to slashing and burning, even in a bad economy."

This year has seen continued interest by employers in instilling a consumer mentality with their employees. With the slow economy, employers have shifted more health care costs onto employees. But accompanying this is recognition that employees need tools to become better health care decisionmakers.

**'When the market goes down, you're at risk. When the market goes down and there is an Enron, you're even more at risk.'**

Ainar Aijala  
Deloitte & Touche  
Human Capital Advisory Services

"The whole movement to consumerism has been expedited," Mr. Foreman said.

In addition, employers are talking to consultants more this year about so-called consumer-driven health plans.

"Most are waiting and watching; a couple are dipping their toe in the water and trying it," Mr. Fluhr said.

For retirement plans, 2001 consulting centered around employers addressing problems and crises, Mr. Aijala said.

"It wasn't a big year for taking big risks and innovation" with retirement plans, he said. Many projects also were delayed because of employers' budget tightening, he added.

After Enron's collapse wiped out many of its employees' retirement accounts, more employers are looking carefully at the details of their 401(k) plans and high-level management is doing this examination more often, consultants say.

"When the market goes down, you're at risk. When the market goes down and there is an Enron, you're even more at risk," Mr. Aijala said.

In 2002, "retirement business has continued to have some pretty healthy growth rates," said Mr. Haley of Watson Wyatt, the world's fifth-largest consulting firm, with 2001 revenues of \$810 million.

This year has seen lots of activity, with employers addressing

investment losses in defined benefit pension plans.

"We have many companies now that either last year or this year will be making cash contributions to their pension plans for the first time in a decade," Mr. LoCicero said.

For defined contribution plans, the drop in account values has pushed many employers to provide more investment education for their employees to help ensure they have enough money to retire, said Steven Kerstein, managing director, global retirement, at Towers Perrin in Stamford, Conn.

This work has accelerated in recent months, as stock market volatility has picked up.

"The pace right now is frantic," Mr. Kerstein said.

As in past years, the growth in outsourcing has exceeded other areas.

Outsourcing leader Hewitt saw its outsourcing revenues grow by 19% in 2001, with comparable gains so far this year, Mr. Gifford said. In all, outsourcing generates about 65% of Hewitt's revenues.

Aon's outsourcing revenues grew by about 20% in 2001, Mr. Ingram

Continued on next page

## TOP U.S. BENEFIT CONSULTANTS

Based on 2001 U.S. benefit consulting revenues

Company	Revenues
Hewitt Associates Inc.	\$1,196,000,000 <sup>1</sup>
Towers Perrin	790,354,370
Mercer Human Resource Consulting	748,170,033
Buck Consultants Inc./Mellon HR Solutions	729,060,000
Aon Consulting Worldwide	499,200,000
Watson Wyatt Worldwide	486,000,000
Deloitte & Touche - Human Capital Advisory Services	278,291,200
PricewaterhouseCoopers Human Resource Services	243,000,000 <sup>2</sup>
Ernst & Young L.L.P. - Global Employment Solutions	162,000,000
Milliman USA	133,000,000

<sup>1</sup> Fiscal year ending Sept. 30; <sup>2</sup> Fiscal year ending June 30  
Source: BI survey

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# Consultants: Keeping busy in adversity

Continued from previous page said.

While other areas are subject to budgetary cutbacks by employers, outsourcing seems somewhat immune so far, consultants say.

"Very few companies would bring the work in house once they outsource it," Mr. Gifford said.

Late in 2001, Buck augmented its benefit consulting and outsourcing capabilities when its parent, Mellon Financial Corp., purchased Unifi Network from Pricewaterhouse Coopers L.L.P. for \$275 million (*BI*, Dec. 3, 2001).

The purchase added about \$400 million to Buck's revenues, pushing it into fourth place from its prior No. 7 ranking. In the wake of that purchase, Mellon's existing employee benefit outsourcing unit was merged with Unifi's outsourcing function to become Mellon HR Solutions.

Mellon HR Solutions contracted, in one of the biggest projects of its kind, with American Express Co. to administer that company's entire human resource functions in the United States and eight other countries, said Jude Metcalfe, president and CEO of Mellon HR Solutions in Little Falls, N.J.

This year a number of consulting firms fully embraced the concept of total human resource consulting,

extending their services beyond the benefits arena.

Mercer changed its name, dropping the long-standing William M. and adding Human Resource Consulting. The change reflects the firm's new focus on its broader mission of addressing an employer's total people-related concerns.

"It's not consulting to the human resource function. It's consulting on people issues in the firm wherever they are," Mr. McCaw said.

Early in the year, Segal finalized its purchase of Sibson & Co., a human resource and compensation consulting firm. The purchase is geared to enhance Segal's total HR consulting capabilities.

"It's a natural and logical extension" from benefit consulting, Mr. Fluhr said.

While benefit consulting executives say they are optimistic for the future, they find the present somewhat frustrating. One of the areas where employers have cut spending in the past two years is in human resource projects, consulting executives say. And this situation won't turn around until the economy does.

"If it was not critical, companies deferred," said Aon's Mr. Ingram.

Added Mr. Haley: "When the

economy is just muddling along, companies pull in their horns and spend less."

Given the problems with the U.S. economy in the past year, it's not surprising that the consulting firms have looked overseas for growth.

In the past year, Deloitte & Touche opened practices in 16 overseas locations. As is the case with other firms, Deloitte's strategy is geared to capture business from both overseas organizations and U.S. organizations with extensive overseas operations.

Mercer opened nine new offices in Europe in the past year, while Hewitt in June completed its purchase of Bacon & Woodrow, a consulting firm based in the United Kingdom, to expand its European operations. Mr. Gifford said the purchase is part of Hewitt's focus on overseas growth through acquisitions.

In addition, Towers Perrin late last year formed a joint venture with a German consulting firm, Rauser A.G., to bolster its presence in Europe.

Mr. LoCicero said that Buck is increasingly looking outside the United States to fuel the organization's future growth. He said he also sees overseas markets as ripe for expanding their outsourcing business.

"Both Europe and Asia are probably five to 10 years behind where the United States is in outsourcing, and I would suspect that we have huge opportunities there for growth going forward," Mr. LoCicero said.

Despite the focus, overseas growth in 2002 slowed, as many countries saw their overall economies slip, Mr. McCaw said.

"It isn't only the States that are negatively impacted by the current economic reality; we're seeing it right around the world," he said.

Despite short-term slowing, consulting executives say overseas growth will resume in the coming years.

"We are very well positioned for growth in some markets where the consulting industry just isn't particularly mature, where people aren't using consultants nearly as much as they are in the States, or the U.K. or Canada," Mr. McCaw said.

While the short-term poses challenges, the consultants agree that their business is poised for long-term sustained growth just as soon as the economy turns around.

"Human capital will become a more-valuable commodity, and, with this, companies will tend to need more consulting," Watson Wyatt's Mr. Haley said.

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# Business Insurance

Special Take-Out Section

# Benefits Management

August 12, 2002

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*Business Insurance* ranks the world's largest employee benefits consultants in 2001.

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## Canadian benefit execs face challenges both familiar and unique

By JUDY GREENWALD

To U.S. benefit managers, looking at a typical Canadian employer's health care program is a bit like looking into a fun house mirror—the image is distorted, yet still recognizable.

Yet despite the differences, Canadian benefit managers must contend with many of the same issues confronting their U.S. counterparts, most notably rising costs and an aging population requiring more care.

Both government and employers play major roles in Canada's health care system. Canada has a primarily publicly funded, but privately delivered health care system, known as Medicare, that operates under provisions of the 1984 Canada Health Act. Under the Act, the federal government assists in financing provincial health care services through fiscal transfers while the 10 provincial and three territorial governments are responsible for managing and delivering health care services.

The provinces provide for catastrophic and primary care, including hospital and physician visits. Physicians are reimbursed based on a provincial fee schedule. Most provinces finance their health care expenditures through a payroll tax.

Employers typically pay the "extras," including the cost of prescription drugs in most provinces, dental care and eye exams, among other services. Employee benefit plans will also often cover the difference in cost between a semiprivate or private hospital room and a bed in a hospital ward.

Employer plans as well as private insurance "are basically designed as backstop to the provincial plans, which are the first payers," said Jeffrey Schmidt, senior vp with Aon Consulting in Toronto, who noted that federal and provincial governments pay for 70% of Canada's health care expenditures.

As in the United States, most large Canadian

See CANADA/next page

## Shift from DB plans continuing in the U.K.

By SARAH VEYSEY

The trend of U.K. employers moving away from pure defined benefit pension plans is continuing apace.

Many employers in the United Kingdom in recent years have pulled back from offering pure defined benefit, or final salary scheme, plans as a way to cut costs and to stabilize their financial liability to the plans, many of which have seen the value of assets drop in recent years as equity markets have declined.

In addition, many employers have cited a new U.K. accounting regulation on the disclosure of pension funding levels in their decisions to close their defined benefit plans to new participants and to set up defined contribution-style plans.

But as the shift away from traditional defined benefit plans has continued, a backlash has emerged from some employees who are concerned that the new plans will leave them with

less income at retirement.

**"If the question is, 'Is the death of defined benefit plans imminent?' we would say, 'Generally not.'"**

Imran Qureshi  
Watson Wyatt Worldwide

Ten years ago, about 85% of pension plans in the United Kingdom were pure defined benefit plans, according to Imran Qureshi, a

Chicago-based international benefits consultant at Watson Wyatt Worldwide. By 2001, that number had dropped to about 65%, he said.

In addition, a survey of 185 employers conducted by Towers Perrin in London found that 30% had made the switch from a defined benefit to a defined contribution plan in 2001.

Pure defined contribution occupational plans now make up about 14% of all plans in the United Kingdom, and hybrid plans—which have elements of both defined benefit and defined contribution plans—represent about 18% of all plans, Mr. Qureshi said.

"If the question is, 'Is the death of defined benefit plans imminent?' we would say, 'Generally not,'" he noted.

Nevertheless, many companies are now looking carefully at the structure of their pension plans, said John Hastings-Bass, chairman of the Employee Benefits group at London-based broker Jardine Lloyd Thompson Group P.L.C.

Several factors over the past few years have prompted employers to reconsider their pension offerings, said Raj Mody, a consultant with actuarial and consulting firm Hewitt Bacon & Woodrow in London.

"The first has been that long-term interest rates are currently significantly lower than they were five or 10 years ago. And that means you are

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August 12, 2002

# U.K.: Shift from DB plans continuing

Continued from page T3

earning less on the money you set aside, so you have to set aside more money in the first place. That has come as an unexpected surprise" to employers, he said.

Compounding this is the fact that, typically, most of the money in pension funds is invested in equities, "and, of course, equity values have dived over the last two to three years," Mr. Mody said. "So that is a sort of a double whammy, effectively. Not only has the cost of the liability gone up but, at the same time, the assets you held in the first place to cover the benefits already earned by members has unexpectedly declined."

Mr. Mody added that the increasing longevity of the population

**FRS17 'has brought pensions to the top of the agenda for the board of directors of many companies.'**

*Raj Mody  
Hewitt, Bacon & Woodrow*

means that employers who have committed to paying benefits for the rest of a plan member's lifetime are now, often, having to make those payments for longer than they might previously have expected.

Another factor driving the move away from defined benefit plans is a new accounting standard for publicly traded companies in the United Kingdom, Financial Reporting Standard 17. Slated for implementation next year, FRS17 will require each company to set out on its balance sheet the surplus or deficit of its pension plan.

Several companies have cited the new standard in deciding to close their defined benefit plans. When electrical retailer Dixons Group P.L.C. of Hemel Hempstead, Hertfordshire, closed its plan to new entrants last year, its outgoing chairman, Sir Stanley Kalms, described FRS17 as "a stab in the heart" for defined benefit pension plans (*BI*, April 15). The London-based National Assn. of Pension Funds said that the new accounting standard put pensions "in peril."

But citing FRS17 as a reason to close a defined benefit plan is something of a red herring, according to Mr. Mody. "All that FRS17 has done is put a spotlight on (the increasing liabilities of) defined benefit plans," he said. "It has forced companies to report in a very transparent, prescribed way, exactly what is happening in their scheme. And that has brought pensions to the top of the agenda for the board of directors of many companies."

In addition, decisions to close defined benefit plans have pushed the issue to the top of the agenda for some workers.

In June and July, groups of workers at a steel plant in northern England and a food manufacturer in London threatened to strike after their employers closed their defined benefit pension plans to new partic-

ipants.

Indeed, many employees are concerned that the closure of defined benefit pension plans will leave them with lower incomes upon retirement, according to the labor union Amicus in London.

In its survey, Towers Perrin found that the average company contribution rate of about 6.5% of pay under a defined contribution plan would yield about half of the value of a typical defined benefit plan on retirement.

But moving to a defined contribution structure is not necessarily bad news for employees, experts

say, and many employers still maintain elements of defined benefit plans in their pension offerings.

Employers are seeking to curb costs and ensure the stability of their pension plans, said Mr. Qureshi. "But defined contribution plans aren't necessary the solution, given the upheaval (of switching) and any employee concerns," he said. "So what companies have tended to do...is look toward hybrid-type plans. And those hybrid plans will take the form of, for example, having some component of the plan defined benefit...and then (another) proportion being of a de-

defined contribution nature," he said. "That is almost a sort of halfway house between the objective of managing cost but also of allaying employee fears."

Mr. Mody noted that defined contribution plans are not necessarily less generous than defined benefit plans. "You could come up with a defined contribution scheme that could give a benefit higher than that of a defined benefit scheme, if only you paid enough contributions toward it."

And some employees, he noted, prefer a defined contribution pension structure. Young people, who

tend to change jobs frequently, for example, may believe that a defined contribution plan gives them more control over their funds. "They can direct how those contributions should be invested," Mr. Mody said.

But such control over investment decisions places new responsibilities on employers, said Mr. Qureshi. "It is incumbent on the employers to provide a minimum level of education to the employees so that they can effectively invest their money," he noted. Leaving such investment decisions entirely to employees could open employers to criticism in the future if employees have failed to invest appropriately, he said. "There is almost an implicit moral responsibility" for employers, he said.



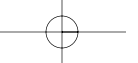
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# A man, a health plan, a canal: Bridging care across countries

## Program for Panama Canal workers relies on database

By ROBERTO CENICEROS

After helping construct a shortcut between the Atlantic and Pacific Oceans, the U.S. government had to find a way to bridge the health care systems in Panama and the United States.

Now, under an arrangement with Health Network America Inc., retired Panama Canal workers receive similar attention to their health care—along with a strong dose of medical risk management oversight—whether they live in the United States or Central America.

To ensure that the 23,000 retirees and their dependents receive the same high level of medical attention anywhere in the United States or Panama, HNA relies on its proprietary database to track their care. The West Long Branch, N.J.-based health benefits administrator also had to win the cooperation of more than 1,000 doctors in Panama, form them into a network

accessing one database," Mr. Kardos said.

The tracking of plan member health care begins shortly after the diagnosis of an illness, Mr. Kardos said. That way, HNA can intervene early, to ensure the patient gets the appropriate treatment or disease management services.

HNA has a medical staff that can

evaluate plan members' cases and provide additional opinions to those of local doctors providing treatment. As a result, it can help the patients and their doctors develop optimal treatment strategies, Mr. Kardos said. HNA's "data-driven model" also allows the company to analyze claims and

Continued on next page



PHOTO: AFP

The U.S. government provides a special health care program for employees who worked on the Panama Canal.

**'All of it is in one place, so whenever there is an interaction with a patient, whether you are in Panama or in the U.S., we are accessing one database.'**

*Stephen A. Kardos  
Health Network America Inc.*

and train them in concepts such as procedural coding for billing. The process required bridging some cultural divides, said Stephen A. Kardos, HNA's chief executive officer.

Since January 1998, HNA has administered a self-funded health plan financed by the U.S. government for the federal retirees who worked on the canal. Control of the canal was transferred to the Panamanian government on Dec. 31, 1999. Most of the retirees continue to live in Panama, but about 4,000 are scattered throughout the United States, Mr. Kardos said.

Panama residents can choose between a point-of-service plan or fee-for-service plan. Plan members living in the United States participate in a fee-for-service plan.

To track and oversee care for plan members, regardless of where they live or receive medical attention, HNA spent five years developing its database. The database links information on plan members' medical histories and medical providers. It also links information on practices such as case management, pharmacy utilization, disease management and claims management.

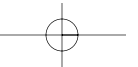
"All of it is in one place, so whenever there is an interaction with a patient, whether you are in Panama or in the U.S., we are

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**Continued from previous page**  
pharmaceutical utilization information to determine, for example, whether someone with diabetes is receiving appropriate care and disease management.

The company's emphasis is on risk management decision-making, rather than on the unit cost of providing a particular service, Mr. Kardos said. In the past, he said, too many insurers focused on the unit cost, and a focus on risk management decision-making leads to greater improvement in members' health, which lowers care costs, he said.

The practice has paid off. HNA reduced the cost of providing medical care for plan members, according to a report HNA

compiled for the U.S. Office of Personnel Management.

Before HNA started managing care in Panama, total annual claim costs increased from about \$30 million in 1990 to about \$50 million in 1997. The cost increase was particularly dramatic because the number of plan members was decreasing, Mr. Kardos said. But by 2001, HNA had managed to reduce total claim costs to about \$41 million for the year.

The per-member per-month claims cost dropped to \$165 in 2001, from \$184 in 2000, Mr. Kardos noted.

To provide care in Panama, HNA developed a doctor network consisting of 177 primary care physicians and more than 1,000

specialists. But the company soon found that the doctors there were not familiar with certain concepts,

**Under the HNA program, the per-member per-month claims cost dropped to \$165 in 2001, from \$184 in 2000.**

such as procedural coding used to track care and determine reimbursement. HNA had to introduce the concept and train doctors in its application.

But gaining their participation had its challenges. Culturally, Panamanian doctors are not accustomed to hearing

recommendations about how to operate their practices, Mr. Kardos said. "That is something we really had to go slowly with," he said.

Winning the doctors over required several measures, including ensuring that their bills were promptly paid.

"We paid them fairly," Mr. Kardos said. "We didn't pay them capitation. We paid them fee for service."

HNA also sponsored educational conferences led by internationally recognized experts on topics such as cardiology, diabetes and prostate disease. And HNA created an advisory board made up of faculty members from the University of Panama, many of whom trained in the United States.

HNA also implemented services in Panama that have proved their effectiveness in the United States. HNA case management nurses, for instance, monitor hospitalized patients and work with their doctors to ensure they receive optimal care. The nurses also provide other services, such as helping coordinate follow-up care. HNA social services staff also offers similar support.

But Mr. Kardos noted that, unlike in the United States, telephones are not always readily available in Panama. He said, therefore, that case management nurses and social workers in Panama often conduct home visits rather than relying on telephone contact.

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August 12, 2002

# Adversity keeping benefit consulting firms busy

By MICHAEL PRINCE

It's the best of times; it's the worst times. It's 2002.

As the economy struggles, benefit consulting firms have seen their once-highflying growth levels come down to earth. But far from crashing, growth remains healthy, as employers staggered by multiple crises in their benefit programs continue to seek help from consultants.

In general, 2001 opened strong in terms of business for benefit consultants, slipped as the year progressed and then came to a halt for about a month after the Sept. 11 terrorist attacks. Business picked up considerably for the remaining months of the year, as employers scrambled for help with investment losses in their defined benefit pension plans.

**'The environment is just much more difficult. There's more anxiety and almost fear out there about what shoe is about to drop next.'**

*Joseph LoCicero  
Buck Consultants Inc.*

Much of this pension consulting work slowed in early 2002, but stock volatility in recent months has pushed up demand for benefit consultants. In addition, rising health care costs generated more work this year for consulting firms, executives say.

But, in general, most consulting executives don't expect growth in 2002 to outpace 2001 growth levels.

The first half of 2002 "looks a lot like the second half of 2001, more than anything else," said John Haley, president and chief executive officer of Watson Wyatt Worldwide in Washington.

But in many areas, such as total human resource consulting, employers have slashed budgets and delayed implementing projects.

This year "is every bit as tough, maybe a little tougher than 2001 was," said Daniel McCaw, president and CEO of Mercer Human Resource Consulting in New York. In 2002, Mercer changed its name but kept its position as the world's largest benefit consulting firm, based on 2001 revenues of \$1.47 billion.

Consultants describe the current situation for employers as one of multiple challenges, the likes of which employers have rarely encountered before.

Health care costs continue to skyrocket. Investment losses have mounted in defined benefit pension plans, forcing employers to make new contributions for the first time in many years. Employees are seeing sharp declines in the value of their defined contribution plan account balances and are searching for help. All this is against the backdrop of a slow economy and declining business

profits.

"I don't think I've seen more challenges on employers' plates than I see right now," said Donald Ingram, chairman and CEO of Aon Consulting Worldwide in Chicago.

As a result, employers are turning away from long-term projects and are focusing on resolving one crisis at a time.

"Most corporations these days are managing their business around quarterly results," said Joseph LoCicero, chairman and CEO of Buck Consultants Inc. in New York. "The environment is just much more difficult. There's more

anxiety and almost fear out there about what shoe is about to drop next."

In 2001 and the first half of 2002, health care consulting remained strong, as employers looked for help with controlling skyrocketing costs.

Employers are tightly focused on ways to hold down cost increases in their health plans, said Ainar Aijala, global managing director at Deloitte & Touche-Human Capital Advisory Services in New York.

"What we continue to see is double-digit inflation rates in medical costs, but we don't see a

comparable added value coming out of those medical services. And I think that's what many of our clients are concerned about," Mr. LoCicero said.

This focus presents openings for consultants to help employers obtain the best value for their money.

"As they struggle with rising health care costs, it creates opportunities for us to help them deal with different strategies," said Dale Gifford, CEO of Hewitt Associates Inc. in Lincolnshire, Ill., the second-largest consulting firm, with 2001 benefit consulting

revenue of \$1.3 billion.

In particular, employers are seeking help from consultants on strategic consulting work.

"It's busier now than it's been in 10 years" in that area, said James Foreman, managing director, global health and welfare in the Stamford, Conn., office of New York-based Towers Perrin. Towers Perrin ranked as the third-largest consulting firm, with 2001 revenues of \$1.03 billion.

Senior managers at many organizations are now carefully looking at health care costs as they

See **CONSULTANTS**/page T13

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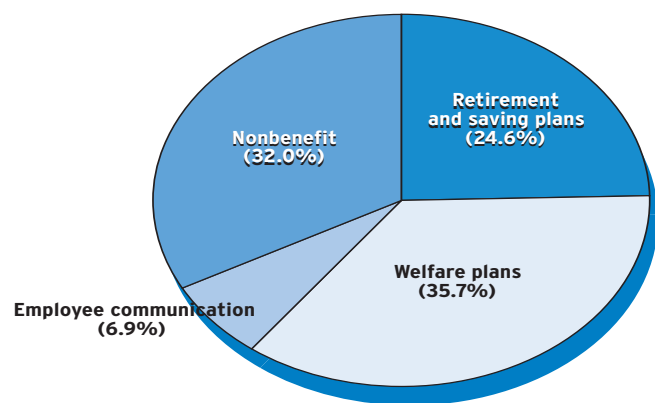
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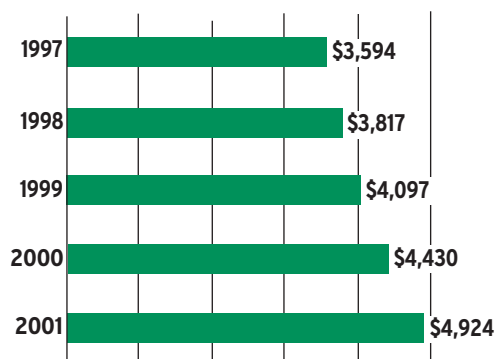
**BREAKDOWN BY SERVICES**



Source: BI Survey

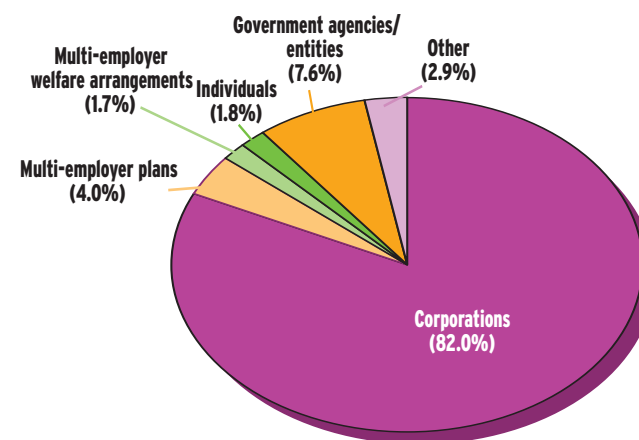
**TOTAL HEALTH CARE COSTS**

Per employee



Source: Mercer Human Resource Consulting

**BREAKDOWN BY CLIENTS**



Source: BI Survey

# World's largest employee benefit consultants

Ranked by worldwide benefit consulting revenues\*

Rank	Company/Address	Phone/Fax/Web site	Gross revenues from benefit consulting			% of benefit consulting	Locations		Staff			Officers
			2001	2000	% change		U.S.	Non-U.S.	Benefit staff	Professionals	Officers	
<b>1</b>	Mercer Human Resource Consulting 1166 Ave. of the Americas New York, N.Y. 10036	212-345-8522 Fax: 212-345-7414 www.mercerhr.com; www.merceric.com	\$1,467,000,000	\$1,382,000,000	6.15	68.0	40	102	11,000 <sup>1</sup>	8,000 <sup>1</sup>	Peter Felton, chairman	
<b>2</b>	Hewitt Associates Inc. 100 Half Day Road Lincolnshire, Ill. 60069	847-295-5000 Fax: 847-883-9019 www.hewitt.com	\$1,300,000,000 <sup>2,3</sup>	\$1,152,999,936	12.75	89.0	26	65	NA	NA	Dale Gifford, CEO	
<b>3</b>	Towers Perrin 335 Madison Ave. New York, N.Y. 10017	212-309-3400 Fax: 212-309-3660 www.towersperrin.com	\$1,030,449,000	\$959,910,000	7.35	70.4	40	39	5,247	4,681	Mark V. Mactas, chairman/CEO	
<b>4</b>	Buck Consultants Inc./ Mellon HR Solutions 1 Pennsylvania Plaza New York, N.Y. 10119-4798	212-330-1000 Fax: 212-695-4184 www.buckconsultants.com	\$838,000,000 <sup>4</sup>	\$403,000,000	107.94	96.0	34	26	4,944	4,944	Joseph A. LoCicero, chairman/CEO, Buck Consultants Inc.; Jude Metcalfe, president/CEO, Mellon HR Solutions	
<b>5</b>	Watson Wyatt Worldwide 1717 H St. N.W. Washington, D.C. 20006	202-715-7000 Fax: 202-715-7700 www.watsonwyatt.com	\$810,000,000 <sup>5</sup>	\$755,000,000	7.28	85.0	32	55	NA	NA	John J. Haley, president/CEO	
<b>6</b>	Aon Consulting Worldwide 200 E. Randolph St. Chicago, Ill. 60601	800-438-6487 Fax: 312-381-0240 www.aon.com	\$780,000,000	\$725,000,000	7.59	83.0	78	67	6,300	5,600	Donald C. Ingram, chairman/CEO	
<b>7</b>	PricewaterhouseCoopers Human Resource Services 1301 Ave. of the Americas New York, N.Y. 10019	646-471-4000 Fax: 646-471-4100 www.pwcglobal.com	\$540,000,000 <sup>6,7</sup>	\$885,000,000	-38.98	60.0	27	59	3,000	2,750	John Caplan, Human Resource Services U.S. leader	
<b>8</b>	Deloitte & Touche - Human Capital Advisory Services 10 Westport Road Wilton, Conn. 06897-0820	888-361-9960 Fax: 213-688-5330 www.deloitte.com	\$471,680,000	\$462,000,000	2.10	35.0	28	58	2,889	2,626	Ainara Aijala, global managing director	
<b>9</b>	Ernst & Young L.L.P. - Global Employment Solutions 1225 Connecticut Ave. N.W. Washington, D.C. 20036	202-327-6000 Fax: 202-327-6714 www.ey.com	\$270,000,000	\$260,000,000	3.85	80.0	16	13	1,000	1,000	David Robinson, global director	
<b>10</b>	Milliman USA 1301 Fifth Ave. Seattle, Wash. 98101-2605	206-624-7940 Fax: 206-340-1380 www.milliman.com	\$190,000,000	\$170,000,000	11.76	30.0	32	5	360	275	Bradley Smith, chairman	

\* Excludes revenues from claims administration, compensation consulting, insurance commissions and other nonbenefit consulting.

<sup>1</sup> Estimated; <sup>2</sup> Fiscal year ending 9/30; <sup>3</sup> Estimate; <sup>4</sup> 2001 revenues include the Unifi Network division purchased from PricewaterhouseCoopers; <sup>5</sup> 2001 and 2000 revenues are calendar year; <sup>6</sup> Fiscal year ending 6/30; <sup>7</sup> 2001 revenues do not include the Unifi Network division sold to Buck Consultants Inc. (Mellon Financial Corp.).

The full Directory of Employee Benefit Consultants is available online, in the Directories area of [www.businessinsurance.com](http://www.businessinsurance.com). The searchable directory allows users to locate employee benefit consultants by company name, number of clients, number of staff and services provided, among other information. The online database is free to subscribers of *Business Insurance*. PDF copies of the directory can be purchased online.