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TRIA supporters hopeful backstop will stay / 3

Ward study identifies insurer best practices / 3

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Insured losses from Charley not expected to top $10 billion

Insurers tally hurricane claims

By MICHAEL BRADFORD

Hurricane Charley's deadly path through Florida left insurers bruised but not beaten.

Scores of adjusters are swarming the areas affected by the hurricane, a Category 4 storm that reached Florida's coast on Aug. 13, raked across the state's southwestern counties and then swept through the Orlando area before losing steam along the East Coast.

The storm, which was responsible for at least 23 deaths, destroyed commercial and residential buildings and caused widespread power outages. Damage estimates by computer modeling services, insurance trade groups and others put the insured property loss at between $6 billion and $10 billion, with the New York-based Insurance Information Institute currently estimating insured property damages at $7.4 billion.

Insurers and reinsurers are saying that even though the storm represents a major loss, it will not affect the industry the way Hurricane Andrew did in 1992, when that storm left more than $15 billion in insured losses.

Stronger building codes helped some properties survive Charley's winds, some experts say.

"The new building codes introduced in Florida after Andrew clearly have paid off," Atul Khanduri, leader of the postdisaster team of AIR Worldwide Inc., a Boston-based catastrophe modeling company, said in a statement.

Mr. Khanduri said there is a marked difference in the resiliency of structures built since Andrew and those constructed before that

See CHARLEY/page 18

PHOTO: EPA PHOTOS

Port Charlotte, Fla., was one of the areas hit hardest as Hurricane Charley battered Florida's southwestern counties.

States strike back on drug imports

Illinois, Vermont challenge FDA

By GLORIA GONZALEZ

States' efforts to begin prescription drug reimportation plans were ratcheted up last week when Illinois announced plans to reimport drugs from several countries and Vermont began a legal challenge to the Food and Drug Administration's rejection of its proposed reimportation program.

Under the Illinois plan, residents would be able to purchase prescription drugs not just from Canada, which has been the main conduit for reimportation programs, but also from the United Kingdom and Ireland.

The state will contract with a prescription benefits manager to establish a clearinghouse of state-inspected and -approved pharmacies and wholesalers in Canada, Ireland and the United Kingdom. The program will provide country-by-country information on the price and availability of about 100 brand-name medications through a Web site and toll-free telephone number, which will be operational in about a month, officials said. The cost of the drugs ordered through the program will be between 25% and 50% less than the U.S. retail price, state officials said last week in announcing the program.

If all Illinois residents used the program to purchase medications, total savings could reach $1.9 billion in the first year, officials estimate.

The Illinois program differs from other state and local government reimportation programs in that it includes approved European pharmacies. In May, Illinois Gov. Rod Blagojevich sent a state delegation to assess the safety of the manufacturing, storage and distribution

See DRUGS/page 23

Charley loss alone won't rock market

But timing of storm worries some

By MARK A. HOFMANN and SARAH VEYSEY

Although Charley may enter the record books as the second-costliest hurricane in U.S. history in terms of insured losses, it is unlikely to have a major impact on the commercial property/casualty market.

The storm's impact has been softened by changes in the market since the costliest hurricane in U.S. history—1992's Hurricane Andrew—battered Florida, causing more than $15 billion in insured property damage.

For example, property insurers in the state now rely far more heavily on reinsurance than they did 12 years ago, say observers. In addition, in the wake of Andrew, Florida set up a catastrophe fund that will reduce insurers' losses (see story, page 20). And Charley's impact appears to be greater in personal than commercial lines.

Although final estimates of insured property damage are not likely for several days, Hurricane Charley appears to have caused no more than $10 billion in insured property damage, according to the latest projections.

But while Charley's impact on insurers was less severe than An-

See IMPACT/page 20

Late News

Csiszar leaves NAIC to become head of PCI

Ernst Csiszar has resigned as president of the National Assn. of Insurance Commissioners and as South Carolina's director of insurance. He will succeed the retiring Jack Ramirez as president of the Property Casualty Insurers Assn. of America on Oct. 4. The NAIC said it plans to elect a new president by Aug. 30, though the election could occur sooner if NAIC members unanimously agree to waive a 10-day waiting period, said Cathy Weatherford, NAIC executive vp and chief executive officer.

Suit seeks rejection of Ohio asbestos law

A group of union locals and individual plaintiffs are seeking to have Ohio's new asbestos medical criteria law declared unconstitutional. The law, which takes effect Sept. 2, requires plaintiffs seeking damages for exposure to asbestos to meet specific medical criteria before their lawsuits can proceed. The law is the first statewide statute setting medical criteria for claims related to asbestos and silica exposure. In the suit filed in state court, the group of plaintiffs claims that the medical criteria law violates the Ohio Constitution's prohibition on retroactive legislation.

Alcon captive benefits proposal approved

The Labor Department last week gave final approval to a Swiss eye care pharmaceutical company's plan to fund benefit risks of its U.S. employees through its Vermont-

domiciled captive. Alcon Laboratories Inc., a subsidiary of Alcon Inc., will use the captive to reinsure long-term disability and life insurance policies written by Aetna Life Insurance Co. As part of the arrangement, Alcon Laboratories will sweeten benefits for plan participants. The application was approved under a fast-track process.

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International

AUSSIE BUYERS SEE RATES DROP

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NEWSPAPER

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Illinois expected to adopt changes to liquidation laws

By MEG FLETCHER

SPRINGFIELD, Ill.—Illinois Gov. Rod Blagojevich is expected to soon sign legislation that would change the state's liquidation-related laws to shield certain payments made by a defunct insurer's policyholders from being considered a general asset of the insurer.

Instead, the so-called collateral payments would be designated to pay claims and other obligations related to the policyholders' large-deductible insurance programs, including reimbursing guaranty associations for payments made under the policies.

Under a typical large-deductible program, the insurer pays all losses—even those falling within the deductible—and then seeks reimbursement from the policyholder, on a monthly or quarterly basis, for loss amounts within the deductible.

The bill, H.B. 5928, which the Legislature passed June 28, would establish several new operating rules for receivers and liquidators of insurance companies. Under a retroactive provision in the bill, these rules could apply to Long Grove, Ill.-based Kemper Insurance Cos., if its ongoing solvent runoff proves insufficient and regulators increase their oversight.

Under the measure, collateral payments for large-deductible insurance programs would be designated to pay claims and other obligations, including reimbursing guaranty associations.

The measure, which was endorsed by the Risk & Insurance Management Society Inc., is based on a model law prepared by the Indianapolis-based National Conference of Insurance Guaranty Funds. The NCIGF drafted the model because there is a general need to update most states' liquidation-related laws, especially those relating to new policy arrangements such as large-deductible programs, said Kevin Harris, NCIGF's vp, secretary and general counsel.

Mr. Harris said he is hopeful that major insurer trade associations, which generally support updating the laws, will help the NCIGF get similar legislation adopted elsewhere. "I'll be very surprised if we

See COLLATERAL/page 18

Web altering insurer practices

Ward's results highlight traits of best performers

By DOUGLAS McLEOD

The Internet has rapidly changed the way the best-performing property/casualty insurers do business and could actually move companies toward more centralized operating structures in coming years, according to Cincinnati-based insurance consultant Ward Group.

A majority of insurers now follow the industry "best practices" of using the Internet to handle billing and claims inquiries, quote new commercial risks and extend the reach of their service capabilities, Ward's annual study of the industry's top-performing companies found.

The Web is "an area that, I think, has really changed the way companies operate over the last five years," observed John L. Ward, the consulting firm's chief executive officer. "That 60% to 70% of carriers for commercial lines are using the Internet in this way tells you how much it has changed things."

Those changes may soon include the way insurers organize themselves: While many insurers still run decentralized operations with far-flung underwriting and claims offices, the availability of Web applications weighs heavily in favor of a less expensive centralized operating model, Mr. Ward noted.

"It really reduces the need to have a decentralized structure," he said. "It will be interesting going forward to see if it causes companies to restructure their operations."

The findings are part of Ward's yearly analysis that yields not only the Ward's 50—lists of the 50 top-performing property/casualty and life/health insurers—but also an assessment of how many insurers are following the best practices of the top-performing companies.

The analysis identifies best practices in areas ranging from organizational structure to underwriting and claims services. It also provides statistical comparisons of top performers and average performers on several fronts, from employee productivity to information technology expense.

In compiling its lists of the top 50 insurers, Ward reviews the statutory filings of 2,900 property/casualty and 1,100 life/health insurers, identifying those that have excelled at balancing safety, consistency and performance over the previous five years.

Ward then focuses on industry best practices in a separate analysis of data supplied by about 200 property/casualty and 100 life/health insurer clients. Best practices are identified by looking at the top-performing 15% of this group, representing those with the best expense management, underwriting perfor-

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PHOTO: GETTY IMAGES

Recent terrorism alerts, including one for financial centers in New York, are fueling interest in extending TRIA.

TRIA supporters hopeful backstop will be extended

MARK A. HOFMANN

WASHINGTON—The combination of elevated terrorism alerts and continuing examination of the 9/11 Commission's findings could help spur Congress to reauthorize the Terrorism Risk Insurance Act this year, supporters of an extension of TRIA hope.

Both developments serve to underscore the continuing threat presented by terrorism, say TRIA advocates. TRIA provides a federal backstop that would help private insurers cover losses from a future catastrophic terrorist attack. The program, which is set to expire on Dec. 31, 2005, was designed to help make terrorism coverage available and to give insurers time to create a private terrorism insurance market.

Although the first goal has been met, the second—the creation of a private terrorism insurance market—remains largely unrealized. Advocates of extending the act for an additional two years say that the issue is one of economic security because TRIA's guarantees encourage economic development. And time is of the essence in reauthorizing TRIA, they say, because some insurance policies written even before the end of this year will extend beyond TRIA's sunset.

"A year ago, there was absolutely no appetite in Congress or at Treasury to revisit this issue," said Ronald R. Robinson, chair of the Chicago-based Defense Research Institute's TRIA subcommittee. The DRI is the nation's largest association of lawyers involved in the defense of civil suits.

"The hope was that the insurance industry would come to the fore, create a product and make TRIA an important but no longer necessary stopgap measure. It is pretty clear a year later that the insurance industry, the business community, the financial markets and Congress have not—working together or inde-

See TRIA/page 22

Inside Business Insurance

Captive conference examines host of issues

The Vermont Captive Insurance Assn. meeting explored a range of topics, from paying terrorism claims to promoting the industry. Page 4

United Airlines calls plan terminations likely

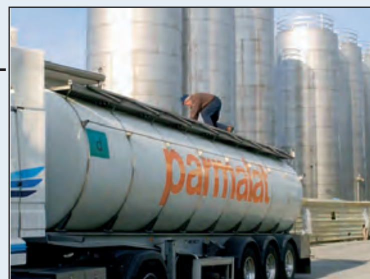
A takeover of the airline's four underfunded pension plans would give the PBGC its largest loss. Page 4

Policyholder protection measure welcomed

An Illinois bill protecting policyholder collateral in insurer liquidations is a worthwhile idea, one of this week's editorials says. Page 8

Rate competition increasing Down Under

Competition among insurers in Australia is leading to rate softening in commercial lines there. Page 17



Parmalat administrator suing dairy's auditors

The failed Italian dairy is suing two of its auditing firms, seeking $10 billion for failing to spot accounting irregularities. Page 17

Online

- The **Datebook** calendar lists upcoming industry seminars and meetings and allows you to add info on your own event.
- Searchable **directories** of all the listings of industry vendors found in *BI*'s Market Sourcebook.
- New **Opinion Poll** for readers: Is Hurricane Charley likely to put a stop to the recent softening in commercial property insurance rates?

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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS.

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Assets down 19% as solvent runoff continues

Kemper surplus drops by 86%

LONG GROVE, Ill.—Kemper Insurance Cos. reported losing $183.5 million—or 86%—of its statutory surplus in the first half of 2004.

The financially troubled insurer, which is pursuing a solvent runoff plan, reported statutory surplus of $28.9 million as of June 30, down from $212.4 million at year-end 2003. Its current surplus consists of $18.6 million from Lumbermens Mutual Casualty Co. and $10.3 million from American Manufacturers Mutual Insurance Co., according to documents filed earlier this week.

In addition, Kemper reported $4.3 billion in total assets, down 18.9% from year-end 2003.

"The Kemper solvent runoff plan did anticipate that surplus would drop, however, we expect surplus to increase as we implement the major initiatives of the plan, such as policy buybacks," said a spokeswoman for Long Grove, Ill.-based Kemper.

"Relatively speaking, this is a massive reduction in surplus over such a short period of time, both on an absolute basis for the company and on a relative basis for the entire industry," said Myron M. Picoult, a New York-based independent insurance consultant.

Kemper earlier this month announced that Michael Coutu had resigned as acting president, chief executive officer and chief financial officer of the insurer.

—By Meg Fletcher

Captives urged to play fair in seeking TRIA coverage

By RODD ZOLKOS

BURLINGTON, Vt.—In the event of insured losses resulting from acts of terrorism, the U.S. Treasury will promptly pay reinsurance claims under the federal Terrorism Risk Insurance Act, according to the head of the program, and covered insurers will be expected to do the same.

TRIA claims will be handled electronically, and payment will be "a matter of minutes, not days," according to Jeffrey Bragg, executive director of the Terrorism Risk Insurance Program in the U.S. Department of Treasury. "We're asking that you pay off your claims within five days of receiving Treasury's funds."

Speaking at the annual conference of the Vermont Captive Insurance Assn. earlier this month in Burlington, Vt., Mr. Bragg once again cautioned against attempts to use captives to "game the system" under TRIA.

He said his office has seen many "very creative" captive proposals, "and we have to tell them if they are risking TRIA coverage if they continue in that direction."

Mr. Bragg would define "gaming the system" only as something TRIP officials would recognize when they see it. But he cited such examples as a company putting a single line of coverage in a captive to secure TRIA cover while the rest of its insurance is placed commercially, or captives charging unjustifiably low premiums for terrorism coverage. "To me, that is gaming the system," he said.

He noted that TRIP reserves the right to deny coverage to companies considered to have "gamed the system."

"We have said in our final claims rule that when we get in there (and) it looks like you've done something, we have the authority to not pay the claim," Mr. Bragg said.

"What you have to have is a common-sense understanding of what constitutes insurance," Robert H. Myers Jr., a partner in the insurance group at the Morris, Manning & Martin L.L.P. law firm in Washington, told the gathering.

"You have to go about setting them up the way you would set up a captive for any other purpose," the attorney said. "This has to be a real insurance company that makes real payments for real claims."

"I think you'll find that Treasury's door is reasonably open if you have some idea of what you want to do," Mr. Myers said. "On

See TRIP/page 6

Center offers captive studies

Coursework, new professional designation available

By RODD ZOLKOS

BURLINGTON, Vt.—An idea first conceived by the Vermont Captive Insurance Assn. in 2001 came to fruition at the beginning of the association's annual conference earlier this month with the official start of the International Center for Captive Insurance Education.

After all the time and effort the organization and industry leaders have spent developing the program, "I think the result is an excellent realization of that vision," said Mitch Cantor, executive director of the Burlington, Vt.-based ICCIE.

Courses offered through ICCIE—the first of which will begin in September—will be relevant to any captive domicile, and students can ultimately earn the new Associate in Captive Insurance designation.

"It's hard to believe all these years the industry didn't have any designation program," Mr. Cantor said.

The Associate in Risk Management and Chartered Property Casualty Underwriter designations "will only take you so far," said Jon Harkavy, general counsel at Risk Services L.L.C. in Arlington, Va.,

Additional coverage appears on page 6.

and chairman-elect of the VCIA. "The bottom line is, there is a desperate need of standardization and a structured course," Mr. Harkavy said. "You can only take an oral tradition so far."

The designation program centers on a five-course core curriculum developed in conjunction with the University of Vermont in Burlington. The core program covers an introduction to alternative risk transfer, understanding risk and retention, reinsurance and other risk transfer mechanisms, legal issues surrounding captive formation and legal and ethical issues in the captive industry.

Core courses can be taken face to face or online. Face-to-face courses will be offered once or twice a year, scheduled around major industry conferences. "Next year at the (VCIA) conference, there will probably be a lot of these courses offered, probably a day or two before," Mr. Cantor said.

Online courses also will be offered once or twice a year and will be instructor-led, though students can do the coursework on their own time.

Students pursuing the ACI designation also will take two electives, chosen from a group of courses offered by the American Institute of Chartered Property Casualty Underwriters or the Insurance Education

See ICCIE/page 6

PHOTO: AFP

United Airlines announced last week that it likely will terminate its four underfunded defined benefit plans, which would leave the Pension Benefit Guaranty Corp. with its largest-ever loss.

$6.4 billion loss would be PBGC's biggest

Plan terminations 'likely,' United says

By JERRY GEISEL

CHICAGO—United Airlines for the first time has said publicly that it is likely to terminate its four underfunded pension plans, which would saddle the federal Pension Benefit Guaranty Corp. with its biggest loss ever.

"To create a viable business plan and attract exit financing, the termination and replacement of all of United's defined benefit plans likely will be required," the airline, which is a unit of UAL Corp., said in papers filed last week in bankruptcy court in Chicago.

The United plans, which cover nearly 120,000 employees, retirees and dependents, have about $8.3 billion in unfunded benefits, according to the PBGC. If the PBGC takes over the plans, it would have to guarantee $6.4 billion of the benefits.

> **United Airlines' four pension plans are underfunded by about $8.3 billion, according to the PBGC, which would guarantee about $6.4 billion of benefits in a takeover.**

Such a loss would be the largest in the PBGC's 30-year history. It would easily eclipse the current largest loss—the $3.6 billion loss the agency absorbed in December 2002 when it took over the pension plan of failed steelmaker Bethlehem Steel Corp.

The loss related to United's plans also would be equal to about two-thirds of the PBGC's current deficit of more than $9 billion.

United already has missed a required $72 million payment to its plans that was due July 15; another $400 million contribution is due next month.

A PBGC spokesman said unless and until United terminates the plans, the agency expects the company to make required contributions.

But if the plans are terminated, that action should "serve as a powerful lesson on the need for stricter pension funding rules," the spokesman said.

Prior to its next payment due date in September, United says it will appoint an independent fiduciary to represent the interests of the participants in its pension plans, as part of an agreement with the U.S. Department of Labor.

Under the agreement, United will select the fiduciary, subject to the approval of the Labor Department.

The fiduciary will have the authority to review United's pension-funding policy and, if necessary, file litigation related to funding and contribution issues on behalf of the plans.

Two years ago, UAL named an independent fiduciary—Aon Fiduciary Counselors Inc., now known as Fiduciary Counselors Inc.—to manage the United common stock held by the airline's 401(k) plans.

Errors & omissions

- An item in the Aug. 9 Products & Services column omitted some information about Boston-based Liberty Mutual Group Inc.'s lead excess umbrella program, which may have led readers to conclude the insurance program applies to commercial auto risks only. The Liberty Mutual program's higher limits in fact cover a broad range of risks, including general liability and commercial auto liability.

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Finite risk programs can address problem areas

By RODD ZOLKOS

BURLINGTON, Vt.—Finite risk arrangements can be a cost-effective alternative to traditional insurance or reinsurance programs in cases where efficient solutions are difficult to find in the traditional market, according to some alternative risk transfer experts.

Speaking as part of a panel at the Vermont Captive Insurance Assn.'s annual conference earlier this month in Burlington, Wilfred J. Romero, managing director at Swiss Re Financial Services Corp. in New York, said that finite risk structures can address areas in an insurance program in which the buyer can't achieve efficient pricing with traditional approaches.

With finite risk programs, "essentially, what we're doing is blending funding and real risk transfer into a seamless program," said Carl Groth, managing director at Willis Risk Solutions in New York and the panel's moderator.

Several principles are key to structuring finite risk programs, according to Mr. Romero. There must be a clear business case and risk management drivers behind the program, he said, and significant risk transfer

must be at the foundation of the structure.

Also, the structured solution must be only for predetermined risks, rather than for any and all risks of the firm. And the solution must support the quality of company earnings through transparent disclosure to shareholders.

In addition, "all these programs deal with multiyear contracts," Mr. Romero said. "Unless you're willing to view risk on a multiyear basis, these deals aren't for you," Mr. Romero said.

Another important consideration is that annual premiums under a finite risk program may be equal to or slightly greater than the company's current insurance budget and, thus, might have a short-term negative impact on earnings.

"Unless your company can stand the (profit and loss) impact, you're not going to want to do this," Mr. Romero said. The long-term benefit of such programs, though, is the lower earnings volatility in those quarters when otherwise uninsured or underinsured losses occur.

Mr. Romero noted that it was common several years ago for finite risk programs to have provisions requiring the insured to pay additional premium if a loss were to occur. But such provisions create balance sheet liabilities and so should be avoided, he said.

While tax and accounting issues in finite risk programs are "important to every deal structure," according to Mr. Groth, "whether or not they keep a deal from getting done, it's sometimes yes, sometimes no."

Not all tax and accounting issues have to be resolved favorably for a deal to be done, he said. "In some cases, the savings are so compelling, it's like, 'Forget about the tax and accounting issues,'" Mr. Groth said.

Anshell Boggs, director of risk management at Toys "R" Us Inc. in Wayne, N.J., said his company began to consider a finite risk program in response to a sense that, on a combined-lines basis over time, it was paying too much premium to the traditional market.

Ultimately, Toys "R" Us decided not to use a finite risk program, opting instead for increased retentions, using an integrated risk program to buy down the risk retention in a cost-efficient manner.

"We looked at a 10- or 15-year history of losses and looked at the volatility," Mr. Boggs said. "For the most part, our losses were very predictable."

"One of the things that is critical in going through a process like this is what is the organization's appetite for risk," Mr. Boggs said. In addition, "one of the things that became quite evident in going through the process is the need for partners, both internal and external," he said, citing the need for advisers on tax and accounting issues.

"Be prepared to go through 200 different scenarios with your senior management," the risk manager said. "It was important that we made management comfortable with being able to explain to investors and Wall Street that we're not being reckless with how we approach insurance."

And for risk managers who have different brokers on the various lines of coverage that might be combined in a finite risk program, "think about how you would deal with that if you decide to go with this kind of approach," Mr. Boggs said.

TRIP: Captives seeking terror cover urged to play fair

Continued from page 4

the other hand, they really won't sign off on it."

Mr. Bragg said he doesn't know what the outcome of efforts to secure an extension of TRIA beyond its current expiration at the end of 2005 will be. And he expressed disappointment that the industry hasn't presented an alternative.

"They've been given three years to come up with an alternative to TRIP, and we've got nothing," he said. "It's just, 'Oh, let's continue TRIP. We'll think about it the next two years.' You could imagine we're a little suspicious when we hear that."

"There are alternatives to TRIP," such as an insurance industry pooling arrangement, Mr. Bragg said. And he suggested that the industry get involved in coming up with such alternatives rather than waiting for Treasury and Congress to provide a solution without the industry's input.

There are other issues the industry needs to address as well, Mr. Bragg said. The fact that some states allow insurers to exclude coverage for nuclear, biological or chemical attacks is "a huge mess that the industry's going to have to address," he said. "You can't have a situation where you're not paying for a dirty bomb in one state and you are paying for it in another."

But Mr. Myers noted that a little-discussed goal of TRIA was to preserve a state-based system of insurance regulation.

"When you take a look at TRIA, you have to realize it's an overlay on state regulation," he said. In many instances, TRIA is designed to dovetail with state-based regulation, Mr. Myers said. But, he said, "I'll give you an example of where they don't dovetail, and that's the NBC coverage."

While TRIA has stabilized the terrorism coverage market, "if TRIA expires, you are going to see a market return to a market that looks very much like the pre-TRIA market," said Aaron Davis, vp at Aon Risk Services in New York.

"A lot of our clients have stayed with the stand-alone terrorism coverage because they viewed TRIA as a short-term solution," Mr. Davis said. "Everyone in the market is aware that TRIA is a short-term solution. That's causing a lot of anxiety."

Uncertainty over TRIA's future is leading to exclusionary language known as "time-bomb language" in policies that begin after Jan. 1, 2005, Mr. Davis said. That language would exclude terrorism coverage for the portion of the policy period after TRIA expires.

Among the specific problem areas for captives under TRIA is cell captives, Mr. Myers said. "The problem is that the definition of 'insurer' in TRIA is 'a licensed insurance company,'" he said. "The problem with that is cells in a cell captive are not licensed," and consequently are not qualified for TRIA coverage, Mr. Myers said.

Thomas M. Jones, a partner at the McDermott, Will & Emery law firm in Chicago, moderated the session.

VCIA conference attracts 1,200

BURLINGTON, Vt.—The 2004 conference of the Vermont Captive Insurance Assn. drew approximately 1,200 attendees from 43 states, making it "the largest captive insurance gathering ever to be held," according to Molly Lambert, the association's president.

The conference was held Aug. 10-12 at the Sheraton Hotel and Conference Center in Burlington, Vt. Of those at this year's event, 18% were first-time attendees.

During the conference, the VCIA presented three annual awards.

- The Captive Crusader Award, presented by the VCIA staff to an association member who has best demonstrated commitment to the organization, was given to Brian Donovan, president of Steel Tank Insurance Co., a Risk Retention Group.
- The Life-time Honorary Member designation, recognizing an individual's efforts to further the goals of the VCIA, the Vermont domicile and the captive industry in general, was presented to Jean Van Tol, who retired earlier this year from her position as president and chief executive officer of the Resort Hotel Assn.
- The VCIA's Industry Service Award, presented to an association member in recognition of efforts to help strengthen the vitality of the industry, was presented to Daniel Labrie, president and CEO of Housing Authority Insurance Group.

Next year's VCIA conference—the organization's 20th annual gathering—is scheduled for Aug. 9-11 in Burlington. For more information, visit the VCIA's Web site, *www.vcia.com.*

ICCIE: New designation offered

Continued from page 4

Assn. Students can substitute a work project for one of the electives.

There also is a teleconference component, Mr. Cantor said. ICCIE hopes to offer one such event every six to eight weeks; students must participate in three teleconferences to complete the designation program.

Each student in the ACI program will have a mentor who will serve as an experienced adviser.

Mr. Cantor said that most students will probably take about two years to complete the ACI program. Students also can take any of the courses individually rather than as part of the full designation program.

Participation in the ICCIE program isn't limited to those involved with the Vermont domicile.

"The reason VCIA nurtured this concept is that VCIA was one of the few organizations that had the capacity to nurture it," said Molly Lambert, president of the VCIA. "The reason we did it is because we thought it was important to the industry."

"That it's in Vermont is just another example of Vermont's leadership in the captive industry, and it's another stamp of quality that is the brand of captive insurance in Vermont," Ms. Lambert said.

Mr. Cantor said he expects about 40 students to pursue the ACI designation the first year and "maybe a couple dozen" students taking individual courses. "For the most part, we expect people who have been in the industry just a short period of time or people who have been in the industry a longer time and just want to take one or two of the courses," he said.

Leonard D. Crouse, deputy commissioner of captive insurance in Vermont's Department of Banking, Insurance, Securities and Health Care Administration, said he's excited about the prospects of undergraduate students taking the captive courses. Having qualified individuals prepared to move into the captive industry after graduation will help meet the staff needs created by the industry's growth, he said.

"We're in a tough position right now in Vermont with qualified account managers," he said. "Management companies were really scrambling in 2003 for help."

"This is going to be a good basis for anybody to get into this business," Mr. Crouse said. "That's what brings captives in—good support services."

"We'll be talking to risk management programs all over the country," Mr. Cantor said, adding that ICCIE will work to ensure that the program is meeting the captive industry's needs. "There will be a very strong and vigorous dialogue between ICCIE and the industry as we go along about what works and what doesn't work," he said.

Paul Winston

Editor Paul Winston's weekly column will return in the August 30 issue.

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Editorial

Whirlpool funding plan worth a look

IF EVER THERE were an example of corporate ingenuity in finding new ways to cost-effectively fund retiree health care benefits, a new proposal by Whirlpool Corp. is it.

As we recently reported, the Benton Harbor, Mich.-based appliance manufacturer wants to utilize a tax-free trust, known as a voluntary employee beneficiary association, the Vermont branch of its Bermuda captive and a VEBA-purchased group life insurance plan to help fund $164 million in retiree health care obligations.

Simply put, Whirlpool would contribute $100 million to the VEBA. The VEBA would use part of that money to purchase a group universal life insurance policy from Prudential Life Insurance Co. of America, with retiree health care plan participants named as insureds on the policy. The Prudential-written policy would be fully reinsured by the Vermont captive branch.

When a Whirlpool retiree incurred a medical claim, Whirlpool would pay the claim and then would be reimbursed by the VEBA. Meanwhile, the VEBA would receive fresh infusions of funds every time a retiree health care plan participant died, by collecting the proceeds from the group universal life policy.

There are obvious tax advantages to Whirlpool's approach. Its contribution to the VEBA is fully tax-deductible, while investment income earned by the VEBA also is tax-free. Additionally, Whirlpool can be reimbursed tax-free by the VEBA for retiree health care claims it pays, while the life insurance proceeds flow tax-free into the VEBA.

There may be other significant tax advantages to this arrangement. Under a 1992 Internal Revenue Service ruling, employee benefit risks in a captive are considered outside business. With courts ruling that the presence of outside business is necessary for an employer to deduct property/casualty premiums paid to their captives, putting benefits into a captive may enhance the tax-deductibility of all premiums employers pay to their insurance subsidiaries.

For Whirlpool's retiree health care plan participants, the arrangement seems like a winner, too. For starters, Whirlpool has agreed to sweeten their benefits.

Additionally, their benefits will be a lot more secure financially, given the amount of money Whirlpool has put into the VEBA and the fact that life insurance proceeds also will be going to the VEBA.

This certainly sounds like an arrangement in the best interests of retiree health care plan participants, and we hope for that reason it receives Labor Department approval.

If the Labor Department does approve Whirlpool's plan, it will be the sixth such approval since the department liberalized its captive benefits funding rules in 1999.

That liberalization has made it possible for any employer with a domestic captive to use the captive for funding benefits, as long as the company abides by a few requirements, including boosting benefits for participants and using a top-rated fronting insurer to issue policies.

The advantages of captive benefits funding, such as broadening of captives' risks, retention of profits from funding the risks and potential tax breaks, seem to us to warrant corporate examination of this approach.

Changes to liquidation laws welcome

LEGISLATION THAT WOULD protect policyholders in insurance company liquidations in Illinois is a welcome step.

As we report on page 3, Illinois is expected to soon join Pennsylvania in enacting rules that require receivers and liquidators to designate collateral held under large-deductible policies to pay claims related to those policies, not treat those funds as general assets. That's important because the collateral is paid in by policyholders.

Large-deductible policies are a good option for insurance buyers that are able to retain a significant amount of working-layer risk. Deductibles under such policies—often for workers compensation and general liability risks—can run to $1 million per claim. These programs not only can make risk transfer costs more affordable, but insurers also benefit, as they are able to participate in risks that might otherwise leave the commercial market. By protecting the policyholder funds pledged as collateral for these programs, Illinois and Pennsylvania are helping maintain buyers' incentive for purchasing such policies.

Both states wisely have included a retroactive provision, which would apply the rules to ongoing receiverships, not just new ones. Under the retroactive rules, policyholders of Reliance Group Holdings Inc. and other defunct insurers stand to benefit.

Given the amount of money involved, however, disputes over use of collateral are likely to continue. Our story notes that last year, Reliance's liquidator and guaranty funds in 25 states sued each other over the right to collect reimbursements from collateral funds. Small wonder. As of mid-2003, Reliance held about $1.4 billion in such funds (*BI*, July 7, 2003).

Few people are eager to see more insurance company liquidations, but more are sure to come, and this legislation should bring peace of mind to large-deductible policyholders that are concerned about their insurers' financial strength.

In Illinois, for example, while we hope that Kemper Insurance Cos. continues its solvent runoff, its announcement last week that its statutory surplus fell 86%, to $28.9 million in the first half of 2004, must raise the concerns of policyholders.

A law that gives greater protection to the policyholders of failed companies is a good thing. We hope more states follow the lead of Illinois and Pennsylvania in ensuring funds go where they should.

Schillerstrom

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Ask a Benefit Actuary

Pension funding reform affords relief to sponsors

Q: What impact will the recent passage of the Pension Funding Equity Act have on my company's defined benefit pension programs?

A: On April 10, President Bush signed the PFEA into law. This was a boon for defined benefit plan sponsors, creating significant relief before the April 15 deadline for quarterly contribution payments.

As any actuary knows, as interest rates fall, liabilities increase. In the past few years, 30-year Treasury bond rates reached their lowest historical levels; therefore, the associated current liabilities (a key component of minimum funding requirements) increased dramatically. At the same time, the assets backing defined benefit pension plans were performing at record low levels. These factors, combined with the current pension funding law, generated the perfect storm—many plan sponsors were seeing record levels of funding requirements after enjoying a lengthy contribution holiday.

The Job Creation & Worker Assistance Act of 2002 had provided relief from the 30-year Treasury rates for plan years beginning in 2002 and 2003 only. This relief allowed the use of a higher rate of interest to measure the current liability. The higher interest rate translated into lower liabilities and lower contribution requirements. The JCWAA's interest rate relief provision expired, though, on Dec. 31, 2003.

In early 2003, legislators began to explore permanent solutions or, at least, another temporary solution. Legislative action also sought to provide a replacement for the 30-year Treasury rate, because these bonds were no longer being issued. As an interim solution, the Treasury Department estimated a 30-year Treasury interest rate, and plan sponsors used those estimated rates.

The end of 2003 came and went with no legislative proposals enacted. Without new legislation, many sponsoring plans with Jan. 1 plan years were facing hefty quarterly contribution payments due April 15, because the interest rate had reverted to the lower pre-2002 levels. Much legislative activity ensued in the early months of 2004. A final draft of the PFEA was presented to President Bush for his signature just in time to allow sponsors to revise their calculations at higher interest rates—resulting in lower quarterly contribution requirements.

For the short term, the PFEA meets the need to replace 30-year Treasury rates and provide funding relief to plan sponsors weighed down by the convergence of low interest rates and poorly performing assets. In a temporary fix, plan sponsors can calculate their current liability for plan years beginning in 2004 and 2005 based on corporate bond rates.

The PFEA also provides relief to commercial airlines, steel companies and multiemployer plans. The PFEA in and of itself did not provide the detail necessary for sponsors to translate "corporate bond rates" into a specific rate, but the Treasury issued interim guidance April 12 on the specific rate and permissible ranges under the law.

The accompanying table illustrates the weighted average interest rate and permissible range under the new guidance. For illustrative purposes, the last two columns indicate the comparable 30-year Treasury rates and the permissible range in effect prior to the passage of the PFEA.

The change in law added 104 basis points to the high-end interest rate (the difference between 6.55% and 5.51%) that plan sponsors could use for determining current liability. As a rule of thumb, a change of 100 basis points can mean a difference in liabilities of anywhere from 12% to 18%. Therefore, plan sponsors measuring their current liabilities under the PFEA saw an immediate and significant reduction in their liabilities simply due to the interest rate increase. As a result, on April 15, plan sponsors gave a collective sigh of relief with quarterly contribution requirements now determined at the higher interest rate.

Additional relief arrived in the form of a volatility rule, which allows plan sponsors to remeasure their current liability funded percentages for plan years back to 2001 based on the new corporate bond rate basis. This change will dramatically increase the funded status in those years for many plan sponsors. For some, this will bring reductions in or the elimination of one or more of the following for the 2004 plan year: accelerated funding requirements, PBGC variable premiums and participant notices of underfunding.

Finally, under the PFEA, plan sponsors may continue using the 30-year Treasury interest rate basis for determining maximum deductible contributions. Since the inception of ERISA, both the minimum funding requirement and the maximum deductible limit have been calculated using the same interest rate basis. Now, the minimum is calculated using a rate based on corporate bonds and the maximum is calculated using a rate based on 30-year Treasury rates. A plan sponsor can determine its funding requirements using a current liability interest rate of 6.55% and its tax deduction limits based on current liability using an interest rate of 4.72%—a 183-basis-point spread. This offers plan sponsors unprecedented flexibility in funding pension obligations.

Although the PFEA expires on Dec. 31, 2005, Congress is expected to review a permanent interest rate basis and other funding reform measures before then. As we witnessed in early 2004, though, plan sponsors will again have to hold their breath with the approach of 2006.

NEW VS. OLD MEASURES OF FUND LIABILITY

Plan year start date	Corporate bond weighted average interest rate [1]	Permissible range [1] (90-100%)	30-year Treasury bond weighted average interest rate [2]	Permissible range [3] (90-105%)
Jan. 1, 2004	6.55%	5.89-6.55%	5.25%	4.72-5.51%
Jan. 1, 2003	7.11%	6.40-7.11%	5.54%	4.98-6.65%
Jan. 1, 2002	7.34%	6.60-7.34%	5.71%	5.14-6.85%
Jan. 1, 2001	7.44%	6.69-7.44%	5.91%	5.32-6.21%

1. Basis in effect under the PFEA and Treasury guidance issued April 12. 2. Basis prior to the adoption of the PFEA. 3. Under the JCWAA, the range maximum was amended to 120% for plan years beginning in 2002 and 2003.

For more information about the Pension Funding Equity Act and its implications, please contact Watson Wyatt Worldwide at 312-525-2169. This month's column on actuarial questions in the benefits field is written by William J. Miner, an actuary with Watson Wyatt in Chicago. Valerie Lopez-Zinzer, a consultant in Watson Wyatt's Chicago office, assisted Mr. Miner in preparation of this column.

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Comp benefits denied for injury from exhaustion

Legal briefs

Where an injury occurs off an employer's premises, the injured employee must show that he or she was injured while actually engaged in the furtherance of the employer's business or affairs to qualify for workers compensation benefits, according to the Commonwealth Court of Pennsylvania.

George L. Fonder, an over-the-road dispatcher, had a fixed place of work at his employer's terminal. As a truck driver, his job duties required him to spend part of his time at the beginning and end of every delivery cycle on the employer's premises inspecting his tractor-trailer and receiving dispatches. In June 2000, Mr. Fonder was driving home from his employer's terminal in his own vehicle in order to sleep, shower and change clothes before returning to the terminal for his next run. While driving, he fell asleep, hit a tree and sustained serious injuries.

Mr. Fonder filed for workers comp benefits. His claim was denied under the so-called "coming and going" rule, whereby benefits are denied for injuries received by an employee while traveling to and from work. Mr. Fonder appealed.

On appeal, Mr. Fonder argued, in part, that he was not barred from receiving benefits by the rule because he was acting in the furtherance of his employer's business prior to the accident, in that he had engaged in work-related activities for the 48 hours before the accident. According to Mr. Fonder, those activities caused his fatigue, and the resulting fatigue-related injuries should be regarded as work-related.

However, the court said that public policy precludes holding that self-induced exhaustion that gives rise to a work-related injury should be compensable. Thus, the court said that someone who pushes himself beyond his endurance by refusing to rest or sleep should not receive benefits for a work-related injury attendant to his exhaustion. The court affirmed the denial of benefits.

Fonder vs. W.C.A.B. (Fox Integrated), Commonwealth Court of Pennsylvania, Feb. 11, 2004 (*BI*/02/S.-$10)

Bus driver's ski injury on 'fun trip' not compensable

A school bus driver is not eligible for workers compensation benefits for an injury she received while snow skiing during an extracurricular "fun trip" for students, according to the Supreme Court of South Dakota.

In 2001, students in the Deuel School District Future Farmers of America club took a skiing trip. The students held a fundraiser, and their adviser, Jason Karels, made arrangements for the trip. Because fewer students attended than expected, there were extra ski lift tickets. Mr. Karels offered one of those tickets to the bus driver, Renee Norton, who accepted. While skiing, Ms. Norton fell and sustained a torn ligament and a blood clot in her leg. Ms. Norton was a full-time bus driver for the school district. In addition to transporting students to and from school, drivers also transported students to extracurricular activities, such as this ski trip.

Ms. Norton filed for workers comp, but the Department of Labor denied her claim. She appealed and lost in the trial court. She then filed this appeal.

On appeal, Ms. Norton argued that she believed her job description required her to supervise the students even when they were away from her bus. Thus, she maintained, her injuries arose out of and in the course of her employment.

But the court said that, even assuming Ms. Norton was supervising the students, there was no indication that this was a duty she was expected to perform in the normal course of her job. Furthermore, the court said that Ms. Norton failed to establish that the Department of Labor erred in finding that snow skiing was not an activity in which she might reasonably be expected to engage. The court affirmed the decision denying her benefits.

Norton vs. Deuel School District #19-4, Supreme Court of South Dakota, Jan. 14, 2004 (*BI*/01/S.-$10)

These abstracts were prepared by Mayo H. Stiegler. Copies of these decisions are available, at $10 each, by sending a check payable to Mayo H. Stiegler, to Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Please provide the listed number for each opinion ordered.

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Myths, misunderstandings cloud debate over RRGs

By P. Kevin Brobson

In the more than 20 years since Congress first conceived of the risk retention group as an alternative risk transfer mechanism to ease a product liability insurance crisis, RRGs have had great successes and a few well-publicized failures.

As a result, the National Assn. of Insurance Commissioners, the Government Accountability Office and Congress are examining the future of RRGs in the insurance marketplace. After 20 years, this debate is not unhealthy, provided it is honest.

The Liability Risk Retention Act allows like businesses with similar commercial risks to pool their resources and create their own liability insurance company. To qualify as an RRG, a corporation or other limited liability association must be licensed as a liability insurer in at least one state. What makes an RRG so special is that, unlike traditional insurers, once it is licensed it may operate freely state to state, subject primarily to the regulation of the state in which it is domiciled. RRGs, that is, are subject to lead-state regulation.

The RRG model creates, through new alternatives and increased competition in the insurance marketplace, relief for certain sectors of the U.S. economy that continue to take a hit from the lack of availability or affordability of insurance products to meet their companies' unique insurance needs. The medical malpractice crisis is a recent example of how RRGs have responded as Congress envisioned. During a time of contraction in the traditional market for medical malpractice insurance, RRG formations soared. Of 58 new RRGs formed in 2003, 47 are providing a range of liability coverages to member insureds in the health care industry, including medical malpractice liability coverage.

The response of RRGs to markets in crisis does not shield them from criticism. For example, concerns have been raised over the purported aggressiveness with which some states are pursuing RRG formations through incentives built into so-called "captive laws." It may also be constructive to question, as some state regulators have, the creative ways in which some RRGs satisfy the ownership and homogeneity restrictions of the LRRA.

But there are some myths about RRGs that need to be dispelled if there is to be an honest debate about their future. These myths include suggestions that RRGs are more prone to insolvency than are traditional insurers, and that the advent of captive laws has somehow led states to compromise effective regulation in an effort to attract RRG formations within their borders—that there has been "a race to the bottom."

One of the most troubling myths that prompt concern from regulators, though, is the suggestion that nondomiciliary states are powerless to regulate the RRGs that operate within their borders. This is a myth because lead-state regulation does not mean single-state regulation. Although Congress included a broad pre-emption provision in the LRRA, it also expressly preserved within the states a litany of powers over the foreign RRGs that do business within their borders.

For example, a state may require foreign RRGs to register to do business in that state, pay premium taxes, comply with the state's unfair claim settlement practices law and submit to examination under certain circumstances. A state may also require brokers and agents of foreign RRGs to be licensed under that state's producer licensing law. The LRRA further imposes a continuing obligation on RRGs to submit business plans and financial statements to the insurance regulators of all states in which they do business.

In addition, state regulators may take action if they determine that a foreign RRG may be financially impaired or operating in a hazardous financial condition. The state regulator may even conduct an examination of the foreign RRG if the licensing state refuses to do so. The state regulator may also go to court to seek an injunction, barring the suspect RRG from operating. These powers are expressly preserved in the LRRA.

Nondomiciliary states, thus, play an important role in the RRG model. With respect to the regulation of RRGs that do business on a multistate basis, it is a team sport. The model is stronger when nondomiciliary states recognize and play their important role on that team. To suggest that they have no role to play or play only a minor one is, simply, a myth.

In 1981 and again in 1986, Congress sought to ease the liability insurance crisis by allowing like businesses to pool their resources and insure their common risks through RRGs. It succeeded. Today, RRGs play an important role in the insurance marketplace through increased competition and the provision of an alternative vehicle for risk management.

RRGs will also play an important role in the future of the commercial insurance marketplace. Dialogue and debate over the potential expansion of the LRRA to allow RRGs to insure other commercial lines, such as property insurance, will continue. There will be an increased focus on the ownership structures of RRGs to ensure that the ownership and homogeneity requirements of the LRRA are satisfied. In addition, the proliferation of captive states will understandably drive increased interest in ensuring the highest possible quality of domicile regulation.

Constructive and honest dialogue on these and other valid subjects with respect to RRGs can only improve upon the proven effectiveness of the model.

P. Kevin Brobson is a shareholder in the Harrisburg, Pa., office of the Pittsburgh-based law firm of Buchanan Ingersoll P.C.

PPOs don't address key driver of high medical costs

By Constantine Callas

Workers compensation preferred provider organizations are ineffective as cost-containment tools. Their fee discounts deliver, at day's end, very little savings in workers comp, especially when compared with other cost-containment strategies.

PPOs are supposed to deliver large savings through negotiated discounts. But they have a trivial effect on medical costs, largely because they fail to contain excessive billing and excessive treatment.

If we are attempting to contain medical costs with draconian and, ultimately, futile fee reduction measures, we need to be more candid and less cavalier about what works and what does not.

By my estimate, PPOs have been responsible for a decrease in doctor reimbursements of approximately 2%. That is, for every $100 in physician payments, the net reduction by PPO discounts is approximately $2. In contrast, my analysis over the years shows those physicians' aggressive treatment results in excessive costs of 20% to 30%. That is to say, for every $100 in physician payments, removing excessive treatment could have reduced payments over the past 30 years by between $20 and $30.

Why does the workers comp market believe PPOs to be a significant source of savings? Because many in the market believe that the main source of savings is the reduction of the prevailing fees charged by a large number of medical providers. By reducing reimbursements through preferred provider arrangements, savings occur, medical invoice by medical invoice, in the form of fee discounts.

PPOs promise to reduce medical costs by finding contractual discounts on the majority of invoices. Our data show this broad-sweep strategy simply does not work as advertised. Some 80% of the fee reductions on charges arise out of invoices submitted by fewer than 10% of the medical providers. Whether intentional or not, the PPO sales pitch about broad-based discount contracts covers up the reality that very few medical providers—they can be identified—are the source of the vast majority of fee discount savings.

The reality is that PPOs do not in any meaningful way address the real cause of high medical costs: provider treatment misbehavior. PPOs make no real effort to improve medical practice either in the quality of care or in billing practices. There is, typically, no operational relationship between PPOs and expert review organizations with the skills to catch excessive care. No review organization channels patients to PPOs. No review organization credentials the providers' billings that a PPO discounts or reviews for the PPO the quality of care provided.

To control costs, though, each and every procedure performed by each and every provider on each and every patient must be monitored. Obviously, the computer is the appropriate resource for this review. One should not pay for those services that are unnecessary or excessive or abusive.

What drives excessive charges? It is only a small percentage of all providers, probably less than 10%, that engage in abusive billing practices. Over three decades and millions of medical invoices, I have seen time and time again the same patterns of abusive practices. Among this small minority of providers is the desire to hit a revenue target that is so high that it can be met only by abusing the practice of medical care and financial reimbursement. For the clinician so inclined, the opportunities to drive revenues upward are rich and varied. They include:

- Prescribing excessive treatment, including medications.
- Upcoding medical procedures.
- Using billing practices that provide the opportunity for duplicate payments.
- Fostering an assembly-line operating culture.

Of these abuses, the most costly by far is the first, excessive treatment. Eliminating this abuse is the real source of savings. It can be ended only by the careful, computer-assisted analysis of every unit of service, by comparing each unit of service with a model of what is acceptable. No PPO, to my knowledge, makes any serious effort to contain these abuses. Rather, they merely discount those abusive invoices along with all other invoices. The net result is very small: a 2% savings.

Medical cost containment is here to stay, even if PPOs fade in popularity. In their place, we may see more appropriate tools, such as computer-assisted review.

Dr. Constantine Callas founded Tustin, Calif.-based Medata Inc., a medical bill review firm.

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Ward: Web changing the way insurers do business

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mance and return on average equity. In separate analyses, Ward then pins down how many among the benchmark groups of 200 property/casualty insurers and 100 life/health insurers follow the leaders' best practices.

Internet applications have quickly become widely followed best practices: This year's analysis found that 85% of the benchmark property/casualty insurers provide agents with the ability to make billing and claims inquiries over the Web; 65% use the Web to extend the organization's servicing reach; and 60% provide agents with the ability to quote new commercial business electronically.

Handling agent and policyholder inquiries about their accounts was among the first and easiest Internet capabilities to be implemented, which explains the large percentage of insurers that use the tool, Mr. Ward said.

While other industries early on came to view the Internet primarily as a sales tool, the insurance industry has been slower to exploit this capability, in part because about 70% of the commercial insurance market is controlled by companies that use independent agents, he explained.

"That's an impediment out of the box in using it as a sales tool," Mr. Ward observed. Some insurers have moved to both direct and agent-produced sales, while others have recommitted themselves to their agency networks, seeing an advantage to local agents as a "touch point" with customers, he said.

Few insurance companies actually bind business electronically, instead taking submissions and providing quotes online but still relying on traditional underwriting and binding practices to complete sales, he pointed out.

About 37% of the benchmark property/casualty group follows the best practice of relying on field underwriters to work closely with agents and policyholders in underwriting commercial insurance risks.

The Ward's 50 property/casualty insurance companies produced a 9.8% return on average equity from 1999 to 2003 compared with 2.5% for the industry overall.

As this changes—and Mr. Ward said he sees a trend toward more automated underwriting—some insurers' performance may suffer if they fail to maintain underwriting standards as they automate.

"Companies could be hurt on the underwriting side if they do a poor job implementing the underwriting rules on the back end," he said. "But it doesn't have to be that way. …Good performers are good at balancing the tradeoffs."

As Internet capabilities expand, the Web could start to change the way insurers are organized, Mr. Ward added. Sixty-six percent of the insurers in Ward's property/casualty benchmark group follow a decentralized operating model, maintaining branch underwriting and claims offices where business volume justifies the added cost.

Internet applications will increasingly favor companies with centralized operations, though, which now make up 34% of the benchmark group, Mr. Ward said. "That really reduces the need to have a decentralized structure," he observed. "It's making it tougher for decentralized companies to be high performers."

The best practices identified by Ward change little from year to year, but Mr. Ward noted some longer-term trends from his analysis.

In managing distribution systems, for example, 32% of the benchmark group follows the best practices of focusing on boosting the premium written by each distribution outlet and using agency performance as a basis for managing agency networks.

Average annual gross written premium volume per agency amounted to $1.3 million for the top performers in the benchmark group, compared with $541,000 for the average performers.

Average volume per agency has been rising rapidly, largely because agencies have been merging at an even faster pace than have insurers, Mr. Ward noted.

Employee productivity is also rising faster at the top-performing companies than among average performers: Policies in force per full-time-equivalent employee rose 2.5% for the high performers while rising only 0.2% for average performers. Premiums written per employee, meanwhile, rose 13.2% for the high performers and 9.1% for the average performers, though Mr. Ward noted that the hard market allowed average performers to "hide behind pricing" and show better premium-per-employee results than they might in a softer market.

One change has been in insurer profitability: The Ward's 50 property/casualty insurers produced a 9.8% return on average equity from 1999 to 2003 compared with 2.5% for the industry overall, and both have reported net income in the last year compared with an industrywide net loss in 2001.

"Just the fact that they're in positive territory is a good sign," Mr. Ward said.

The Ward's 50 life/health insurers, meanwhile, produced an 8.9% return on average equity from 1999 to 2003, compared with a 6.4% return for the total life/health insurance industry.

Ward's results also suggest that the best-performing property/casualty insurers are those that emphasize careful underwriting and financial strength. The risk-based capital ratio for the Ward's 50 property/casualty companies averaged 311.3% from 1999 to 2003, compared with a ratio of 251.5% for the total industry.

"This is proof that you can do both: You can be a safe company and a top performer," Mr. Ward said.

A smaller gap exists between the risk-based capital ratio of the Ward's 50 life/health insurers and that of the life industry overall. The Ward's 50 life/health companies produced a ratio of 349.0% between 1999 and 2003, while the industry recorded a ratio of 320.8%.

2004 WARD'S 50 LIFE/HEALTH

- Aetna Life Insurance Co.
- AIG SunAmerica Life Insurance Co.
- AFLAC
- Alfa Life Insurance Corp.
- Allstate Life Insurance Co.
- American Fidelity Assurance Co.
- American National Insurance Co.
- American Republic Insurance Co.
- American United Life Insurance Co.
- The AmeritasAcacia Cos.
- Auto-Owners Life Insurance Co.
- Banner Life Insurance Co.
- Beneficial Life Insurance Co.
- Berkshire Hathaway Life Insurance Co. of Nebraska
- Cincinnati Life Insurance Co.
- Combined Insurance Co. of America
- Country Life Insurance Co.
- Farm Bureau Life Insurance Co.
- Farm Bureau Life Insurance Co. of Michigan
- Federated Life Insurance Co.
- Fidelity Investments Life Insurance Co.
- Golden Rule Insurance Co.
- Humana Insurance Co.
- IDS Life Insurance Co.
- Jefferson-Pilot Life Insurance Co. *
- John Hancock Life Insurance Co.
- Lafayette Life Insurance Co.
- Liberty National Life Insurance Co.
- Lincoln National Life Insurance Co.
- Massachusetts Mutual Life Insurance Co.
- Midland National Life Insurance Co.
- Minnesota Life Insurance Co.
- Mutual of Omaha Insurance Co.
- National Life Insurance Co.
- National Western Life Insurance Co.
- Nationwide Life Insurance Co.
- New York Life Insurance Co.
- Northwestern Mutual Life Insurance Co.
- Pacific Life Insurance Co.
- Penn Mutual Life Insurance Co.
- Physicians Mutual Insurance Co. *
- Protective Life Insurance Co.
- Security Benefit Life Insurance Co.
- Shenandoah Life Insurance Co.
- Southern Farm Bureau Life Insurance Co.
- Teachers Insurance & Annuity Assn. of America
- Travelers Life & Annuity
- United HealthCare Insurance Co.
- USAA Life Insurance Co.
- Western & Southern Life Insurance Co.

* 14-year recipient, 1991-2004
Source: Ward Group

Insurers outsourcing benefits administration

By DOUGLAS McLEOD

Outsourcing has become a hot topic lately, and insurers are no strangers to the practice.

To varying degrees, property/casualty and life/health insurers are outsourcing a wide array of their operations, most often internal administrative and claims service functions, an annual analysis by Cincinnati-based consultant Ward Group shows.

Perhaps not surprisingly, employee benefits administration is the most frequently outsourced function, with 90% of a benchmark group of 300 Ward insurer clients following the practice. Eighty-seven percent of surveyed insurers outsource property/casualty litigation defense duties, while 86% outsource automobile glass claims handling, 73% outsource after-hours property/casualty loss reporting, and 61% outsource investment portfolio management.

John L. Ward, Ward's chief executive officer, said the emergence of networks of third party vendors—particularly for claims services such as auto glass work—has provided "impressive" assistance to insurer operations.

The least frequently outsourced functions include property/casualty actuarial services, where only 11% of surveyed insurers follow the practice; various information systems and computer applications development and maintenance responsibilities; and state assigned risk plan processing duties, outsourced by only 12% of those surveyed.

Two percent of the surveyed insurers outsource internal audit functions, and though the percentage is tiny, Mr. Ward said the number of insurers following this practice is growing.

Ward Group produces a yearly analysis of insurer best practices based on information supplied by its client insurers. It separately publishes lists of the 50 top-performing property/casualty and life/health insurers based on analyses of statutory financial filings of 2,900 P/C and 1,100 life/health companies.

A broad analysis of the statutory filings is contained in the 2004 property/casualty and life/health editions of Ward's Results, which are available for $545 each.

Ward's Results does not include data from Ward's annual benchmarking program or its insurance company best practices analyses, which are available on an annual fee basis.

Copies of Ward's Results and information about the benchmarking program can by obtained by contacting Ward Group at 11500 Northlake Drive, Suite 305, Cincinnati, Ohio, 45249-1662; by calling Ward at 513-791-0303 or sending a fax to 513-985-3442; or by visiting *www.wardinc.com*.

2004 WARD'S 50 PROPERTY/CASUALTY

- Accident Fund
- Acuity
- Alfa Insurance Group *
- Allstate Insurance Co.
- American International Group
- American Modern Insurance Group
- American National Property & Casualty Co.
- Amerisure Cos.
- Auto-Owners Insurance Group *
- Canal Insurance Group *
- Capital Insurance Group
- Central Mutual of Ohio Group
- Chubb Insurance Group
- Church Mutual Insurance Co.
- Cincinnati Insurance Group *
- The Commerce Group Inc.
- Everest Reinsurance Group
- Federated Mutual Group
- Frankenmuth Financial Group
- GEICO *
- Georgia Farm Bureau Mutual
- Germania Insurance Group
- Greater New York Group
- Grinnell Mutual Group
- Hastings Mutual Insurance Co.
- IDS Property Casualty Insurance Co.
- Indiana Farmers Mutual Insurance Co.
- Kentucky Farm Bureau Mutual Insurance Co.
- Louisiana Workers' Compensation Corp.
- Maine Employers Mutual Insurance Co.
- Markel Corporation Group
- Mercury Insurance Group
- Merrimack Mutual Group
- New Jersey Manufacturers Group
- New York Central Mutual Fire Insurance Co.
- North Carolina Farm Bureau Insurance Group
- Old Republic Insurance Co.
- Philadelphia Insurance Cos.
- Progressive Casualty Insurance Co.
- Protective Insurance Group
- RLI Insurance Group *
- SECURA Insurance Cos.
- Selective Insurance Co. of America
- Sentry Insurance
- Southern Farm Bureau Casualty Insurance Co.
- Tennessee Farmers Mutual Insurance Co. *
- United Fire & Casualty Group
- USAA Group *
- West Bend Mutual
- Western World Group

* 14-year recipient, 1991-2004
Source: Ward Group

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Between the Lines

Compiled by Joanne Wojcik

Rate hike keeps barrel from rolling out in Chicago

There won't be much polka dancing in the streets of downtown Chicago next month, because the lack of affordable insurance has forced The Berghoff Restaurant to cancel its Oktoberfest celebration.

For the past 19 years, the more than 100-year-old family-owned Chicago institution has served up beer and bratwurst on Federal Plaza in the heart of Chicago's downtown during the annual three-day celebration, which commemorates the 1810 wedding ceremony of Prince Ludwig—later King Ludwig of Bavaria—with Princess Therese of Sachsen-Hildburghausen.

But when the restaurant's liability insurance rates for the event surged to $18,000 from $9,800 in 2003 and $900 in 2002, the Berghoffs were forced to scrap this year's event.

The rate increase came despite the fact that no liability claims had been filed since The Berghoff began hosting the festival, according to Herman Berghoff, one of the restaurant's owners.

He said he was told "it's our ZIP code," which the restaurant shares with several federal government buildings and Chicago's City Hall.

"Maybe next year we'll be singing 'oompah' in the street," he said.

Passenger hits Air France with bias suit

A woman lacking arms and legs is suing Air France for discrimination, charging that a gate agent refused to let her board a plane in Manchester, England, bound for New York, in her wheelchair, telling her "a torso cannot possibly fly on its own."

Adele Price, a citizen of Great Britain, filed the lawsuit in U.S. District Court for the Southern District of New York in Manhattan on Aug. 13, seeking unspecified damages.

Ms. Price, who maintains she is able to manipulate a wheelchair and has traveled by air many times, was born without limbs because her mother took the anti-nausea drug thalidomide during pregnancy, according to the lawsuit.

The suit also states that Ms. Price was permitted to board another flight after she obtained a companion, for whom Ms. Price picked up the tab for airfare and lodging while in New York.

In a statement, the airline said that Ms. Price was refused embarkment because she was unable to independently put on her own seatbelt or oxygen mask—two safety rules enforced by the airline.

Air France successfully defended an earlier lawsuit concerning the same incident filed by Ms. Price in Great Britain.

Prozac in water supply sparks worries in Britain

Perhaps you've heard it recommended in jest—that the cure to the collective malaise would be to dump large quantities of Prozac into drinking water supplies. One legislator in Great Britain, a nation with a reputation for keeping a "stiff upper lip," worries that may in fact be happening.

A report by Member of Parliament Norman Baker, the Liberal Democrat shadow environment spokesman, asserts that Britain's drinking water contains potentially harmful levels of fluoxetine, the principal ingredient in the popular antidepressant Prozac.

"This looks like a case of hidden mass medication of the unsuspecting public and is potentially a very worrying health issue," Mr. Baker said in his report.

Experts point out, though, that the drug likely reached the water supply through sewage.

In response, the nation's Environment Agency released a statement saying that it had not tested for Prozac or fluoxetine in its research. However, the agency acknowledged it had found a large amount of endocrine disrupters, chemicals taken following sex changes, in British rivers.

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

Products & Services

St. Paul offers coverage to entertainment industry

ST. PAUL, Minn.—St. Paul Travelers Cos. Inc. has formed a national business unit that offers coverage to the entertainment industry.

The St. Paul, Minn.-based St. Paul Travelers' entertainment unit offers property and casualty coverage to film, television, music and stage productions. The package provides coverage for cast; negative film; faulty props, sets and wardrobes; miscellaneous equipment; third-party property damage; and general liability, among others. It is combined with the specialized entertainment division of New York-based Gulf Insurance Co., a subsidiary of St. Paul Travelers. The program is written through Encore Entertainment Insurance Services, a Studio City, Calif.-based managing general agent.

For more information, contact Jon Paulsen, assistant vp-national programs for St. Paul Travelers, at 651-310-6113, or Yvonne Cordova, entertainment regional vp for Encore Entertainment, at 818-358-0450.

Anthem, JPMorgan introduce HSA, health plan

INDIANAPOLIS—Anthem Blue Cross & Blue Shield, a unit of Anthem Inc., has teamed up with New York-based JPMorgan Chase Bank to offer a health savings account for employers to offer their employees.

The product, Anthem ByDesign HSA, includes the Anthem high-deductible health plan and the Chase HSA, which is intended to provide employees with more affordable options and the flexibility to choose benefits that meet their needs. Chase's HSA allows employees to use checks and debit cards to pay for qualified medical expenses.

Employers and employees that have high-deductible health plans can contribute tax-deductible funds to the accounts to pay for qualified medical expenses until the deductible is reached. The plan deductible is up to $2,600 for individuals and $5,150 for families. Accounts are portable, and funds can be rolled over from year to year.

To obtain more information, visit *www.anthem.com*.

MetLife launches group life benefit evaluation site

NEW YORK—MetLife, a subsidiary of New York-based MetLife Inc., has created an online survey for employers and benefit managers to help them evaluate their group life benefit plans and implement best practices to improve them.

The program, Best Practices for Life, intends to help employers and benefit managers improve their employee participation in group life insurance benefits. It offers a series of questions, and, as each one is answered, a best practice method pops up on the screen. Once all of the questions have been answered, a checklist is then available and is broken down into categories such as communications, enrollment, range of products and administration. Employers can use the best practice methods offered to improve communication with employees and increase participation during benefits enrollment periods.

To view the Best Practices for Life evaluation, visit *www.metlifeiseasier.com/life2004demo*.

ACE expands coverage for underground tanks

PHILADELPHIA—ACE USA's Internet-based underwriting program for commercial underground storage tanks has been expanded to include aboveground coverage.

Philadelphia-based ACE USA's TankSafe program is an online underwriting product that conducts automated underwriting transactions for environmental insurance as it relates to underground storage tanks, and it now includes coverage for tank facilities above ground. Some of the contingencies covered are third-party bodily injury, property damage from pollution emissions and corrective action due to releases from covered tanks.

Limits are available from $500,000 per occurrence and $1 million aggregate to $5 million per occurrence and $5 million aggregate.

For more information, contact the company at *tanksafe@ace-ina.com* or visit the company's Web site at *www.ace-ina.com*.

Best updates CD-ROM on P/C insurers

OLDWICK, N.J.—A.M. Best Co. Inc. has announced the availability of its updated CD-ROM of "Insurance Reports 2004—Property/Casualty—United States & Canada."

The 2004 edition is a CD-ROM, book and Web-based package. The CD-ROM version is currently available; the book portion of the package will be available in September. The package consists of updated financial performance data on more than 3,580 P/C insurers and includes information on their financial strength, operations, management and history. The book version presents a slightly more condensed version of what is available on CD-ROM.

The CD-ROM allows users to search and sort financial and text fields, create custom lists and export data. It also links to the Oldwick, N.J.-based Best's Web site, which allows users to access the most recent Best's Ratings, news and reports.

For more about this product, visit *www.ambest.com/sales/BIRPC2004*. To purchase the package, contact Best's customer service department at 908-439-2200, ext. 5742, or at *customer_service@ambest.com*.

We'd like to report on new risk management and employee benefit products and services offered by your company. Send information to: Carrie A. Brittain, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; telephone: 312-649-5313; fax: 312-649-7801; e-mail: cbrittain@businessinsurance.com.

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Property prices down 9% at midyear renewals, survey finds

Aussie buyers see rates fall in most lines

By ELIZABETH FRY

Commercial policyholders in Australia are seeing rates fall in most lines as competition among insurers intensifies, according to a survey of insurers and brokers.

At midyear renewals, commercial rates fell by 5% on average, according to the survey, which was conducted by J.P. Morgan Chase & Co. and Deloitte Touche Tohmatsu.

The largest rate reductions were for property risks, which saw rates fall by 9% on average, and commercial auto, where the average decrease was 7%.

But not all lines of coverage reported decreases. Professional indemnity rates increased by 4%, while rates for directors and officers liability coverage rose by 3%, according to the "2004 General Insurance Survey."

The survey was based on responses from 23 insurers and 13 brokers in Australia. The results were weighted to reflect the size of the respondents, said Shane Fitzgerald, an insurance analyst with J.P. Morgan who authored the commentary on the survey.

"The biggest rate reductions were with the largest risks in the market. At this stage of the cycle, it is normal for competition to be concentrated on the big commercial risks, and so price reductions will be greater at this end of the market," he said.

The joint effect of low combined ratios and lower reinsurance rates has contributed to the softening market, Mr. Fitzgerald said.

However, commercial claims costs increased by about 6% over the past year, and those costs are likely to increase by a similar amount going forward, according to the survey.

As a result of the lower premiums and increasing claims costs, insurer profits will likely be lower over the next 12 to 18 months, the survey predicts.

"That said, the reduction in profitability needs to be viewed within the context of the current level of industry profitability, which would still be good even after these rate reductions," the report notes.

The survey found a discrepancy between insurer and broker responses. Insurers reported that commercial rates fell by only 1% on average, while brokers reported an 8% decrease.

"Increasing competition may mean that (the surveyed) underwriters are trying to avoid those areas of the market where competition is most intense, in an effort to protect margins. Therefore, the reductions that they have seen would tend to be less. Conversely, the brokers have a wider market to contend with and see all of the business being generated by their clients, regardless of whether the business is easy or difficult to place," Mr. Fitzgerald said.

The difference could also be explained by an increase in business placed in Lloyd's of London and other overseas markets, according to the survey. While brokers that place business overseas are included in the survey, overseas insurers are not. Over the past four years, the amount of premiums placed outside of the domestic market has grown by 237% in Australia, according to the survey.

An executive summary of the survey is available at www.deloitte.com.

Parmalat seeks damages from auditors

By CAROLYN ALDRED

CHICAGO—The bankruptcy administrator for Italian food retailer Parmalat S.p.A. has brought a negligence suit against auditors Deloitte & Touche and Grant Thornton, seeking damages that could total more than $10 billion.

The lawsuit, filed in Illinois state court in Chicago by administrator Enrico Bondi, seeks damages from "third parties believed to have played a role in Parmalat's collapse," including the auditors' Italian and U.S. operations, Parmalat said in a statement.

Parmalat and its parent, Parmalat Finanzia S.p.A. of Parma, Italy, were seized by Italian authorities in December 2003. Since then, several arrests have been made in connection with the company's financial woes, including that of founder Calisto Tanzi. Also, some senior executives of accounting firm Grant Thornton S.p.A. and Deloitte Italy have been questioned in connection with allegations of false accounting and fraud at Parmalat (*BI*, Jan. 12).

Grant Thornton S.p.A., the Italian affiliate of London-based Grant Thornton International, acted as auditor for several Parmalat subsidiaries, including Cayman Islands-based Bonlat Financing Corp., which allegedly produced false documents showing that it had nearly $5 billion in assets with the Bank of America Corp.

PHOTO: AFP

Parmalat's bankruptcy administrator is seeking billions of dollars in damages from Deloitte & Touche and Grant Thornton, charging that the auditors played a role in the Italian dairy company's collapse.

In a statement, Grant Thornton International said it will fight the legal action and pointed out that "member firms in the Grant Thornton International network are entirely independent legal, financial and administrative entities."

The statement said Grant Thornton S.p.A. was expelled from the network on Jan. 8 and now is named Italaudit S.p.A., adding, "Grant Thornton International does not accept that this is a legitimate action and will defend its position vigorously."

Deloitte Touche Tohmatsu, which was Parmalat's group auditor, issued a statement in Europe stating that Deloitte Italy believes that the lawsuit "is entirely unjustified, and it will defend its position vigorously."

"Parmalat is responsible for a fraud that, according to testimony to date, pervaded its former executives and board of directors and has now apparently sued Deloitte Italy on the theory that it failed to catch Parmalat for its own fraudulent actions," the statement said.

Meanwhile, Deloitte's U.S. operations stated that, while they had not seen the suit, they "are unaware of any legitimate theory for naming us as defendants. The U.S. firms issued no audit reports on Parmalat and had nothing to do with Parmalat's alleged misconduct."

Deloitte's U.S. spokeswoman said "Any claims against Deloitte's U.S. firms are frivolous, and we are confident we will be successful in having them dismissed."

The suit follows actions against Parmalat's bankers, including claims for similar damages from Citibank, for 290 million euros ($358.8 million) from UBS and 17 million euros ($21.0 million) from Deutsche Bank. Late last week, Parmalat also sued investment bank Credit Suisse First Boston.

Outsourcing violates privacy law: Union

By SARAH VEYSEY

LONDON—A U.K. labor union is challenging London-based Lloyds TSB Bank P.L.C.'s decision to outsource some jobs to India on the grounds that such outsourcing violates privacy law.

London-based Lloyds TSB Union, in backing a legal challenge by a customer of the bank, argues that the bank's transmission of customers' personal or sensitive information outside of the European Economic Area contravenes the United Kingdom's Data Protection Act 1998. Such data transmission requires the bank to obtain the permission of customers, which Lloyds TSB has not done, the union says.

A spokeswoman for the bank said Lloyds TSB is "completely confident" that it complies with the Data Protection Act. She added that the bank takes steps to ensure the security of data and is not required to inform customers about the transmission of information overseas.

A spokesman for the London-based union said it had asked the government-appointed Information Commissioner to review the case and decide whether the bank's outsourcing arrangement violates its statutory data-protection duties.

The Data Protection Act came into force on March 1, 2000, and applies to both paper records and those stored electronically. The Information Commissioner is responsible for enforcing the Act, among other things, and for offering advice and assistance to both data controllers and data subjects.

While the commissioner does not have the power to award compensation, it can decide if remedial action is warranted in the case of individuals or groups whose data has been processed in breach of the Act. An assessment by the commissioner is not necessary in taking a claim to court.

Lloyds TSB last year announced that it was shifting some call center operations from Newcastle, England, to India, resulting in the loss of about 1,000 jobs. The Newcastle center is slated to close later this month.

World Updates

Allianz posts profit of $1.57 billion

Allianz A.G. Holding recorded net income of 1.29 billion euros ($1.57 billion) for the first half of 2004, up from a restated 146.0 million euros ($167.9 million) for the prior-year period. The Munich, Germany-based multiline insurer's profits for the first half of 2003 were hit by investment losses and by the results of the company's banking arm, Dresdner Bank. Allianz said its revenues stayed steady at 49.5 billion euros ($60.29 billion) during the first half of 2004.

Hiscox plans to trim syndicate 33 capacity

Hiscox P.L.C. says it will reduce the capacity of its Lloyd's of London syndicate 33 in 2005 because of the weakness of the U.S. dollar, among other factors. In a statement, Hiscox said about 70% of the syndicate's business is written in U.S. dollars. In addition, "there is trimming of the account as some rates settle back from very high levels," the statement said. Hiscox said the multiline syndicate's capacity would be about £725 million ($1.34 billion) for the 2005 underwriting year, down about 14% from this year.

Asia-Pacific markets to remain stable: S&P

The Asia-Pacific nonlife insurance markets will likely remain stable despite weakening rates in 2004, a Standard & Poor's report concludes. The region's companies have been isolated from major international losses and have lower exposure to equity markets, the report notes. Most Asia-Pacific countries will report combined ratios of under 100% in 2004, S&P says.

Absence of big losses boosts profits at ZFS

Zurich Financial Services Group recorded net income of $1.45 billion in the first half of 2004, up 93% over the prior-year period. Zurich, Switzerland-based ZFS attributed the improvement to low claim frequencies, the absence of large catastrophes and rate increases achieved in prior years, among other factors. For nonlife insurance, gross written premiums increased 6% to $20.56 billion, while the insurer's nonlife combined ratio improved to 96.7% from 98.8%, ZFS said. Life premiums, meanwhile, fell by 10% to $5.68 billion, as part of a strategy to reduce ZFS' exposure in certain lines.

Charley: Tallying hurricane claims

Continued from page 1

storm.

While Hurricane Charley may not have the market-tightening impact of Andrew, the damage it caused was reminiscent of the earlier disaster.

"It's the same stuff," said Franklin Horowitz, a Voorhees, N.J.-based consultant who is working with public adjusters to settle claims in southwestern Florida. The landscape is marked with downed trees and power lines, buildings missing roofs and steel "bent in ways you wouldn't expect any creature to have the strength to do," he said.

'Because the eye was so small, the tightness of that center of circulation makes for extremely strong winds around the center but a very narrow path of damage.'

Peter Dailey
AIR Worldwide Inc.

"I don't know if it's quite as widespread, but the damage looks the same" as that wrought by Andrew, Mr. Horowitz said.

Jim Bryce, president and chief executive officer of Bermuda-based IPC Re Ltd., said that while Hurricane Charley represents a major loss, the storm's composition kept it from being as destructive as Hurricane Andrew. "It was somewhat unusual," he pointed out, with a "narrow radius, which will limit the loss amount."

"Because the eye was so small, the tightness of that center of circulation makes for extremely strong winds around the center but a very narrow path of damage," said Peter Dailey, manager-atmospheric sciences for AIR.

The Florida Hurricane Catastrophe Fund, set up after Hurricane Andrew, also softens the blow somewhat for insurers. All residential insurers participate in the fund and are eligible for reimbursements for hurricane claims (see story, page 20).

Even so, claims were piling up as last week wore on.

Assessing the damage

Brown & Brown Inc. began hearing from its clients shortly after the storm left the state, said Jim Henderson, president and chief operating officer of the Daytona Beach, Fla.-based brokerage.

"We have a nursing home that is a total loss west of Naples," Mr. Henderson said, and a building that housed a client providing social services in Punta Gorda "is pretty much history."

Brown & Brown had to implement a catastrophe plan of its own because its office in Port Charlotte, Fla., was damaged to the point that access was restricted. The brokerage moved computers from that site to its Sarasota office, where they were quickly up and running, Mr. Henderson said.

Jim Mero, Orlando-based assistant vp/general manager for GAB Robins North America, said claims are coming in "from Naples up through Daytona Beach" and as far north as St. Augustine. Among the claims are several larger than $2 million, he said, including one from a beer distributor in Port Charlotte and two from hardware stores that were heavily damaged.

Volusia County, which includes

See CHARLEY/next page

Collateral: Changing liquidation laws

Continued from page 3

don't see it introduced in other states very soon," he said.

Pennsylvania adopted a similar measure earlier this year (*BI*, July 5).

Another key feature of both the Illinois and Pennsylvania measures is a requirement that regulators overseeing a rehabilitation or liquidation periodically adjust the collateral being held as claims are run off, to ensure that the level is not excessive. In addition, both laws permit regulators to impose a new administrative fee of up to 3% of policyholders' collateral; in Illinois, that fee may also be applied to the total collected deductible reimbursements.

Like the Illinois bill, Pennsylvania's law contains a retroactive provision, so it applies "to ongoing receiverships," including those of Reliance Group Holdings Inc. and Legion Insurance Co., said Francine L. Semaya, the New York-based chair of Cozen O'Connor's insurance corporate regulatory practice group.

The legislation in Pennsylvania was designed to help resolve continuing litigation over the collateral issue, Mr. Harris said.

Last July, Reliance's liquidator/receiver, Pennsylvania Insurance Commissioner M. Diane Koken, and more than two dozen guaranty funds sued each other in a dispute over whether the funds or Reliance's estate should have the right to collect deductible reimbursements paid under large-deductible programs (*BI*, July 7, 2003).

"Although at first blush the act resolves the ongoing dispute…its complexity will no doubt raise new issues to be resolved by the Commonwealth Court and may expose policyholders…to more uncertainty and costs," Ms. Semaya said in a statement.

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re Petition of Anthony James McMahon and Philip Wedgewood Wallace, as Joint Provisional Liquidators of ANGLO AMERICAN INSURANCE COMPANY LIMITED Debtor in Foreign Proceedings.	In a Proceeding Under Section 304 of the Bankruptcy Code Case No. 97-B-41556 (PCB)

NOTICE OF MOTION PURSUANT TO SECTIONS 105 AND 304 OF THE BANKRUPTCY CODE TO AMEND PERMANENT INJUNCTION ORDER TO AID ENFORCEMENT OF RESTATED SCHEME OF ARRANGEMENT

PLEASE TAKE NOTICE that pursuant to an order of the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"), a hearing is scheduled to be held on October 15, 2004 at 2:30 p.m., or as soon thereafter as counsel may be heard (the "Return Date"), before the Honorable Prudence C. Beatty in Courtroom 701 of the Bankruptcy Court which is located at The Alexander Hamilton Custom House, One Bowling Green, New York, New York, 10004, to consider the motion (the "Motion") of the Scheme Administrators ("Petitioners") of Anglo American Insurance Company Limited (the "Company") for entry of an order (the "Amending Scheme Permanent Injunction Order") pursuant to 11 U.S.C. §§ 105 and 304 modifying the Permanent Injunction Order entered by this Court on April 12, 2000, and giving full force and effect in the United States to the Restated Scheme of Arrangement (the "Restated Scheme Rules") between the Company and its Scheme Creditors (capitalized terms not defined herein shall have the meaning defined in the Restated Scheme Rules).

The Scheme Administrators have proposed the Amending Scheme pursuant to section 425 of the Companies Act 1985 of Great Britain. If the requisite statutory majorities of creditors (i.e. a majority in number representing 75% in value of those in each class present and voting in person or by proxy) approve the Amending Scheme, a hearing to sanction the Amending Scheme will be held before the High Court of Justice of England and Wales (the "High Court"). The date of the hearing to consider whether to sanction the Amending Scheme has been scheduled for October 14, 2004. If the High Court sanctions the Amending Scheme, the Scheme Administrators will proceed with their Motion and request entry of the Amending Scheme Permanent Injunction Order that would: (A) continue recognition of the Scheme Administrators as the exclusive representatives of the Company, and give effect to the Restated Scheme in the United States so that it binds all Scheme Creditors; (B) expressly approve and incorporate by reference clauses 8.5.3 and 9.3 of the Restated Scheme Rules and the related deeds of release contained in appendices two and four of the Restated Scheme Rules; (C) except as provided expressly in the Restated Scheme Rules or at the express written direction of the Scheme Administrators, permanently enjoin and restrain all entities from (i) relinquishing, disposing or transferring any property of the Company or property involved in the Restated Scheme Rules, or the proceeds of such property (collectively, the "Related Property") to third parties other than at the express discretion of the Scheme Administrators; (ii) drawing down any letter of credit established by, on behalf or at the request of, the Company (a "Letter of Credit"), or withdrawing from, setting-off against or otherwise applying property that is the subject of any escrow or trust or similar arrangement (an "Escrow") in which the Company has an interest, in excess of what is expressly authorised by any related agreement; (iii) commencing or continuing any action or other legal proceeding (including, without limitation, discovery proceedings, arbitration or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever) (an "Action") involving the Company or the Related Property, or any of the Company's representatives or agents (the "Agents") or any of their property; (iv) enforcing any judgment, assessment, order or award, or commencing or continuing any Action to create, perfect or enforce any lien, set-off or other claim against the Company or the Related Property, or any of the Agents or any of their property except as expressly stated in the Restated Scheme Rules; (v) invoking, enforcing, or relying on the benefit of any statute, rule or requirement of federal, state, or local law or regulation (a "Security Requirement") requiring the Company, or any of the Agents to establish or post security of any kind as a condition of prosecuting, defending or Amending any Action, and such Security Requirement will be rendered null and void for such Actions; (vi) commencing or continuing any Action against the Company, the Scheme Administrators, the New York Superintendent of Insurance, the members of the Informal Creditors' Committee or any of their respective directors, officers, agents, employees, representatives, financial advisers or attorneys (the "Pre-Scheme Parties") or any of them with respect to any claim or cause of action in law or in equity, arising out of or relating to any action taken or omitted to be taken as of the Effective Date by any of the Pre-Scheme Parties in connection with the section 304 case or in preparing, disseminating, applying for or implementing the Original Scheme, the December 12, 1999 Conservation Agreement between the Superintendent and the Provisional Liquidators, the Permanent Injunction Order or the Amending Scheme Permanent Injunction Order; (vii) commencing or continuing any Action against the Scheme Administrators, the Company, the members of the Creditors' Committee, the Scheme Actuary, the Independent Actuary, the Scheme Adjudicator, the New York Superintendent of Insurance or any of their respective directors, officers, agents, partners, employees, representatives, financial advisers or attorneys (the "Scheme Parties"), or any of them, with respect to any claim or cause of action, in law or in equity, which may arise out of the construction or interpretation of the Original Scheme, the Conservation Agreement or the Restated Scheme Rules or out of any action taken or omitted to be taken by any of the Scheme Parties in connection with the administration of the Original Scheme, the Conservation Agreement or the Restated Scheme Rules; (D) require (i) all entities or persons in possession, custody or control of property of the Company, or the proceeds thereof, to turn over and account for such property or its proceeds to the Scheme Administrators; (ii) all entities in possession, custody or control of any records of the Company to deliver such records to the Scheme Administrators, and all persons having any books, paper or records of the Company or relating to the Company's business or to any matter which may affect the administration of the Company's estate or the Restated Scheme Rules, to preserve them and submit them to the Scheme Administrators or their designee for examination; (iii) all entities that are beneficiaries of Letters of Credit, or any parties to any Escrow, to provide notice to the Scheme Administrators and their United States counsel of any drawdown on any Letter of Credit, or any withdrawal from, set-off against, or other application of property that is the subject of any Escrow (any of which, a "Draw"), together with information sufficient to permit the Scheme Administrators to assess the propriety of such Draw, including, without limitation, the date and amount of such Draw and a copy of any agreement pursuant to which such Draw was made and provide such notice and other information contemporaneously therewith; and turn over and account to the Scheme Administrators for all funds resulting from a Draw in excess of the amount expressly authorised by the agreement pursuant to which such Letter of Credit or Escrow was established; (iv) parties to any Action in which a liability of the Company may be established to place the Scheme Administrators and their United States counsel on the master service list of any such Action and ensure that such counsel receives copies of all documents served by the parties to such Action or issued by the tribunal or other official having jurisdiction over such Action and all correspondence or other documentation circulated to parties named on any service list; (E) mandate that, in the event a Scheme Creditor resolves a claim in respect of a Common Liability against Co-Insurers (in circumstances such that the stay of proceedings against the Company in relation to that Scheme Creditor's Scheme Claim ceases to apply in accordance with clause 2.2.2 (B)(a) or (b) (but subject to clause 2.2.3)), and the Company and the Scheme Creditor fail to reach agreement as to such Scheme Claim, then, in the event that either commences an Action against the other regarding the Scheme Claim, the unsuccessful party in that Action will pay, without set-off or other deduction, all reasonable fees and costs incurred by the successful party in connection with the Action and for these purposes, a party will be "successful" in an Action if it obtains an order, decision, judgment or award from a court or tribunal that is a Final Order and that is substantially commensurate to or more favourable than both: (i) the Substantive Judgment or Final Settlement in question; and (ii) any settlement offer made by the other party in writing prior to the commencement of the Action; and (F) further provide that (i) except as specifically set forth in the Amended Scheme Permanent Injunction Order, nothing in the Amended Scheme Permanent Injunction Order prevents the continuance or commencement of an Action against or involving any party other than the Company but no settlement or judgment in any such Action shall be binding on or enforceable against the Company or the Related Property; (ii) the High Court has exclusive jurisdiction to hear and determine any Action and to settle any dispute relating to the interpretation of the Restated Scheme Rules, or to any action taken or omitted by any of the Scheme Parties in connection with the administration of the Restated Scheme Rules or the Original Scheme; (iii) the Scheme Administrators are authorized to transfer to the foreign proceedings any monies or assets of the Company located in the United States; (iv) the Bankruptcy Court shall retain jurisdiction with respect to the enforcement amendment or modification or the Amending Scheme Permanent Injunction Order, requests for any additional relief in the case and all adversary proceedings in connection therewith; and (v) no action taken by the Provisional Liquidators or the Scheme Administrators, their successors, the Agents, or any of them, or their counsel, in acting in connection with the Original Scheme, the Conservation Agreement, the Restated Scheme Rules, the Permanent Injunction Order, the Amending Scheme Permanent Injunction Order, the section 304 proceeding, any further order for additional relief in the section 304 proceeding, or any adversary proceeding in connection therewith as the Court may make shall be deemed to constitute a waiver of the immunity afforded to the Provisional Liquidators of the Company or the Scheme Administrators, their successors, agents or representatives pursuant to section 306 of the United States Bankruptcy Code.

Copies of the Scheme Documents, the Motion, the form of the Proposed Amending Scheme Permanent Injunction Order to be presented on the Return Date and the Memorandum of Points and Authorities in Support of the Motion are available to review and download at www.angloamericaninsurance.co.uk, as well as by fax, email or written request to the Scheme Administrators' US counsel at:

Allen & Overy LLP
1221 Avenue of the Americas, New York, New York 10020
(212) 610-6399 (Facsimile)
Attention: Theresa D'Agostino, theresa.d'agostino@allenovery.com

PLEASE TAKE FURTHER NOTICE that objections, if any, to the Motion must be made in writing describing the basis therefor and shall be filed with the Court electronically in accordance with General Order M-182 by registered users of the Court's electronic case filing system, and by all other parties in interest, on a 3.5 inch disc, preferably in Portable Document Format (PDF), Word Perfect or any other Windows-based word processing format, with hard copy to the Chambers of the Honorable Prudence C. Beatty, and served upon Allen & Overy LLP, 1221 Avenue of the Americas, New York, New York 10020 (Attention: Ken Coleman and Stephen Doody), counsel to the Petitioners so as to be received on or before October 1, 2004 at 5:00 p.m., New York time.

Dated: New York, New York
August 11, 2004

ALLEN & OVERY LLP
Attorneys for the Petitioners
By: /s/ Ken Coleman
Ken Coleman (KC 9750)
Stephen Doody (SD 9768)
1221 Avenue of the Americas
New York, New York 10020
(212) 610-6300

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Charley: Insurers tally claims from storm

Continued from previous page

Daytona Beach, expects damage to municipal property to amount to around $1 million, according to Frank Catapano, the county's risk manager. Damage at the Daytona Beach International Airport will account for most of that loss, he said.

The airport's terminal sustained roof damage and broken windows, and hangar walls were blown away, he said. The county will bear most, if not all, of the loss because of the $1 million windstorm deductible it carries as part of its $250 million in property coverage, he said.

Many property owners, such as Arlington, Va.-based MeriStar Hospitality Corp., which owns seven hotels on Captiva and Sanibel islands, were unable last week to access their properties to thoroughly assess damage.

A MeriStar spokesman said the company's South Seas Resort and Yacht Harbour on Sanibel Island was hard hit. While it is unclear whether there was significant structural damage, the resort is expected to remain closed for one to two months, he said.

Urgency of repairs

Losses could mount beyond what insurers initially expect if damaged properties are not promptly tended to, adjusters point out.

In the Fort Myers area, "there are very few establishments that don't have a loss," Mr. Horowitz said. "The problem is getting to it," he said of the damaged structures. If contractors can't get drying equipment into rain-soaked buildings within around 72 hours after they are damaged, mold can become a problem, he explained.

Remediation companies are spread thin in the area, and that leaves policyholders with a potential dilemma, Mr. Horowitz said, because most insurance policies require property owners to protect their property from further damage following a storm. "What do you do when you can't get somebody" to make repairs that will keep rain out or mold from developing? he asked.

Mold could be "a pretty significant problem," agreed Mr. Mero of GAB Robins. Remediation companies are working where they are able, he said, but have been delayed by lengthy power outages in areas such as Punta Gorda.

Some insurers and reinsurers released claims figures last week, but many others said they would wait until they have a clearer idea of their losses.

State Farm Mutual Automobile Insurance Co. had recorded 9,663 automobile claims and 56,616 claims from homeowners as of Friday, though it did not release a dollar estimate of those claims. A spokesman for the Bloomington, Ill.-based insurer said reinsurance and the Florida hurricane fund will cover State Farm for claims above the first $200 million.

Citizens Property Insurance Corp., Florida's state-run insurer of last resort, estimates its wind coverage losses will amount to $1.2 billion. The insurer expects another $75 million in multiperil losses.

Commercial insurers and reinsurers also were tallying their losses.

New York-based American International Group Inc. estimated its aftertax net losses from the storm at

See CHARLEY/next page

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LEGAL NOTICE **LEGAL NOTICE**

NOTICE OF THE CREDITORS' MEETING
CLAIM No. 5039 OF 2004
IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
COMPANIES COURT
IN THE MATTER OF ANGLO AMERICAN INSURANCE COMPANY LIMITED
AND IN THE MATTER OF THE COMPANIES ACT 1985

(the above company being subject to a scheme of arrangement, which became effective on 17 April 2000, with its Scheme Creditors pursuant to Section 425 of the Companies Act 1985 of Great Britain)

NOTICE IS HEREBY GIVEN that, by an Order dated 12 August 2004 made in the High Court in the matter of Anglo American Insurance Company Limited (the "**Company**") and in the matter of the Companies Act 1985, a meeting (the "**Meeting**") was ordered to be summoned of Scheme Creditors (as defined in the Amending Scheme hereinafter mentioned) of the Company for the purpose of considering and, if thought appropriate, approving (with or without modification) an amending scheme of arrangement (the "**Amending Scheme**") proposed to be made between the Company and its Scheme Creditors (hereinafter mentioned) pursuant to section 425 of the Companies Act 1985 (the "**Companies Act**"). The purpose of the Amending Scheme is to amend certain provisions of the scheme of arrangement dated 7 February 2000 which became effective on 17 April 2000 (the "**Original Scheme**") between the Company and the Scheme Creditors.

The Meeting will be held on 29 September 2004 at The London Underwriting Centre, 3 Minster Court, Mincing Lane, London, EC3R 7DD, at 10.30 a.m. (or as soon thereafter as the chairman's introductory address referred to below shall have concluded). The chairman of the Meeting will address Scheme Creditors generally on the Amending Scheme and on issues relevant to voting immediately prior to the commencement of the Meeting.

Copies of the said Amending Scheme, the Explanatory Statement prepared in connection with the Amending Scheme under Section 426 of the Companies Act (the "**Amending Scheme Document**"), and the Voting Form for use at the Meeting are being sent to Scheme Creditors in the next week. Further copies can be downloaded from **www.angloamericaninsurance.co.uk** obtained from the Scheme Helpline by telephone on +44 (0)20 7680 6600, fax +44 (0)20 7694 3126, email to **angloamericaninsurance@kpmg.co.uk** or by post from the Scheme Administrators, Anglo American Insurance Company Limited, KPMG LLP, 8 Salisbury Square, London, EC4Y 8BB, United Kingdom.

Scheme Creditors may attend and vote in person (or, if a corporation, by a duly authorised representative) at the Meeting. Alternatively they may appoint another person, whether a Scheme Creditor or not, as their proxy to attend and vote in their place.

In any event, whether or not Scheme Creditors are intending to be present at the Meeting in person, they are requested to complete the Voting Form in accordance with the instructions contained therein and within the Amending Scheme Document and return it to the Scheme Administrators at the address indicated above by 5.00 p.m. (GMT) on 28 September 2004. If not so returned, Voting Forms may, at the discretion of the chairman of the Meeting, be accepted at any time prior to the commencement of the Meeting.

The chairman of the Meeting will accept faxed Voting Forms received before 5.00 p.m. (GMT) on 28 September 2004 on +44 (0)20 7694 3126, if legible, subject to receipt of the original before the commencement of the Meeting, if the chairman of the Meeting considers this to be necessary or desirable for the purpose of verification.

Each Scheme Creditor or his proxy will be required to register his attendance at the Meeting prior to its commencement. Registration will commence at 10 a.m. on the day of the Meeting.

The Amending Scheme is proposed between the Company and its Scheme Creditors (being creditors in respect of any claim arising out of a liability to which the Company was subject at 7 February 2000 (the Record Date of the Original Scheme) or to which it became subject thereafter, by reason of an obligation incurred before that date) but excepting any claim which is a preferential claim or a claim in respect to the costs or expenses of the Original Scheme or Amending Scheme which will be payable in full.

By the said Order, the court has appointed Anthony James McMahon or, failing him, John Mitchell Wardrop to act as chairman of the Meeting and has directed the chairman to report the result thereof to the court.

The said Amending Scheme will be subject to the subsequent sanction of the respective courts.

Dated 16 August 2004

Clifford Chance
10 Upper Bank Street
London E14 5JJ
United Kingdom

Legal Advisers to Anthony James McMahon and John Mitchell Wardrop

Scheme Administrators of the Company

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LEGAL NOTICE **LEGAL NOTICE**

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re **Petition of Board of Directors of AVIATION & GENERAL INSURANCE COMPANY LIMITED,** Debtor in a Foreign Proceeding.	In a Proceeding Under Section 304 of the Bankruptcy Code Case No. 04-B-13499 (SMB)

NOTICE OF PERMANENT INJUNCTION AND ORDER PURSUANT TO SECTION 304 GIVING EFFECT TO SCHEME OF ARRANGEMENT IN THE UNITED STATES

NOTICE IS HEREBY GIVEN THAT, in connection with the petition filed on May 21, 2004, pursuant to section 304 of the Bankruptcy Code (the "Petition") by the Board of Directors (the "Petitioner") of **Aviation & General Insurance Company Limited** (the "Company"), the United States Bankruptcy Court for the Southern District of New York, (the "Bankruptcy Court") has entered a permanent injunction order dated August 5, 2004 (the "Order"), among other things:

1. Providing that the Scheme of Arrangement (as defined in the Order) shall be given full force and effect in the United States, and shall be binding on and enforceable against all Scheme Creditors (as defined in the Order) in the United States;

2. Permanently enjoining all Scheme Creditors from taking any action in contravention of, or inconsistent with, the Scheme of Arrangement;

3. Permanently enjoining all Scheme Creditors from seizing, repossessing, transferring, relinquishing or disposing of any property of the Company in the United States, or the proceeds thereof, to any person or entity other than the Scheme Advisors (as defined in the Order);

4. Permanently enjoining all Scheme Creditors from: (a) commencing or continuing any action or proceeding in connection with any Claim (as defined in the Order) (including, without limitation, arbitration or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever), including by way of counterclaim, against the Company, or any property in the United States that is involved in the foreign proceeding, or any proceeds thereof, and seeking discovery of any nature against the Company; (b) enforcing any judicial, quasi-judicial, administrative or regulatory judgment, assessment or order, or arbitration award obtained in connection with any Claim, and commencing or continuing any act or action or legal proceeding in connection with any Claim (including, without limitation, arbitration, or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever) or any counterclaim to create, perfect or enforce any lien, attachment, garnishment, setoff or other claim arising out of a Claim against the Company or any of its property, or any proceeds thereof, including, without limitation, rights under reinsurance or retrocession contracts; (d) invoking, enforcing or relying on the benefits of any statute, rule or requirement of federal, state or local law or regulation requiring the Company to establish or post security in the form of a bond, letter of credit or otherwise as a condition of prosecuting or defending any proceedings (including, without limitation, arbitration or any judicial, quasi-judicial, administrative or regulatory action, proceedings or process whatsoever) and such statute, rule or requirement will be rendered null and void for such proceedings; provided, however, that nothing in this Order shall in any respect affect any Security (as defined in the Order) in existence at the Effective Date (as defined in the Order) or the replacements for such Security; (e) drawing down any letter of credit established by, on behalf of or at the request of, the Company, in excess of amounts expressly authorized by the terms of the contract or other agreement pursuant to which such letter of credit has been established; and (f) withdrawing from, setting off against, or otherwise applying property that is the subject of any trust or escrow agreement or similar arrangement in which the Company has an interest in excess of amounts expressly authorized by the terms of the contract or other agreement pursuant to which such trust, escrow, or similar arrangement has been established; provided, however, no drawing against any letter of credit shall be made in connection with any commutation unless the amount has been agreed in writing with the Scheme Advisors or permitted by further Order of the Bankruptcy Court;

5. Requiring that all persons and entities in possession, custody or control of the Company's property in the United States or the proceeds thereof, shall turn over and account for such property or its proceeds to the Petitioner or Scheme Advisors unless such person or entity has a bona fide defense to this obligation to turn over;

6. Requiring that all Scheme Creditors that are beneficiaries of letters of credit established by, on behalf of or at the request of the Company or parties to any trust, escrow or similar arrangement in which the Company has an interest, to: (a) provide notice to the Scheme Advisors' United States counsel of any drawdown on any letter of credit established by or at the request of the Company, or any withdrawal from, setoff against, or other application of property that is the subject of any trust or escrow agreement or similar arrangement in which the Company has an interest, together with information sufficient to permit the Scheme Advisors to assess the propriety of such drawdown, withdrawal, setoff or other application, including, without limitation, the date and amount of such drawdown, withdrawal, setoff or other application and a copy of any contract, related trust or other agreement pursuant to which any such drawdown, withdrawal, setoff, or other application was made, and provide such notice and other information contemporaneously therewith; and, (b) turn over and account to the Scheme Advisors for all funds resulting from such drawdown, withdrawal, setoff, or other application in excess of amounts expressly authorized by the terms of the contract, related trust or other agreement pursuant to which such letter of credit, trust, escrow or similar arrangement has been established unless such Scheme Creditor has a bona fide defense to this obligation to turn over; and

7. Requiring that every Scheme Creditor that has a claim of any nature or source arising out of a Claim and that is a party to any action or other legal proceeding (including, without limitation, arbitration or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever) in which the Company is or was named as a party, or as a result of which a liability of the Company may be established, to place the Scheme Advisors' United States counsel (Chadbourne & Parke LLP, 30 Rockefeller Plaza, New York, NY 10112, Attn: Francisco Vazquez, Esq.) on the master service list of any such action or other legal proceeding, and to take such other steps as may be necessary to ensure that such counsel receives: (a) copies of any and all documents served by the parties to such action or other legal proceeding or issued by the court, arbitrator, administrator, regulator or similar official having jurisdiction over such action or legal proceeding; and, (b) any and all correspondence, or other documents circulated to parties named in the master service list.

Copies of the Order, the Scheme of Arrangement and Petition are available upon written request to the undersigned counsel.

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

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EXECUTIVE DIRECTOR POSITION
The Captive Insurance Companies Association (CICA) is a national association with international exposure in the insurance industry. It is a 501(c)(6) not-for-profit organization, seeking a dynamic leader to serve in the President/Executive Director's position, to manage a captive insurance association, which represents members in the United States and abroad.

CICA's mission…is an organization dedicated to networking, educating, and promoting the captive insurance industry and other insurance alternatives for companies interested in self-insurance.

The successful candidate will have a bachelor's degree (master's degree preferable) in business, financial services, administration, or related field and a minimum of five years of management experience. The candidate must have proven talent in creative and entrepreneurial thinking; demonstrated skills in program management, marketing, and member services; and confidence in public speaking. This person will lead CICA going forward with the three to five year strategic plan which has been approved by the board and will be rewarded for growing the benefits and building the membership of the organization.

Resumes must be received by 5 p.m. on Friday, September 10, 2004.

Send resume to: Search Committee, CICA, 189 Commerce Court, Cheshire, CT 06410

EEO Employer

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Charley: Tallying storm claims

Continued from previous page
$80 million to $100 million.

Converium Holding A.G. of Zug, Switzerland, expects its gross loss to be less than $25 million, according to a spokesman. "Modeled losses for Converium's property portfolio range from $12 million for a $6 billion industry loss to $23 million for a $10 billion industry loss," he said. "There may be additional nonmodeled losses from lines such as marine and aviation hull, which could add on another $2 million to $3 million. Converium has reinsurance protections available which, based on current expectations, could limit the pure property loss to $20 million," the spokesman said.

Swiss Reinsurance Co. of Zurich said that preliminary estimates indicate its claims to be below $200 million before tax, while Munich, Germany-based Munich Reinsurance Co. estimated its exposure in the "low three-digit millions" of dollars.

W.R. Berkley Corp. of Greenwich, Conn., said it expects its losses to be less than $5 million.

In the Bermuda market, XL Capital Ltd. said it expects claims of about $125 million, and ACE Ltd. estimates pretax net losses will be about $100 million for all ACE companies.

RenaissanceRe Holdings Ltd. said it expects losses from Charley to negatively impact third-quarter earnings by $100 million to $140 million.

PartnerRe Ltd. said claims should reach $35 million to $45 million.

Alea Group Holdings (Bermuda) Ltd.'s loss is "unlikely to exceed $10 million net," a spokesman said.

Others in the Bermuda market weren't ready to project losses from Charley.

"It's premature to comment on how the loss will be distributed," said Mr. Bryce of IPC.

Mark A. Hofmann and Sarah Veysey contributed to this report.

Impact: Charley losses won't rock market

Continued from page 1
drew's, the existence of such a strong storm so early in the hurricane season has some experts concerned.

This year is expected to see an above-average hurricane season in terms of the number and strength of storms formed, and if other storms similar to Charley make landfall in the United States, 2004 could become of the costliest years on record for property insurers.

Within expected losses

Insurers had already factored the possibility of an event like Charley into their business plans, observers say.

"This is well within the range of the types of storms we contemplate occurring in any year. The magnitude of Charley did not take insurers by surprise at all," said Robert Hartwig, chief economist for the Insurance Information Institute in New York.

The loss from Charley was of a size that most prudent underwriters would have considered possible within any normal underwriting year, said David Foreman, chief underwriting officer of Lloyd's of London managing agency Wellington Underwriting P.L.C. For Wellington, the loss will not be anything out of the ordinary, he noted.

But he said that while the event itself likely will not turn the market, it may stop some underwriters from cutting property rates further. The loss will also probably temper any rate reductions on the direct reinsurance side, he noted, and it may have some effect on the retrocessional market.

Assessing the impact on insurer ratings, Mark Rouck, senior director of Fitch Ratings in Chicago, said: "We think this largely was an event that was factored into the ratings that we have out there. It's a material event—the first that we've had for a while—but it doesn't appear that there will be any widespread rating action."

Mr. Hartwig of the III called the hurricane "an acid test that will validate the reforms made after Andrew" in the Florida market. Twelve years ago, major insurers had too much concentration of risk in the most hurricane-prone parts of Florida, and they didn't rely much on reinsurance, he said. Taking lessons from Andrew, property insurers have spread their risk more evenly and have made greater use of reinsurance, he said. In addition, the creation of the state's catastrophe fund, plus the formation of a Florida-only property insurer helped protect the market, he said.

"This event, in the greater scheme of things, will be a blip" and won't have a great impact on the larger property/casualty market, said Mr. Hartwig

"We figure all companies will survive the impact of Charley, due to the reinsurance that's in place and other changes in the market since Andrew," said John Andre, a vp at A.M. Best Co. in Oldwick, N.J.

The loss likely would not have a huge impact on reinsurance rates, said Charlie Cantlay, chairman of Aon Re Specialty in London. For U.S. cedents, property rates had been declining by about 10% to 15%. Hurricane Charley may have the effect of "concentrating the mind a bit and maybe (slowing rate) reductions," he said.

"The effect on cat rates worldwide, in international markets, will be negligible," Mr. Cantlay, noting that the loss will likely have "minimal" effect on the retrocessional markets.

The biggest share of the losses will be borne by personal lines insurers.

"Most of the losses will be coming from property insurance dealing with homes," said Anthony Diodato, a vp at Best.

"Thus far, in talking to a lot of companies, there seem to be losses out there but not of the magnitude in the commercial market we saw in Andrew," said Bob Howe, managing director of global property placement for Marsh Inc. in New York. "A lot of the losses I'm hearing about involve retail business and maybe some resort properties. There are some losses, but not of the magnitude the commercial side can't manage," he said.

"It was not a high concentration of commercial property, where you would see the traditional business interruption exposure," said Bruce Zaccanti, a partner in Ernst & Young's Chicago office and a former risk manager. "The property markets were starting to soften. I don't think this is going to have a huge impact on the pricing."

Had the storm followed its initial projected track and made landfall near Tampa, insured losses could have been much higher, he said.

Early in the season

There is concern that hurricane losses will mount as the season progresses, although it remains to be seen whether Charley is a harbinger of more storms or, like Andrew, a singularly destructive event in an otherwise quiet storm season.

Mark Saunders, head of seasonal forecasting and meteorological hazards at Benfield Group Ltd.'s Hazard Research Centre in London, noted that this hurricane season is expected to generate an above-average level of activity, perhaps 50% above normal levels. The Colorado State University research team headed by William Gray also is predicting above-average activity.

"There is certainly a good chance that another hurricane will hit the U.S.," said Mr. Saunders.

"Experts have said that there could be many more storms to come this year. I don't know if they'll materialize or not; none of us wants that to happen," said Ernst & Young's Mr. Zaccanti. "But obviously, more events could cause the market to react in a different manner."

Mr. Hartwig echoed concerns about what Charley's early appearance might mean, noting that "the peak of hurricane season comes statistically in the third week of September."

As a result, the insurance industry is looking at the rest of this hurricane season "with a great deal of trepidation," he said.

"We are looking at what is likely to be a bad year in terms of catastrophe losses—quite frankly, one of the worst ever," he said.

Catastrophe fund tempers impact

A catastrophe fund that wasn't around when Hurricane Andrew battered Florida is softening Hurricane Charley's blow to insurers.

The Florida Hurricane Catastrophe Fund, established in 1993 during a special session of the Florida Legislature, provides reimbursements to residential insurers in the state for a portion of their hurricane losses. All companies that write homeowners policies in Florida are required to participate in and pay premiums to the fund.

"The catastrophe fund is something that will help," said Jim Henderson, president and chief operating officer of the Daytona Beach, Fla.-based broker Brown & Brown Inc. It stands to be one of the reasons "the market dislocation will not be as great" after Hurricane Charley as it was in the wake of Andrew in 1992, he said.

The fund, which is administered by Minneapolis-based Paragon Strategic Solutions Inc., is set up so that insurers can collect reimbursements above individual retentions. The retentions are established by applying a multiplier to the insurer's premiums paid to the fund. Likewise, an insurer's limits provided by the fund are calculated according to a separate multiplier applied to the premium.

Reimbursements from the fund are on a paid-loss rather than an incurred-loss basis, though some companies may qualify for an advance payment if solvency becomes an issue. The fund also pays an additional 5% of the losses as a reimbursement of loss adjustment expenses.

The fund has the authority to issue bonds in order to pay claims, but information released by Paragon stated that payouts from Hurricane Charley can be met by existing assets if losses are in the range of estimates up to $10 billion.

—By Michael Bradford

Storm's volatility a certainty

That Hurricane Charley missed its initial projected landfall by more than 70 miles came as no surprise to catastrophe modelers.

Hurricanes can be quite unpredictable, with the slightest change in atmospheric conditions causing a storm to veer left or right. Charley, initially predicted to make landfall in the Tampa area, shifted to the right and struck Florida's west coast near Punta Gorda instead.

"Even with lead times of 12 hours, average errors can easily be 50 or 60 miles," said Brian Owens, a tropical meteorologist with Risk Management Solutions in London, who noted that that distance was well within the error parameters within which hurricane forecasters operate.

"The actual position of where these storms will make landfall can be unpredictable if the atmosphere is very erratic," said Peter Dailey, manager-atmospheric sciences for AIR Worldwide Inc., a Boston-based subsidiary of the Insurance Services Office Inc. He noted, though, that landfall forecasting is far more accurate than it was a half-century ago, before the use of weather satellites and other devices. Then, he said, landfall could be totally unpredictable.

Hurricanes form in tropics, and the tropics are "very benign" in terms of storm predictability. But as hurricanes move north, they move into a more changeable atmosphere, Mr. Dailey said. Although Florida is generally tropical, Charley ran into cooler midaltitude conditions, which made its progress more volatile, he said.

Modelers depend on information provided by the U.S. National Hurricane Center to project storm paths. The Miami-based NHC issues updates about every six hours as a storm approaches land and then more frequently as landfall becomes imminent. "We recognize and appreciate there is uncertainty in that forecast," said Mr. Owens. "Our job is to reflect that uncertainty in the advice we give to our clients."

AIR's Mr. Dailey noted that relatively few hurricanes ever reach land. "We don't have thousands of landfalling hurricanes to study. The ones for which we have the best observational data comprise an even smaller set. We have sort of a small set to study," he said.

Mr. Owens said that modelers try to reflect uncertainty in their range of storm tracks. "The scenario through Tampa was a much more damaging one than one to the north or one to the south. Our loss estimates before landfall will also reflect the uncertainty of the track," he said.

"A slight change in the hurricane track, which is very difficult to forecast, can make a big difference" in the economic impact of a storm, said Mr. Dailey.

"These storms are very fickle," he said. "Charley is an example of a storm that was fairly well behaved, but it made a slight change in track as it approached land, and really no one was able to forecast that would happen."

—By Mark A. Hofmann

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Taking stock

Some insurers again cutting prices for market share

By Myron M. Picoult

My March 1 column touched on the notion held by some industry observers about this underwriting cycle—that "it will be different this time"—and my unabashed skepticism. It also focused on what I saw as the fragility of the current underwriting recovery.

Mr. Picoult

Over the past several months, it has become increasingly obvious that some insurers have again reverted to price-cutting to grow market share and possibly enhance cash flows. In the latter part of July, Swiss reinsurer Converium Holdings Ltd. shocked investors with the disclosure that it would have to bolster its reserves by up to $400 million to cover adverse developments from the 1997-2001 underwriting years, noting umbrella, professional liability and excess and surplus casualty writings. A few days later, the newly formed St. Paul Travelers Cos. Inc. dropped a bombshell by reporting it expected to take a $1.6 billion charge to augment its reserve base. At this stage of the underwriting recovery, we should not be seeing such events. That said, both of these disclosures play into my perspective of the fragility of the current underwriting recovery.

An unflattering facet of the industry that has not received as much attention as it should is the growth in insolvencies. In June, Frank J. Coyne, the chairman, president and chief executive officer of the Insurance Services Office Inc., made a presentation at the annual conference of the Insurance Accounting & Systems Assn. He succinctly noted "the biggest challenge facing many insurers may very well be survival itself." Mr. Coyne noted that the number of insolvencies rose from an average of 13 per year in the 1970s to about 30 per year in the 1980s and 1990s. Thus far this decade, the industry has been averaging 36 insolvencies per year—almost three times the average of the 1970s, notwithstanding the recovery of the past few years. One wonders if this reflects a greater acceptance among state regulators.

All 50 states, the District of Columbia and Puerto Rico have established procedures under which solvent insurers absorb the losses of claimants against insolvent insurers. New York has a preassessment fund, whereas other jurisdictions have guaranty funds to which solvent companies pay assessments as needed on a proportionate basis. On a state-by-state basis, there are various limitations. For example, policyholders must meet a net worth test to qualify for coverage. Accepted claims are covered subject to a fund limit, and certain exposures such as surety, assumed reinsurance and financial reinsurance are not covered. While I understand the need for the guaranty funds for individuals and, in some instances, for small business (though there is sure to be a spirited discussion about what constitutes a small business), substantive corporate buyers should not be part of the system. They should simply be subject to "Caveat emptor." Buyers of insurance are always on the prowl for lower prices. Indeed, in the insurance business, the lowest price may not necessarily be the best price.

The primary cause of property/casualty impairments has traditionally been deficient loss reserves (usually tied to excessive growth and underpricing) and, to some extent, fraud. Other factors such as catastrophe losses, reinsurance failures and overstated assets at times weigh in, too. Nonetheless, the focus has to be on deficient loss reserves. Something is fundamentally wrong with the system, because solvent insurers (and their policyholders) are being asked to pay for the indiscretions of poorly managed insurers. For a well-managed company, nothing hurts more than losing business to a purveyor that has been underpricing—willfully or because of stupidity—and then being forced to bail out its policyholders.

When one looks at guaranty pool assessments over the 1970s through the early 1980s, aggregate assessments tended to be under $100 million annually. From 1987 through 1994, the numbers coalesced at around $500 million to $600 million, with a peak of about $900 million in 1987. There was some drop-off to the range of $300-plus million as the '90s progressed. Today, we are flirting with the $1.0 billion mark on an annual basis. This, in part, relates to the insolvency of Reliance Group Holdings Inc., which is estimated to be the costliest to date, with a shortfall of perhaps $1.5 billion. Another storm cloud has formed around a venerable Midwest insurer that could surpass that figure.

The bottom line is that the fragility of the underwriting recovery and the concomitant lunacy on the part of some company managers with respect to current pricing does not bode well for this industry. It clearly highlights the need for changes in state regulation (vis-à-vis federal oversight) and the increasing importance of a strong balance sheet. To be sure, increased oversight brought about by the Sarbanes-Oxley Act and pressure from the U.S. Securities and Exchange Commission to have insurers provide a more definitive assessment of loss reserves should be helpful over time.

Let's not forget, though, that this is an industry that prices products before knowing the cost of goods sold. It is the nature of the beast. Past insolvency trends are not fiction; not dealing effectively with the rudimentary causes of insolvencies will clearly produce dire consequences for this business.

Myron M. Picoult is an independent insurance consultant in New York. He is a past president of the Assn. of Insurance & Financial Analysts and was a member of the New York Society of Security Analysts. He can be contacted at mmpicoult@aol.com. An archive of Mr. Picoult's Business Insurance columns can be viewed online at www.businessinsurance.com.

TRIA: Supporters hope for extension of program

Continued from page 3

pendently—found a permanent private-market solution," said Mr. Robinson, who is also a partner in the Los Angeles law firm of Berkes Crane Robinson & Seal L.L.P.

The DRI subcommittee has been working on a series of papers addressing insurability and risk transfer questions. But while legislation designed to extend the act has been introduced, there has been little urgency accompanying those reauthorization efforts.

Reauthorization supporters hope that the Department of Homeland Security's Aug. 1 announcement raising the terror threat level to orange—indicating a high risk of terrorist attacks—for New York, Washington and Newark, N.J., will help provide that sense of urgency. The release of the 9/11 Commission's report—and a subsequent series of high-profile hearings—should also help their cause, they say.

"We think that the 9/11 report and subsequent terror alerts have reinforced the fact that these threats to our country are real and that the government believes they are imminent," said Janice Ochenkowski, vp-external affairs for the New York-based Risk & Insurance Management Society Inc. "It certainly is a time to rely on insurance support as commercial risk managers. We're concerned that when the original TRIA legislation was enacted, the time frame assumed that would be sufficient time for the reinsurance market to stabilize. We don't believe that that has occurred. The sooner this gets the attention of Congress the better, and we think it's an absolutely critical time for them to reauthorize TRIA," said Ms. Ochenkowski, who is also a senior vp at Jones Lang LaSalle in Chicago.

"Both the threat warnings and the 9/11 commission serve as a reminder that we still do live in a very dangerous world, and that threat of a terrorist attack doesn't expire on Dec. 31, 2005," said Julie Gackenbach, assistant vp-federal government relations in the Property Casualty Insurers Assn. of America's Washington office. "As a result, it reminds people this threat is real, and we have to be prepared. As Congress looks at what we need to do, both the threat level and the 9/11 Commission are focusing us on national preparedness. Part of that preparedness must necessarily be focusing on our economic as well as physical security," she said.

"I think there's a heightened awareness of the fact that the terrorism risk is still very real," said Melissa Shelk, vp-federal affairs for the American Insurance Assn. in Washington. "I think that heightened awareness is helpful for us to focus people on the need to extend TRIA," she said.

But supporters of an extension have no illusions that their task will be easy, even with the new developments, because of the other issues Congress must deal with before it recesses for the November elections.

"All of those events bring home the point to members of Congress that they need to take action to extend TRIA now," said Jack Armstrong, assistant vp and senior regulatory counsel for Liberty Mutual Group in Boston. "We have had some difficulty bringing that sense of urgency to the deliberations, although many members of Congress have recognized the need to move now by filing legislation. But there is still an element of lethargy, if you will, in Congress, due in no small part to the fact that this is an election year," he said, adding that many appropriations bills are still waiting in the congressional pipeline.

That context "has made the extension effort that much more challenging, but certainly these events serve to bring some focus and attention to terrorism and the likelihood of future attacks," said Mr. Armstrong.

The further that we are removed from the attacks of Sept. 11, 2001, "inevitably, complacency develops," said David Winston, senior vp-federal affairs in the National Assn. of Mutual Insurance Cos.' Washington office. "This terror alert and the information that has been garnered from this computer in Pakistan will serve to end whatever complacency exists with respect to the threat it poses," he said.

Mr. Winston referred, in part, to information found on an Al Qaeda laptop computer that indicated financial institutions in New York, Washington and Newark could be targets.

"It's imperative that Congress act to extend TRIA for two years so a more permanent solution can be developed," he said.

"There has been progress made bringing home that sense of urgency, but we're not over the hump yet," said Liberty Mutual's Mr. Armstrong. He said that policyholder input is essential to the reauthorization effort.

"I think people realize this is important. I think this is an uphill battle simply because the clock is not on our side, but it is a battle we absolutely have to win for policyholders and our economy," said PCI's Ms. Gackenbach.

One industry critic, though, doesn't think it's a battle worth fighting.

The elevation of the threat level is like a hurricane warning, said J. Robert Hunter, director of insurance for the Consumer Federation of America in Washington. "You get some, and not every one of those is Hurricane Andrew. It doesn't change the underlying risk. I don't think specific ups and downs of color codes should have much effect on that. We know that there's a risk, but, actuarially, you don't set rates based on ups and downs of risks," said Mr. Hunter.

He downplayed the significance of the elevated alert and the 9/11 Commission report in regard to TRIA reauthorization, which he opposes.

"I know the industry is trying to use it that way, but I think it's disingenuous," he said. "The political equation can change based on current events. There's always a possibility of that. But I think it's disingenuous."

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Late News

Continued from page 1

St. Paul Travelers hit with shareholder suits

In several securities lawsuits filed against The St. Paul Travelers Cos. Inc. last week, plaintiffs allege they

were misled by "materially false" financial documents that vastly overstated the value of the insurer, which was formed in April when Travelers Property Casualty Corp. and The St. Paul Cos. Inc. merged. The lawsuits allege that prior to the merger, both Travelers and St. Paul failed to disclose that St. Paul was significantly underreserved. On July 23, St. Paul Travelers announced that it would have to boost reserves by more than $1.6 billion to conform the insurers' accounting and actuarial methods.

US Airways seeks altered pension funding schedule

US Airways is asking the Internal Revenue Service for permission to spread out contributions to its defined benefit pension plans for the Assn. of Flight Attendants-CWA and the International Assn. of Machinists and Aerospace Workers. "Rescheduling these payments will help US Airways to conserve its cash so that we have sufficient liquidity to operate the airline," Jerry Glass, US Airways senior vp of employee relations, said in a statement. "This is an important step as we work to ensure our survival and future prosperity." The company said that the proposed payment rescheduling will have no impact on current retirees or employees, who will still receive full pension benefits upon retirement.

Aetna to buy benefits administrator

Aetna Inc. is acquiring Strategic Resource Co., an administrator of group benefit products for part-time and hourly workers, for $250 million. The transaction, which is subject to regulatory approval, is expected to close sometime during the fourth quarter. Founded in 1976, SRC currently administers benefits on behalf of more than 700 employers in 46 states and the District of Columbia, according a statement from Aetna.

Harassment law can't be retroactive, court rules

Retroactively applying a law that holds employers liable for sexual harassment by third parties is unconstitutional, California's 4th District Court of Appeal ruled. The decision in *Helga Carter vs. California Department of Veterans Affairs* stems from a trial court ruling that Helga Carter had been subjected to a hostile environment by the advances of a resident of the nursing home in which she worked. The decision conflicts with the finding of a Los Angeles appeals court in May that the law does apply liability retroactively in third-party harassment cases.

BellSouth retiree benefit liabilities increase

BellSouth Corp. is boosting its estimate of its future retiree health care obligations by nearly half, as it

changes how it recognizes those obligations. Under a tentative five-year contract with the Communications Workers of America reached earlier this month, BellSouth will boost to $6,982 from $5,000 the annual cap on retiree health care premiums it will pay. During previous contract periods, BellSouth waived any premiums above the caps but based its calculations of retiree health care obligations on those caps. Now, though, BellSouth will begin recording retiree health care obligations as if there were no caps in future periods. The change in the calculation will boost BellSouth's accumulated retiree health care obligations by $3.3 billion, to about $10.4 billion. This increase will be recognized over the average remaining service life of employees.

Wisconsin opinion affirms contraceptive coverage

Wisconsin employers and state colleges and universities are prohibited from excluding

prescription contraceptives from health care plans that provide prescription drug coverage, according to a legal opinion by state Attorney General Peg Lautenschlager. "Denial of contraceptive coverage when other prescription drugs are covered is a violation of Wisconsin and federal law," Ms. Lautenschlager stated in the opinion. The attorney general issued the formal opinion in response to a request made by Wisconsin's secretary of Health and Family Services, Helene Nelson.

Aon settles sex bias suits

Aon Corp. has settled several sex discrimination lawsuits filed against underwriting subsidiary Combined Insurance Co. of America. In its latest filings with the U.S. Securities and Exchange Commission, Aon said it reached an agreement earlier this month with the parties to the lawsuits under which it will pay $8.5 million and "put in place certain agreed measures." Aon had faced several individual suits as well as a class action suit alleging sexual harassment and discrimination.

Briefly noted

Converium Holding A.G. said it will announce the results of an external actuarial review of the company Aug. 31. The Zug, Switzerland-based reinsurer recently announced a $385 million addition to reserves for U.S. liability business written between 1997 and 2001.... Democratic presidential nominee Sen. John Kerry said his administration would push for allowing the **reimportation of prescription drugs** from Canada and elsewhere as part of an initiative to lower the cost of medications in the United States. Sen. Kerry's plan would include provisions designed to ensure the safety of reimported drugs.

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Online Poll

[8/16 - 8/20]

In light of continuing litigation, will brokers still be receiving contingent commissions from insurers two years from now?

Yes	59.57%
No	37.23%
Don't know	3.19%

BI Stock Index

[8/16 - 8/20]

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

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

Index	Value	Change
BI Stock Index	2219.12	3.58
Dow Jones	10110.10	2.90
S&P 500	1098.35	3.15

Largest gains

Gainsco Inc.	40.00%
PMA Capital Corp.	8.98%
SCOR	7.87%
CNA Financial Corp.	7.11%
HealthNet Inc.	6.23%

Largest losses

American Safety Insurance	-11.20%
Unico American Corp.	-7.07%
Meadowbrook Insur. Group	-4.30%
Alleghany Corp.	-3.79%
NYMagic Inc.	-2.47%

Weekly change by market segment

Brokers	1.92%
Insurers/Reinsurers	1.50%
Managed Care Organizations	2.20%

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

Drugs: States strike back on drug imports

Continued from page 1

practices of pharmacies in several European countries. The delegation concluded that Illinois consumers could save money by buying safe prescription drugs from European pharmacies.

State officials said the inclusion of European pharmacies was necessary because several major pharmaceutical companies have stopped supplying Canadian pharmacies that are known to reimport drugs to the United States. This action has raised concern about the possibility of drug shortages in Canada.

Illinois officials have decided to start the program without authorization from the federal government, despite Gov. Blagojevich's previously stated desire to secure approval. The governor said Illinois officials have worked for nearly a year to achieve federal cooperation for its reimportation program, but the FDA has consistently refused to approve reimportation, saying it cannot certify the safety of the reimported drugs.

In addition, the program would circumvent an Irish law that prevents direct reimportation of drugs to the United States.

The Illinois program would seek to get around this restriction by having Irish wholesalers send prescription drugs to U.K. wholesalers and pharmacies, which would then reimport the prescription drugs into the United States. "The drugs will not be coming from a wholesaler in Ireland," said a spokeswoman for Gov. Blagojevich.

PHOTO: GETTY

Illinois Gov. Rod Blagojevich has announced the state will move ahead with plans to reimport drugs from foreign countries.

Meanwhile, the state of Vermont last week filed suit asserting that the FDA's refusal to allow Vermont to reimport prescription drugs from Canada is contrary to federal law.

In its suit, filed in federal district court in Vermont, the state argues that the FDA's denial of its petition to launch a reimportation program is contrary to the 2003 federal Medicare prescription drug law, which allows the Secretary of Health and Human Services to issue waivers to individuals for reimportation if safety standards can be met, the lawsuit alleges.

In addition, the section of the law that gives the HHS secretary the authority to certify the safety of reimported prescription drugs is unconstitutional, the complaint charges, because it improperly delegates legislative power to the executive branch of the federal government.

The suit names Acting FDA Commissioner Lester Crawford and Health and Human Services Secretary Tommy Thompson as defendants.

Earlier this month, the FDA denied Vermont's petition for approval of its proposal to allow state employees to reimport prescription drugs from Canada. The state is asking the court to rule that the denial of its petition was unlawful and to order the FDA to reconsider the petition.

Vermont's proposal to reimport prescription drugs is inconsistent with the FDA's responsibility to protect the nation's drug supply and with its personal importation policy, the FDA and HHS said in a joint statement. In addition, Vermont's request was properly denied by the FDA because Secretary Thompson has not yet been able to certify the safety and cost effectiveness of reimported drugs, the agencies said.