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Business Insurance®

September 1, 2003

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$4

## Marsh finds liability limits down only slightly

# Buyers paying more for less

By RODD ZOLKOS

Liability insurance buyers are paying dramatically more for a little less, according to a new study by Marsh Inc.

Average limits purchased by U.S. companies are about 9% lower in 2003 compared with 2002, according to Marsh's research, while rates are more than 60% higher.

The very largest companies, however, were less likely to have lowered their limits, despite the higher cost, the survey found.

The current cost per $1 million of liability coverage is virtually identical on a worldwide basis, according to the study. The cost in 2003 averaged $11,614 in the United States and $11,670 in the rest of the world.

But those costs are sharply higher compared with a year ago, which is largely to blame for the reduction in limits, the study notes. The study reported a 63.4% increase in the average cost of $1 million of coverage in the United States from 2002 to 2003.

That rate of increase far outstripped the rate of decline in liability insurance limits, according to the study. Average limits for U.S. companies dropped 9.4% at January renewals to $87 million, compared with a year earlier.

"What that really means is firms are not living within a fixed budget," said Timothy P. Brady, managing director in Marsh's National Casualty Practice in New York. "They're spending more of their resources to purchase risk transfer."

"There is a recognition that having protection against catastrophic losses is still something that

See **LIABILITY**/page 38

# State mulls priority plan for asbestos claimants

By MARK A. HOFMANN

**LANSING, Mich.**—Michigan could become the largest jurisdiction to guarantee that claims filed by the most seriously ill asbestos injury claimants receive judicial priority if the state Supreme Court heeds the plea of a broad coalition of employers, insurers and legal reform advocates.

In a document filed late last month, the groups asked that the court create an "inactive docket" to deal with cases of claimants who have not manifested any symptoms of asbestos-related disease yet fear that they will in the future. Those with such claims on the inactive docket would not be subject to any statute of limitations for bringing suit and would be permitted to proceed with future claims if and when they developed an asbestos-related disease. Meanwhile, plaintiffs who could prove they had an asbestos-related disease would actively pursue their claim in court.

Proponents of asbestos liability reform have long claimed that too much money goes to claimants who are not ill but fear they will be so in the future, when fewer defendants and re-

See **ASBESTOS**/page 38

# IRS says it may withdraw debit card reporting rule

## Regulation seen as blocking widespread use

By JERRY GEISEL

**WASHINGTON**—The Internal Revenue Service says it will review and possibly eliminate a proposed rule that threatens to derail employer use of debit cards for flexible spending and health reimbursement accounts.

In May, an IRS ruling made clear for the first time that debit cards are a legitimate means of electronically paying expenses, such as prescription drug and office visit co-payments, that are funded through health care FSAs and HRAs.

Benefits experts at the time hailed Revenue Ruling 2003-43 as a government seal of approval that would provide a huge boost to the cards. But as they combed through the ruling, those experts grew alarmed at a new debit card reporting provision tucked into the rules.

Under that requirement, employers or their third-party health care claims administrators would have to send out an IRS Form 1099 to every provider receiving at least $600 in payments through debit card transactions from FSA or HRA enrollees.

Debit card vendors say that, for a variety of reasons, compliance with the reporting requirement would be impossible. A fundamental problem is that information needed to comply with the requirement—namely, a provider's tax information number—is not captured when a debit card is swiped through a provider's credit card

reader.

"We have not figured out a way to reasonably comply with the requirement," said Robert Natt, chief executive officer of mbi, the Waltham,

See **DEBIT**/page 36

# Late News

## California passes ban on forced arbitration

California lawmakers on Thursday sent Gov. Gray Davis a bill that would prohibit employers from requiring workers to sign arbitration agreements regarding discrimination and sexual harassment complaints. A.B. 1715, which would not apply to existing arbitration agreements, also would make it illegal for employers to retaliate against workers who refuse to waive rights established under California's anti-discrimination law, the Fair Employment and Housing Act. The governor has not indicated whether he will sign the measure, which would take effect Jan. 1, 2004.

## Market will remain hard, risk managers say

Two-thirds of the 101 risk managers who participated in a recent Prudential Financial survey believe the property/casualty insurance market will soften in 2005 or 2006. But that prediction doesn't mean they think conditions will change appreciably in the near future. The proprietary survey found that 81% of the participants think "the 2003 renewal process should be at least as challenging as it was in 2002." Participants predicted overall P/C rates would increase by 12% this year, with casualty rates increasing 15% while property remains flat.

## Mexican claim dispute prompts arrest warrants

A Mexican judge has frozen the accounts of Comercial America, a unit of ING Groep N.V., and has issued arrest warrants for 13 Comercial America employees and other people stemming from a claim dispute. A spokeswoman for Amsterdam, Netherlands-based ING confirmed the court's action and said the 13 employees have "gone into hiding" to avoid prosecution. An ING statement

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NEWSPAPER

SPOTLIGHT REPORT

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**WORLD'S LARGEST REINSURERS**

*Ranking on page 14*

## Risk managers using Web to help workers

# Online risk tools start to click

By ALLISON REYNOLDS

Help may be just a click away.

In order to make risk managers' jobs more efficient, organizations are relying more on risk management Web sites for employees to file claims, get their questions answered and find information on company policies.

"We recognized the need to create a system of information for our staff and students that was instantly available from almost anywhere in the world, easy to understand, constantly updated, consistent and available 24 hours a day," said Janet Stein, manager of insurance and risk management for the University of Calgary in Alberta, Canada.

Though some companies have had risk management Web sites for years, others are just beginning to get their sites up and running.

Sheree Mediavilla, risk manager for Collier County government in Naples, Fla., said that her organization is in the process of starting a risk management Web site to "speed things up" and to make the filing of claims more efficient and uniform.

Ms. Mediavilla said that her office is always inundated with calls with questions about filing claims and sees too many inconsistent, incorrect or illegible forms filled out by employees.

The Web site, which should be up in early October, will provide forms such as workers compensation first report of injury, general liability and auto and property forms that can be filled out electronically by employees, Ms. Mediavilla said.

To make things even easier, an employee can simply type in his or her employee identification number or Social Security number and most of the form is automatically filled out with information from the county's database.

That ensures that the information is correct and legible, Ms. Mediavilla added.

Ms. Stein said that when the University of Calgary started a risk management Web site four or five years ago, all the forms on the site were in document format. They would be downloaded, filled out, attached to an e-mail and sent to the risk managers.

Now, though, the forms have been updated so that employees can fill them out online. The information from the forms is then sent directly to the database, improving efficiency. The information goes automatically to the people who need to have it, without the risk management department having to review and distribute it. That makes the process much faster and more economical, Ms. Stein said.

Another reason that risk managers have been using Web sites is to disseminate information to large numbers of people, thus eliminating multiple calls with the same questions, according to Sherry Pixler, risk manager for Louisville, Colo.-based StorageTek Corp.

Most risk managers agree.

"Web sites are really good at answering stuff that lots of people ask or need to know—it's a mass communication tool," said Brian Warren, risk manager for Redmond,

See WEB SITES/page 29

# California panel looks at comp

By ROBERTO CENICEROS

**SACRAMENTO, Calif.**—As a legislative conference committee convened last week to attempt to fix California's workers compensation problems, the Bureau of State Audits issued a report highlighting inadequacies in the system.

California lawmakers formed the bipartisan committee earlier this summer to address about 50 bills relating to the state's workers comp woes. The panel met for the first time last Tuesday.

The American Insurance Assn. last week urged the committee to consider reform of the entire system to control skyrocketing costs. Many of the bills introduced in the Legislature address only medical costs, the AIA noted.

In its report, the Bureau of State Audits stated that California's workers comp system does not adequately control employers' medical costs related to treating injured workers. The California Division of Workers' Compensation has not developed a medical payment system that includes full fee schedules, according to the report. Consequently, many medical services are paid "on the basis of what are known as usual, customary and reasonable charges," which are inflationary, and this approach "may be contributing to the escalating costs in the workers compensation system."

The report also noted that California lacks uniform treatment guidelines for workers with similar injuries and cited a study by the Workers Compensation Research Institute that determined that injured workers in California have 49% more doctor visits and 105% more chiropractor visits than those in other states.

In comments directed toward the legislative committee, the AIA questioned whether lawmakers will develop comprehensive solutions.

"Everyone agrees that California's workers compensation system is in need of a major overhaul," said Mark Sektnan, AIA Western region assistant vp in Sacramento. "The question is, will the Legislature dig deep enough and pass real reforms that curb the system's out-of-control costs? If the Legislature is serious about controlling costs, they need to approve a conference report that encompasses comprehensive reforms."

A copy of the audit bureau report is available at *www.bsa.ca.gov/bsa/index.html.*

**Long-term care facilities in 2000 were among the first companies to encounter hard liability insurance conditions and today are increasingly seeking less costly risk financing alternatives.**

# LTC facilities form RRG in Montana

## Policyholders seek pricing stability

By JERRY GEISEL

**HELENA, Mont.**—Continuing a recent trend, a group of long-term care facilities in Ohio and Pennsylvania have formed a risk retention group in Montana to cover their professional liability risks.

Guardian Risk Retention Group Inc. will write primary coverage of $500,000 per occurrence/$1.5 million annual aggregate for the Pennsylvania facilities and $1 million per occurrence/$3 million annual aggregate for the facilities in Ohio. Pennsylvania law sets the primary coverage limit that health care providers must secure before they are eligible to purchase coverage through a state-affiliated fund.

The 16 members of the RRG, which generally operate nursing homes in small, rural communities in the two states, all are managed by Guardian Elder Care Inc. of Brockway, Pa.

The facilities turned to alternative risk financing options because of soaring rates and a dearth of insurers in the hard commercial market, as well as a belief that the premiums they were paying for coverage did not reflect their favorable loss experience, said Brenda Olson, president of ORG Captive Management in Bigfork, Mont., which is the RRG's manager.

"Rates soared, yet the facilities had incredibly good experience. Rates clearly did not correlate with experience," Ms. Olson said.

The RRG's policyholders hope to achieve long-term coverage and pricing stability, Ms. Olson said. "They are looking at the risk retention group as a way" of ensuring level insurance costs in contrast to the up and down cycles in the commercial market, she said.

Rates in the RRG program, she said, have been conservatively set but still are substantially below the commercial market, she said.

Although they considered sev-

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# Inside Business Insurance

### Employers addressing 'presenteeism' costs

More employers are expected to tackle costs associated with employees struggling with illness while on the job. **Page 4**

### Deutsche Bank, insurers dispute 9/11 cover

A legal battle is heating up between Deutsche Bank and two of its property insurers. **Page 4**

### Giving lawyers a taste of their own medicine

Paul Winston suggests a novel way to counter the current glut of lawsuits: Sue the lawyers. **Page 6**

### Priority system needed for asbestos claims

States should embrace a system that seeks to ensure that the sickest asbestos claimants are handled first. **Page 8**

### London power outage brings hassles, not losses

A power failure that hit London during rush hour on Aug. 28 caused transportation delays but is unlikely to lead to insurance claims. **Page 33**

## Online

- The **Datebook** calendar lists upcoming industry seminars and meetings and allows you to add info on your own event.
- Searchable **directories** of reinsurance companies, as well as all the listings of industry vendors found in *BI*'s Market Sourcebook.
- New **Opinion Poll** for readers: What is the best way to deal with the asbestos litigation crisis?

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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS.

Business Insurance (ISSN 0007-6864) Vol. 37, No. 35, is published weekly by Crain Communications Inc., 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to Business Insurance Circulation Department, 1155 Gratiot Ave. Detroit, Mich. 48207-2912. $4 a copy and $97 a year in the U.S. $130 in Canada and Mexico (includes GST). All other countries, $230 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 0293512, GST No. 136760444, Printed in U.S.A. Copyright © 2003 by Crain Communications Inc.

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# Allianz, AXA dispute total loss of Deutsche Bank's tower near WTC

By DOUGLAS McLEOD

**NEW YORK**—Two insurers of Deutsche Bank A.G.'s heavily damaged office tower near the World Trade Center site are denying the bank's claim that the building is a total loss, and one insurer has asked a federal judge to reject the bank's demand for a quick trial of the insurance dispute.

Allianz Insurance Co. this week charged Deutsche Bank with misleading the court and the public about the nature of the dispute "in a cynical attempt to leverage the lingering image of Sept. 11 into more dollars from its insurers."

The bank filed suit earlier this month to force Allianz and two units of AXA S.A. to pay for a total loss of the 40-story building, which the bank said was irreparably contaminated with asbestos and other toxins in the storm of dust and ash that accompanied the WTC's destruction. The two insurers wrote a combined 50% of the $1.7 billion limit on the building. The program's two other insurers, Federal Insurance Co. and Zurich American Insurance Co., have already paid their shares of a negotiated $1.05 billion total loss claim.

In a court filing last week, though, Allianz attacked Deutsche Bank's claim as well as the bank's motives for pursuing it. A hearing on the filing was scheduled for Sept. 2.

The bank's contamination claims—based on an expert study of the building's condition—are "overstated, unsubstantiated and based on unrealistic" assumptions about acceptable levels of certain contaminants, Allianz argues. The insurer's own expert, for example, found that some of the contaminants were already present in the building before the terrorist attack, the filing says.

Other badly damaged buildings near the WTC site have been cleaned and put back into service, undercutting Deutsche Bank's contention that its own building cannot be similarly cleaned, Allianz asserts.

The insurer also notes that it has invoked a clause in the insurance policy requiring an appraisal panel to settle disputes over the amount of any loss, making court action in the case unnecessary.

While Deutsche Bank argues that the dispute is holding up redevelopment of the larger WTC site, Allianz contends that the bank is only using the redevelopment as a ploy to reap a windfall from its insurers.

The $1 billion the bank seeks to demolish the building far exceeds the $170 million that insurers estimate it would cost to clean and repair it, Allianz's filing notes. Deutsche Bank has since moved its operations to another Manhattan location, making the building "surplus office space in a weak and deteriorating real estate market. There is thus no incentive for (the bank) to put the building back into service," Allianz charges.

PHOTO: AP/MARY ALTAFFER

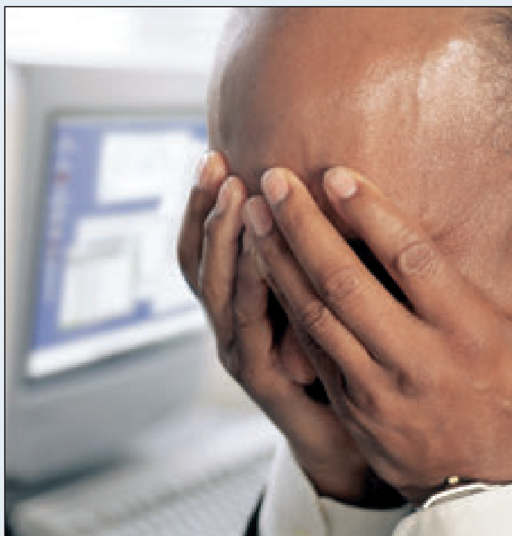
Insurers are disputing claims that the Deutsche Bank tower, near the World Trade Center site in New York, is a total loss.

# Employers strive to combat costs of 'presenteeism'

By ROBERTO CENICEROS

A jobless economic recovery will help fuel a growing employer movement to tackle "presenteeism" and other health-related productivity concerns, the president of an employer health care group said.

Presenteeism refers to health-related productivity losses that occur when employees struggle with illness yet remain on the job and continue to be paid. Employers looking to reduce total employee health care expenses say they see it as a cousin to absenteeism costs such as disability benefits and sick leave.



More corporations seeking a competitive edge by slimming down their labor rosters are realizing that by addressing presenteeism they can help keep their existing employees healthy and productive, employers add.

Employers also see it as a potential area for reducing rising health care costs.

Midland, Mich.-based Dow Chemical Co., for example, is among a growing number of companies currently working to measure presenteeism, said Dr. Catherine Baase, a physician responsible for Dow health care programs.

Although the results of Dow's project are not yet final, Dr. Baase says she expects to find that presenteeism and absenteeism related to employee illness cost Dow twice the amount that the company spends on health insurance.

Recent news that corporations remain reticent about hiring even though the U.S. economy has pulled out of recession means that presenteeism will remain a priority business concern into the future, said Helen Darling, president of the Washington Business Group on Health.

"The focus on presenteeism, especially given this jobless recovery problem, is really, really important," Ms. Darling said. "We have a fixed workforce. We are probably not going to lose

See PRESENTEEISM/page 31

Program will be available to all Iowa employers

# Principal Financial to offer workplace college savings plan

By JERRY GEISEL

**DES MOINES, Iowa**—Principal Financial Group is planning to offer what it says is the first Section 529 college savings plan developed exclusively for the workplace.

The new plan, called Principal College Savings Plan, will be available later this year or early next year to any Iowa employer or any employer with employees in Iowa. Principal was selected to offer the plan by the state of Iowa.

Principal will handle all communications and administrative work, while employees can contribute to the plan through payroll deduction or, if employees so choose, through automatic deductions from a selected checking account.

Employers increasingly are offering Section 529 plans, though Principal says its program is the first to be exclusively designed for employers to offer to their employees.

"We want to make this as easy and convenient as possible," said Jim Sager, vp-products with Principal Management Corp., a Principal unit in Des Moines.

Employees will have a choice of five investment options, each one comprising a different combination of Principal-managed mutual funds that vary in degree of investment risk. Unless they object, employees' contributions automatically will shift to less aggressive investment options as Section 529 beneficiaries approach college age.

"We have learned that employees

See COLLEGE/page 37

# Dean touts health cover for all

## Presidential hopeful proposes Vermont plan as model for national program

By ELIZABETH THOMPSON BECKLEY

At rallies on his presidential campaign tour, former Vermont Gov. Howard Dean has been rousing crowds by questioning why the United States doesn't have universal health care coverage, naming nearly a dozen countries that do provide coverage to all their citizens.

On what he calls the "Sleepless Summer Tour," the internist-turned-politician chastises President Bush for sleeping soundly at his ranch in Crawford, Texas, this summer while Americans lie awake with worry.

"There are an awful lot of Americans that are sleepless these days," Mr. Dean said Aug. 23 at the first rally of the tour in Falls Church, Va., attended by about 4,000 supporters. "They're sleepless about wondering where their job went. They're sleepless about wondering where their health insurance went or whether they're going to have health insurance if they lose their job."

His rhetoric appears to be catching fire. According to recent polls in New Hampshire and Iowa, Mr. Dean, once considered a long-shot candidate, is leading the field of Democratic presidential hopefuls.

On Aug. 26, Mr. Dean wrapped up his four-day, 10-city campaign tour with visits to Navy Pier in Chicago and Bryant Park in New York. He invited the press to ride with him on a chartered plane dubbed the "Grassroots Express" in an effort to build on his early momentum.

Only off the stump does Mr. Dean get into any details of how the current health care system could be improved. He says he is dubious of Bush's support of a national cap of $250,000 on medical malpractice awards for pain and suffering, a proposal backed by the American Medical Assn. and others in the medical community.

"This is phony politics," Mr. Dean said. "What the president is doing is wrong. He knows Congress has no ability to tell state courts what to do. It's just a way to appeal to physicians' emotions."

Mr. Dean says malpractice reform should be addressed state by state and that the best system is in Maine, where he says panels of doctors, lawyers and judges screen cases before they get to court.

That system "eliminates the nuisance suits," he said.

Mr. Dean says that trial lawyers are right to blame rising premiums on insurers' investment losses, and that insurance reform should be examined as a way to prevent insurance companies from hiking prices to offset investment losses.

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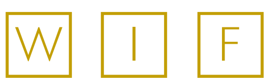

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## Paul Winston

# Creating obstacles to passing the bar

*"The first thing we do, let's kill all the lawyers."*
—"King Henry VI," William Shakespeare

There are no simple answers to the problem of excessive litigation in our society.

Some say the reason is a breakdown of regulatory systems designed to protect citizens, with lawsuits filling this vacuum. Others contend that people increasingly are unwilling to accept blame for their ills, so they turn to the courts to lay the blame on others. Others say people are plagued by an overblown sense of entitlement to the wealth of others. And some say it is a new breed of greedy lawyer who takes advantage of the other factors to find willing plaintiffs to help line his pockets.

While there is a bushel of truth in all of the above, I think a key reason may be more simple than those: A glut of lawyers.

**Paul Winston**

Think about it. For many years, lawyers were considered one of the most desirable professions in our society. There was great prestige in having a child attend law school and become an attorney (unlike, say, an English major). Millions of law degrees were conferred and millions of lawyers found themselves looking for billable hours and contingency fees.

While the complex workings of society, business and government offer plenty of work for many lawyers, others have to work hard to drum up business and make a living. It's no different for butchers, bakers or candlestick makers. If there is not enough business to be had, they must hustle to make some or go hungry.

Witness the proliferation of Yellow Pages, television and billboard advertising by lawyers. Witness the claims mills in some states to drum up workers comp and malpractice claimants. Witness the legal seminars designed to provide roadmaps for bringing lawsuits and to design lucrative new claims to pursue. Witness the cottage industry in class actions that has grown up around tobacco and shareholder litigation.

In short, there is a large body of lawyers who are manufacturing work for themselves and, in the bargain, swelling the amount of litigation in this country, and driving up costs. An oversupply of lawyers, in other words, is creating artificially high demand.

If we could somehow thin the legal herd a bit, I think we'd see a dramatic reduction in litigation and its attendant costs, and attain equilibrium between supply and demand.

The question is, how do we achieve this goal? The suggestion of one of William Shakespeare's characters, admittedly, is too extreme.

Forced retirement? Cap law school admissions? Withdraw public funds for students who pursue a law degree? Turn existing law school facilities into condo developments?

One solution might be found by examining the consequences of overlitigiousness in society.

As we have seen time and again, excessive litigation, verdicts and settlements—paired with poor economic conditions—make insurance unaffordable for some businesses and professions. Whenever the cost of insurance gets too dear or scarce, it drives some companies and professionals to limit what they do.

Currently, the most obvious examples of this are health care providers who cannot afford medical malpractice coverage. Many medical professionals are being driven to practice in other places or in other specialties where the legal climate is not so hot and premiums, therefore, are not so high. Others are leaving the profession entirely.

If the threat of litigation and the resulting high cost of coverage is enough to drive doctors away from risky pursuits, if not medicine altogether, what would it take to similarly make lawyering less attractive? A dose of their own medicine is what.

With the proliferation of so many lawsuits, surely there is a willing body of disgruntled plaintiffs willing and eager to sue their lawyers for a bad outcome, or exorbitant billings. I'm sure there's even the potential for several class action lawsuits over current legal practices.

With enough of these lawsuits, insurers are bound to jack up the cost of lawyers' professional liability insurance. This would make attorneys think twice about some of their more speculative endeavors, and drive others to pursue less costly legal work, or new professions entirely. I can picture it now: lawyers staging courthouse walkouts and clamoring for caps on damages against them.

It's only fair that they get a taste of their own medicine. Now if we can only find some lawyers willing to take the cases.

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

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Published weekly at 360 N. Michigan Ave., Chicago, Ill. 60601-3806, Fax: 312-280-3174,*biweb@crain.com*. Offices: 711 Third Ave., New York, N.Y. 10017-5806, Fax: 212-210-0704; 71121 Minkler St. , Abita Springs, La. 70420; Fax: 985-871-4006; Suite 814, National Press Building, Washington, D.C. 20045-1801, Fax: 202-638-3155; 6500 Wilshire Blvd., Suite 2300, Los Angeles, Calif. 90048- 4947, Fax: 323-655-8157; 967 Bermuda Court, Sunnyvale, Calif. 94086-6750, Fax: 408-774-1155; New Garden House, 78 Hatton Garden, London EC1N 8LD England, Fax: 207-457-1440; 8157 N. Torrey Place, Tucson, Ariz. 85743, Fax: 520-579-3476; 777 E. Speer Blvd., Denver, Colo. 80203-4214; Fax: 303-733-2244; 11133 W. 108th St., Overland Park, Kan. 66210, Fax: 312-280-3174. 77 Franklin St., Suite 809, Boston, Mass. 02110-1510; Fax: 212-210-0704 $4 a copy and $97 a year in the U.S., $130 in Canada and Mexico (includes GST). All other countries, $230 a year (includes expedited air delivery). Rudolf Von Bartesch, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, *Business Insurance*, 711 Third Avenue, New York, N.Y. 10017-5806. Microfilm copies available: University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48013. Microfiche copies: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For reprints or reprint permission: Karen Brown Tucker, *Business Insurance*, 360 N. Michigan Ave., Chicago, Ill. 60601-3806, 312-649-5319, Fax: 312-280-3174.

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## Editorial

# State reform only a first step

MAKE NO MISTAKE about it—the national asbestos litigation crisis demands a national solution.

Such a remedy must provide far greater certainty to potential defendants than would the flawed asbestos litigation reform bill approved by the Senate Judiciary Committee in July. That bill appears to be going nowhere fast, and we're not holding our breath that a better congressional solution will come along soon.

In the meantime, asbestos liability reform advocates may have to settle for modest measures at the state and local level. The Michigan Supreme Court is being asked to implement what is the most promising of these. If adopted, the approach could set a favorable model for other states.

As we report on page 1, business and insurer groups have asked the court to create a statewide "inactive docket" to handle the flood of asbestos liability cases brought by claimants who do not currently have any asbestos-related illness but fear one will develop. The court could decide within a matter of months whether to follow the lead of some smaller jurisdictions that already use the inactive docket to manage asbestos cases.

We hope that Michigan's high court heeds the plea, for the inactive docket concept is both simple and fair. Basically, truly ill claimants would take precedence over claimants who currently show no symptoms of asbestos-related illness. Asymptomatic claimants could file cases, but their claims would be placed on an inactive docket until the claimants met whatever medical criteria the state court deems necessary to pursue a claim. Asymptomatic claimants would not have to contend with any time limitations, so a claim would never automatically disappear. The result would be a system where no one loses his or her day in court, but where the sickest of claimants get their day in court first.

As reforms go, the inactive docket is modest. In fact, it's more a form of court management than of tort reform. It does not specify what medical criteria should be used to determine eligibility. It does not cap awards. It provides no new defenses for companies.

It also is no substitute for a national solution to the asbestos litigation crisis. We urge reform advocates to continue pursuing a meaningful solution at the federal level. But given the odds of Congress providing such a solution any time soon, we'll probably have to settle for something more modest like state-by-state adoption of the inactive docket.

Given the continuing negative impact of the asbestos litigation crisis on the country's economy and courts, this is a case where even a modest gain could be considered a victory.

# IRS right to reconsider ruling

THE INTERNAL REVENUE SERVICE deserves credit for reconsidering a rule that could discourage employers from offering a valuable benefit.

As we report on page 1, the IRS has announced that it will review and may repeal a rule on the use of debit cards linked to flexible spending accounts and health reimbursement arrangements. Employers and vendors of such cards hailed the IRS' revenue ruling in May that recognized debit cards as a legitimate method of paying health care expenses funded through FSAs and HRAs.

But closer examination revealed a requirement that claims administrators give IRS Form 1099s to every provider that receives more than $600 in debit card transactions. Trouble is, complying with such a requirement is difficult, if not impossible.

Vendors of benefit debit cards note that while swiping a card through a credit card reader is easy, obtaining a provider's tax identification information to complete Form 1099 is not. Tax information numbers are not currently available for capture during card transactions. As a result, complying with the IRS rule would be tough and, very likely, cost-prohibitive.

Debit cards are popular with consumers, and, when linked to FSAs and HRAs, they encourage enrollment in health care benefit plans and help to reduce costs for both employee and employer. Already faced with increasing benefit costs, many employers could be forced by the cost of complying with the IRS reporting rule to rethink their decision to offer debit cards.

We think the IRS is wise to review its ruling and hope it will eliminate the burden that its requirement has put on employers.

## Schillerstrom

## Letters to the Editor

### Measure protects independent agents

To the editor: As independent agents in New Jersey, we've seen companies transfer our books of business at an increasing rate as they discontinue writing auto insurance and transfer policy information to other insurers. The policy information included in these transfers is our bread and butter. It is our reputations, our relationships and our property, upon which we have built our livelihoods.

Agents acquire policy information at their own expense to service accounts and renew coverage for their customers. Taking years to develop, this information is so vital that when a producer sells his or her agency, the value of renewal commissions generated on the agency's books of business is used in establishing the value and sale price of the agency.

This is why the Professional Insurance Agents of New Jersey Inc. worked rigorously to preserve agents' ownership rights of policy information. At the suggestion of PIANJ, a bill, A3319, was introduced in the New Jersey Assembly this spring to protect agent ownership rights in their expirations during company book transfers.

The Assembly approved the measure by a unanimous vote in May. The corresponding Senate bill, S2385, passed June 23. On Aug. 16, Gov. James E. McGreevey signed the bill into law. The law guarantees a company assuming another's business cannot refuse to recognize the agent as the owner of the business or refuse to pay commission to the agent.

I want to thank all those who provided testimony in support of the bill, the efforts of PIANJ immediate past President David Madara, the governor and the lawmakers in the Senate and Assembly who helped forward this measure. This is a significant victory for small business owners throughout the state, protecting the living of thousands of independent agents.

**John D'Agostino Jr.**
President
Professional Insurance Agents of New Jersey Inc.
Trenton, N.J.

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# INTERNATIONAL REINSURANCE

Spotlight Editor: Joanne Wojcik

## Reinsurers' actions setting in motion market changes

Inside:

Foreign reinsurers eager to set up operations in China page 18

Project aims to reduce risks of climate change page 27

### Casualty lines generally firmest

## Some rates leveling off, but prices remain high

**By RODD ZOLKOS**

With a lack of significant catastrophe activity in the past year and certain areas of the reinsurance market showing signs of softening, there's a calm over the seas of reinsurance, at least on the surface.

Beneath the surface, though, there still is some turbulence, including certain troublesome casualty lines, continued contraction of the market and closer scrutiny by ceding companies of reinsurers' ability to pay claims going forward.

And, there's always concern at this time of year over whether the rest of the hurricane season will pass without a significant loss.

"I think people are saying, 'Are we coming out of a hard market?' and I think, quite frankly, that's a rather negative way of looking at it. I think we're in the middle of a very healthy market," said James P. Bryce, president and chief executive officer of IPCRe Ltd. in Pembroke, Bermuda.

"I guess there are aspects that are hard, hard being, 'Can you buy coverage at any price?'" Mr. Bryce said. "Following the tragedy of 9/11, it was an improving market overall propelled into a healthy market."

"There are pockets where there's an unavailability at any price, which I would define as a hard market," Mr. Bryce said, citing such areas as errors and omissions and directors and officers liability coverages.

"Overall, I would categorize the reinsurance marketplace as still being a hard or hardening market," said Dirk Lohmann, group chief executive officer of Converium Ltd. in Zurich, Switzerland.

"There are certain spots where, due to a

See MARKET/page 22

## E.U. dragging in efforts to harmonize regulation

### Higher solvency levels for reinsurers blasted

**By CAROLYN ALDRED**

The European Commission's proposed fast-track regulation of reinsurance companies—which aims to introduce a single, harmonized approach to regulating reinsurers in the European Union—is struggling to stay in the fast lane.

The presentation of a final directive on reinsurance regulation to the European Parliament has been stalled until the end of the first quarter of 2004 at the earliest, while a recent E.C. proposal to set solvency margins for reinsurers up to 50% higher than for insurance companies met with a furious response from industry organizations, especially the Comite Europeen des Assurances.

Although a draft version of the E.C. reinsurance directive was published in May, discussions over some of the details, including solvency requirements, are continuing; and the E.C. Insurance Committee has planned a Sept. 9 meeting to discuss the proposal.

The European Commission does not expect to present a proposal on reinsurance regulation to the European Parliament until early in 2004, "because member states and interested parties have requested longer consultation," according to the commission.

Meanwhile, the upcoming elections to the European Parliament may cause further delays before uniform reinsurance regulations are adopted.

Slow progress is "disappointing," said Lynne Routledge, European officer for the International Underwriting Assn. in London.

"If the directive had been adopted by the

See E.U./page 12

## Non-U.S. reinsurers push for collateral rule change

**By MEG FLETCHER**

Some European reinsurers are doggedly pursuing a reduction in the amount of collateral they must provide to write risks in the United States, but U.S. regulators say that some major barriers still stand in the reinsurers' way.

The first barrier to lowering non-U.S. reinsurers' collateral funding requirements is a lack of uniform accounting standards, which regulators say makes it difficult to determine the financial status of some non-U.S. reinsurers.

In addition, the lack of treaties enforcing judgments in other countries makes it difficult for U.S. ceding companies to collect funds due to them, according to a National Assn. of Insurance Commissioners' Insolvency Task Force report.

But despite those impediments, the European reinsurers continue to call for a new collateral funding system that would require regulators to evaluate individually the financial condition of the largest reinsurers, rather than imposing a blanket requirement on all non-U.S. reinsurers.

Currently, U.S. credit-for-reinsurance laws require so-called "nonauthorized"—mostly non-U.S.—reinsurers to post collateral in the United States equal to 100% of the gross liabilities they assume for U.S. cedents. In contrast, there is no collateral requirement for U.S.-based reinsurers authorized in the state in which a reinsurance buyer is based, because those reinsurers are regulated by that state. If a risk is located in a state where a U.S.-based reinsurer is not licensed, though, that reinsurer also must meet the 100% collateral requirement.

Under the European reinsurers' proposed system, U.S. insurance regulators would review the financial qualifications of some nonauthorized reinsurers and annually create a list of "highly capitalized" reinsurers eligible to post reduced collateral, based on the reinsurer's financial condition. Proposed minimum funding, though, would be no less than 50% of gross liabilities for non-U.S. reinsurers and 30% for their U.S. affiliates.

As of last year, U.S. financial institutions held about $85 billion in collateral, with $78

See COLLATERAL/page 16

# E.U.: Efforts to harmonize regulation are dragging

Continued from page 10

end of the year, it would have strengthened regulation in Europe and helped considerably with our negotiations with U.S. regulators" about reducing collateralization requirements for European reinsurers doing business in the United States, she said.

"We also want to see it adopted before E.U. enlargement," Ms. Routledge noted. Ten additional countries are scheduled to join the 15 current members of the European Union on May 1, 2004.

Talk about establishing a harmonized framework for reinsurance supervision in Europe began in 2000, and it was decided in 2002 that a "fast-track" approach should be adopted, with supervision based largely on the existing supervision rules for direct insurance.

**The European Commission states in its progress paper that some members of the E.C. Insurance Committee's reinsurance subcommittee believe that reinsurance companies should be subject to higher solvency requirements because of the 'more-risky nature of reinsurance business.'**

The European Commission commented in a progress paper in June that a reinsurance supervision system should "build on coordination of member states' legislation and mutual recognition of the supervision in the member state where the reinsurance undertaking is licensed."

Once licensed, a company should automatically be allowed to do business all over the European Union under the freedom of establishment and freedom to provide services guaranteed by the union. No additional supervision or checks on the reinsurance undertaking should be performed by supervisors in host member states, the E.C. paper states.

Reinsurance supervision should lead to the abolition of regulatory systems that require the "pledging of assets to cover outstanding claims provisions," as well as bring about a reduction in solvency margin requirements in some countries for business ceded to E.U.-licensed reinsurance companies, the paper states.

The Comite Europeen des Assurances, a federation of European national insurance associations with offices in Brussels and Paris, supports a supervisory system, but it has lambasted the European Commission's proposals to include solvency margins in the reinsurance directive up to 50% greater than that of direct insurers.

The European Commission states in the progress paper that some members of the E.C. Insurance Committee's reinsurance subcommittee believe that reinsurance companies should be subject to higher solvency requirements because of the "more-risky nature of reinsurance business."

In a June response paper, the CEA argued that a higher solvency margin for pure reinsurers proposed by the commission in May cannot be justified and "would impose constraints on reinsurance undertakings disproportionate to any possible benefits."

According to the CEA, "the absence of any reinsurer failure (in Europe) following Sept. 11 and some exceptionally severe circumstances proves the efficiency of the industry's risk management. These circumstances have put a serious strain on the financial capacity of reinsurers at a time when there is an increase in socioeconomic needs for insurance and reinsurance."

The CEA argues that reinsurers are able to use a risk management capacity not available to direct insurers because of their international diversification and expertise.

"Direct companies whose business activities are limited to a geographical region and/or focused on a specific line of business face a much higher volatility than the well-diversified global reinsurance companies," the CEA notes.

"Reinsurance is not more risky than direct insurance business—and it is our understanding that the Commission Services do not have any indication to the contrary. The current absence of harmonized supervision for reinsurance and worries linked to a yet-incomplete knowledge of the industry cannot justify a higher solvency margin than for direct insurers," the CEA states.

Furthermore, "large direct insurance groups use intragroup reinsurance to spread and thus mitigate the risk. An increased solvency margin would increase the costs involved and discourage this practice, thus reducing the efficiency of risk management," the CEA adds.

The CEA also states in its response that:

- There is no empirical evidence that the collapse of even a major reinsurer would pose a systemic

Continued on next page



Continued from previous page

threat to the E.U. or other insurance markets. "A well-diversified global reinsurance system is the best protection against systemic risks. This function of reinsurance could be disrupted by the imposition of a higher solvency margin on pure reinsurers."

- Reinsurance buyers are professional market participants who do not need prudential protection.
- Rating agencies, brokers and capital markets provide rapid information about the financial strength of reinsurers. If there is a perception that reinsurance is not sufficiently transparent, the regulatory response should not be an increased solvency margin but extended reporting requirements.

"The complexity of a business per se is not a valid reason for increased regulatory capital. And if lack of expertise about the risk absorption mechanism of reinsurance is an issue at certain supervisory authorities, ways should be found to enhance their expertise."

- A higher solvency margin has unintended economic consequences that ultimately increase systemic risks. "Imposing a 50% surcharge on the solvency margin is an undue burden for the European reinsurance industry. It would deteriorate its competitive position on the global market for risk transfer. The supply of reinsurance capacity is likely to move to offshore reinsurance markets, where there are lower regulatory capital requirements, or into alternative risk transfer markets, such as securitization."
- The introduction of a higher solvency ratio "could disrupt the market structure of the entire industry," the CEA states, noting that the increased self-retention of direct insurance companies would foster the concentration process in the direct insurance sector and that reinsurers would expand into the direct insurance sector to achieve a more-balanced risk portfolio.
- Higher capital costs would translate into higher insurance premiums for policyholders.
- As insurers and reinsurers compete for capital, increasing reinsurers' solvency requirements would "inspire little enthusiasm among investors and thus increase the cost of capital (for reinsurers), jeopardize access to loan capital and possibly lead to failures."
- Increased solvency requirements are likely to put reinsurers under increased financial stress, prolong the hard market and, possibly, lead to further rating agency downgrades. In fact, "regulations themselves could thus become a source of systemic risk."

Meanwhile, the benefits for E.U.-licensed reinsurers relieved from posting collateral in such member states as France "would fail by far to compensate for the negative effect of an increased solvency margin," the CEA states.

And a move to increase solvency requirements is unlikely to influence the ongoing negotiations with U.S. authorities over foreign reinsurers' collateralization requirements, it adds.

"It would seem that we are heading towards a 'white listing' by the U.S. authorities of foreign reinsurers. This process involves scrutinizing individual undertakings and, among other things, their financial health, current margins or risk management—regardless of the solvency margin required by their supervisory regime," the CEA explains.

As a result of the discord, solvency margin requirements likely will remain high on the agenda at the European Commission's September meeting. One option that might be considered is enhancing solvency requirements by up to 50% for certain reinsurance business lines or types of reinsurance contracts on the recommendation from the Committee of European Insurance and Occupational Pension Insurance Supervisors while maintaining direct insurance solvency requirements for all other reinsurance, according to the European Commission.

**The response of the Comite Europeen des Assurances states, 'The complexity of a business per se is not a valid reason for increased regulatory capital. And if lack of expertise about the risk absorption mechanism of reinsurance is an issue at certain supervisory authorities, ways should be found to enhance their expertise.'**

*The text of the proposed directive is available at europa.eu.int/comm/internal_market/insurance/docs/reinsurance/2531-02-rev2_en.pdf.*

*Gary Bridgeford, Director–Corporate Risk Management Johnson Controls, Inc.*

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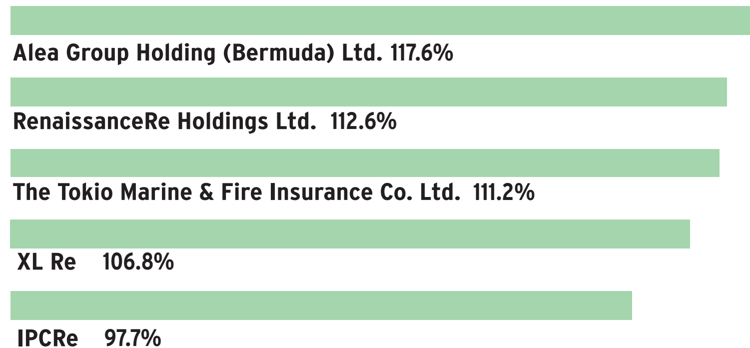
## LARGEST INCREASE OF NET PREMIUMS WRITTEN

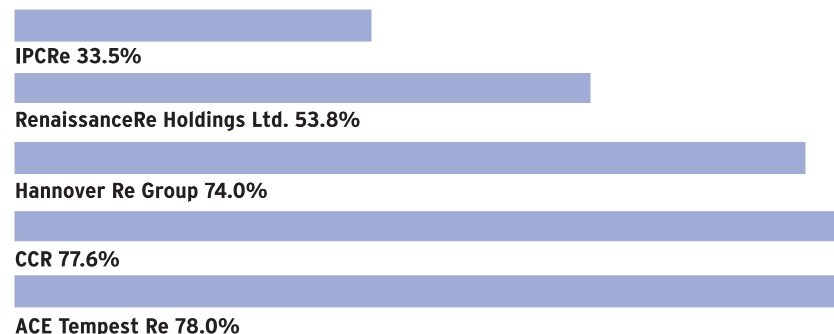
Ranked by increase in 2002 net premiums written over 2001 net premiums written




Source: *BI* survey

## LOWEST COMBINED RATIO

Ranked by lowest combined ratio related to reinsurance premiums in 2002




Source: *BI* survey

# World's largest reinsurers

## Ranked by 2002 net premiums written

| Rank | Company/Address | Phone/Fax/Web site | Net premiums written 2002 | % change | Net premiums earned 2002 | % change | 2002 combined ratio | 2002 employees | Principal officer |
|---|---|---|---|---|---|---|---|---|---|
| 1 | Munich Re Group<br>Koniginstrasse 107,<br>Munich 80802, Germany | 49-89-3891-0<br>Fax: 49-89-3990-56<br>*www.munichre.com* | $20,596,484,400 [1] | 35.4% | $2,1149,543,400 [1] | 27.4% | 122.4% 2 | 5,836 | Hans-Jurgen Schinzler, chairman-board of management |
| 2 | Swiss Re Group<br>Mythenquai 50/60, P.O. Box<br>Zurich, CH 8022, Switzerland | 41-43-285-2121<br>Fax: 41-43-285-5493<br>*www.swissre.com* | $19,249,731,000 [3] | 26.0% | $18,663,953,400 [3] | 25.0% | 104% [4] | 8,300 [5] | John R. Coomber, CEO |
| 3 | Berkshire Hathaway/<br>GeneralCologne Re [6]<br>100 First Stamford Place,<br>Stamford, Conn. 06902-6745 | 203-363-5200<br>Fax: 203-363-5221<br>*www.berkshirehathaway.com;*<br>*www.gcr.com* | $13,002,000,000 | 8.5% | $11,720,000,000 | 3.3% | NA | 3,907 | Ajit Jain, president-BHRG; Joseph P. Brandon, chairman/CEO-GeneralCologne Re |
| 4 | GE ERC Group<br>5200 Metcalf Ave., P.O. Box 2991,<br>Overland Park, Kan. 66201 | 913-676-5200<br>Fax: 913-676-5380<br>*www.ercgroup.com* | $7,892,000,000 | -8.9% | $7,787,000,000 | 8.4% | 170.2% | 3,335 | Ronald R. Pressman, CEO |
| 5 | Hannover Re Group<br>Karl-Wiechert-Allee 50,<br>Hannover 30625, Germany | 49-511-5604-0<br>Fax: 49-511-5604 -1188<br>*www.hannover-re.com* | $7,690,829,000 [1] | 21.0% | $7,268,424,280 [1] | 25.0% | 74.0% | 2,016 | Wilhelm Zeller, CEO |
| 6 | Lloyd's of London<br>1 Lime St.,<br>London EC3M 7HA, England | 44-207-327-1000<br>Fax: 44-207-327-2389<br>*www.lloyds.com* | $6,378,112,500 [7] | 11.9% | NA | NA | NA | NA | Nick Prettejohn, CEO |
| 7 | SCOR<br>Immeuble SCOR,<br>1 Ave. du General de Gaulle,<br>Paris La Defense F-92074, France | 33-1-46-98-7000<br>Fax: 33-147-67-0409<br>*www.scor.com* | $4,233,501,200 [1] | 14.7% | $4,035,912,600 [1] | 11.2% | 118.3% | 1,256 | Denis Kessler, CEO |
| 8 | XL Re<br>XL House, 1 Bermudiana Road<br>Hamilton HM 11, Bermuda | 441-292-1358<br>Fax: 441-296-0167<br>*www.xlre.com* | $3,544,200,000 | 106.8% | $3,047,200,000 | 76.4% | 103.9% | 529 | Henry C.V. Keeling, executive vp-XL Capital Ltd./CEO-reinsurance operations |
| 9 | Converium Ltd.<br>General Guisan Quai 26,<br>Zurich 8022, Switzerland | 41-1-639-9393<br>Fax: 41-1-639-9090<br>*www.converium.com* | $3,322,200,000 | 33.8% | $3,165,500,000 | 37.9% | 104.2% [2] | 813 | Dirk Lohmann, group CEO |
| 10 | PartnerRe Ltd.<br>96 Pitts Bay Road,<br>Pembroke HM 08, Bermuda | 441-292-0888<br>Fax: 441-295-1771<br>*www.partnerre.com* | $2,655,374,000 | 45.5% | $2,425,736,000 | 48.5% | 97.9% [2] | 785 | Patrick Thiele, president/CEO |

1 euro=$0.9454 (12/31). 2 Ratio is for nonlife business only. 3 Swiss franc=$0.6423 (12/31). 4 Ratio is for property/casualty group only. 5 Estimated. 6 Combined figures of Berkshire Hathaway Reinsurance Group and GeneralCologne Re. 7 British pound=$1.5025 (12/31).
Source: *BI* survey

The full Directory of International Reinsurers is available online in the Directories area of *www.businessinsurance.com*. The searchable directory allows users of locate international reinsurers by company name, net premiums written, net premiums earned and number of employees, among other items. The online database is free to subscribers of *Business Insurance*. PDF copies of the directory can be purchased by calling the Crain Information Center at 312-649-5476.

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# Collateral: European reinsurers seek reduction

Continued from page 10

billion from non-U.S. reinsurers and $7 billion from U.S.-based reinsurers, according to Bradley L. Kading, senior vp and director of state government relations for the Washington-based Reinsurance Assn. of America.

The London-based International Underwriting Assn. and the Comite Europeen des Assurances, with offices in Brussels and Paris, both have been lobbying to reduce U.S. collateral requirements. Their efforts have focused on the NAIC's Reinsurance Task Force, though they also have lobbied subgroups of the National Conference of Insurance Legislators.

The issue "has become a big brouhaha," said NAIC Vp and South Carolina Insurance Director Ernst Csiszar, a member of the NAIC task force. Discussions thus far have been disrupted by controversies, including the task force's decision to narrow the discussion by eliminating retroactive application of any change (*BI*, June 30). And, despite proponents' criticisms, Insolvency Task Force Chair Holly Bakke said the report on collectibility problems continues to be the task force's "best advice."

Proponents remain committed, however, to pushing for a change in the rules.

Julian James, director of worldwide markets for Lloyd's of London, said that "we are making some progress" with state insurance regulators. In addition, he cited a recent Standard & Poor's report that highlighted what he described as "a number of discriminatory practices" that non-U.S. reinsurers currently face.

"As part of a natural progression, proponents are planning to prepare a draft of a model regulation for the NAIC's Reinsurance Task Force," which may be available as early as the Sept. 13-16 NAIC meeting in Chicago, said David Matcham, IUA's director of operations.

The new approach is needed because "the current rules are unreasonable, costly and discriminatory," according to the proponents' written statement presented at an NCOIL hearing in July. Having the same requirement for financially strong and weak reinsurers is inappropriate because it requires the world's strongest reinsurers to provide "excessive collateral," they said.

In addition, the proposal "would reduce the cost of reinsurance and increase capacity" by freeing up capital, Mr. Matcham said.

In theory, the proposed change "would reduce the price of reinsurance," due to the trickle-down effect, said Reinsurance Task Force Chair John Oxendine. In addition, it would resolve a "fairness issue" about U.S.-based reinsurers being treated differently than reinsurers based elsewhere, he said.

Several observers say, though, that the current collateral rule provides important protections.

U.S. rules don't make reinsurance from non-U.S. companies inherently more expensive, because "it's not just a matter of the price of reinsurance but the total resulting cost," said Michael Koziol, senior director and counsel of the Des Plaines, Ill.-based National Assn. of Independent Insurers. It is important to factor in the potential impact of uncollectible reinsurance on a ceding insurer's and its policyholders' claims, he said.

In addition, opponents of the proposal argued in submissions to NCOIL that the current rules are needed to protect consumers, especially in light of recent reinsurer ratings downgrades. Furthermore, they questioned whether reducing collateral requirements would actually increase capacity.

In addition to the RAA, opponents of changing the collateral rule include the American Insurance Assn., the American Assn. of State Compensation Insurance Funds, and state insurance organizations from Pennsylvania, Michigan and New York.

Mr. Csiszar said he fears that lowering collateral requirements for non-U.S. reinsurers could actually reduce primary insurance capacity. He said that the change could hurt small and midsize ceding insurers, for whom reinsurance recoverability concerns would lead to increased scrutiny from rating agencies and greater balance sheet risk. That, he said, would make them less likely to write coverage.

Essentially, it is "premature" to discuss such changes, because it would be difficult for regulators to implement them until "we speak a common language" for financial reporting, Mr. Csiszar said. Regulators will be one step closer to that goal in 2007, when the European Union will require that all insurers doing business there follow uniform accounting rules. Also, it is "highly likely" that the Financial Accounting Standards Board in the United States will adopt those international rules, he said.

In addition, the collectibility of reinsurance "is still an open issue," said Mr. Csiszar, who chairs the NAIC's International Relations Committee. "I have yet to see one non-U.S. court enforce a default judgment," he said.

"Therein lies the rub on this entire issue: many questions, oftentimes conflicting answers," said NAIC President Mike Pickens.

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# China offers big opportunities and big challenges

By SALLY ROBERTS

As China's reinsurance market gradually opens to foreign participation, several international reinsurers are lining up for an opportunity to provide capacity and cultivate the growth of risk management in the country.

Upon China's accession to the World Trade Organization in December 2001, the Chinese government committed to the further liberalization of the country's insurance market by passing legislation last year governing the establishment of foreign reinsurance companies in China.

Currently, China Reinsurance Corp., the sole state-run reinsurer, dominates the Chinese reinsurance market. Domestic insurers must cede 15% of their premiums into China Re, which makes up nearly 90% of the entire reinsurance market.

As a condition of China's entry to the WTO, however, the statutory reinsurance requirement will be gradually reduced, ending completely in 2006. That change will create more market-share opportunities for foreign reinsurers, many of which have been serving Chinese insurers for decades on a limited basis, including providing some offshore reinsurance capacity.

That offshore capacity, however, is underwritten only in the currency of the underlying policy—typically U.S. dollars or British pounds—and represents only a little more than 10% of China's reinsurance market.

Since 2002, several international reinsurers have applied for licenses to conduct full reinsurance business in China. To date, Munich Reinsurance Co. is the only international reinsurer to have received such a license.

By obtaining a reinsurance license and operating in renminbi yuan-denominated reinsurance business, foreign reinsurers say they will have access to more domestic insurers, for which they can help reduce exposures by spreading risk to the international marketplace.

**Based on figures from the China Insurance Regulatory Commission, Swiss Reinsurance Co. estimates that by 2011, China's insurance market will generate $136.7 billion in insurance premiums.**

At the same time, reinsurers say they also can contribute by bringing intellectual capital to a developing and growing insurance market.

According to the China Insurance Regulatory Commission, which was formed in 1998 to oversee the insurance industry, China's insurance market is growing at a double-digit pace. In 2002, domestic insurers in China generated $37 billion in direct premiums, a 44% increase over 2001, the CIRC reported.

Based on the CIRC's figures, Swiss Reinsurance Co. estimates that by 2011, China's insurance market will generate $136.7 billion in insurance premiums.

"Everybody looks at China as the final frontier where you have a large population and an underdeveloped insurance market," said David Greenfield, a partner in KPMG L.L.P.'s insurance practice in New York.

"I think it's going to present good opportunity for insurers and reinsurers to expand their business," he said.

But with these opportunities come risks, observers warn.

"The Chinese insurance market has great potential, but at the same time, it has a lot of pitfalls," said Simon Hu, head of the Asia Pacific region for A.M. Best Co. in Oldwick, N.J. In addition to changing market conditions and a restrictive regulatory environment, China has a judicial system that is not fully developed, and "corporate risk management as a concept doesn't exist," Mr. Hu said. "There's got to be a lot of education that has to be conducted at the corporate level."

"There are opportunities for foreign reinsurance companies, yet there also are many challenges," said Andreas Lauffs, an attorney in the China practice group of Baker & McKenzie in Hong Kong. "From a regulatory perspective, it is apparent that the CIRC is genuinely serious about market reform, but the actual industry reforms are very slow."

One of the major challenges for reinsurers, Mr. Lauffs said, is that few primary insurers in China currently purchase reinsurance beyond what is required. Citing statistics from a recent speech by a senior CIRC official, Mr. Lauffs said that mandatory reinsurance into China Re accounts for 88% of the total reinsurance market in the country.

As a result, foreign reinsurers look at China's fledgling insurance market as an opportunity not only to provide capacity, but also to help shape the market.

"The main challenge of doing business in China is also the main opportunity," said Franz Hahn, head of property/casualty operations in greater China for Swiss Re in Hong Kong. And that "is to help China's insurance industry raise underwriting standards and build overall risk management expertise," he said.

Zurich, Switzerland-based Swiss Re is awaiting approval for its reinsurance license in China, which it applied for in July 2002.

Entering an emerging market such as China is "a push-pull scenario between market growth and proper pricing," said Ulrich Trumpp, chief executive officer of greater China and Southeast Asia for Munich Re. The Munich, Germany-based reinsurer received its li-

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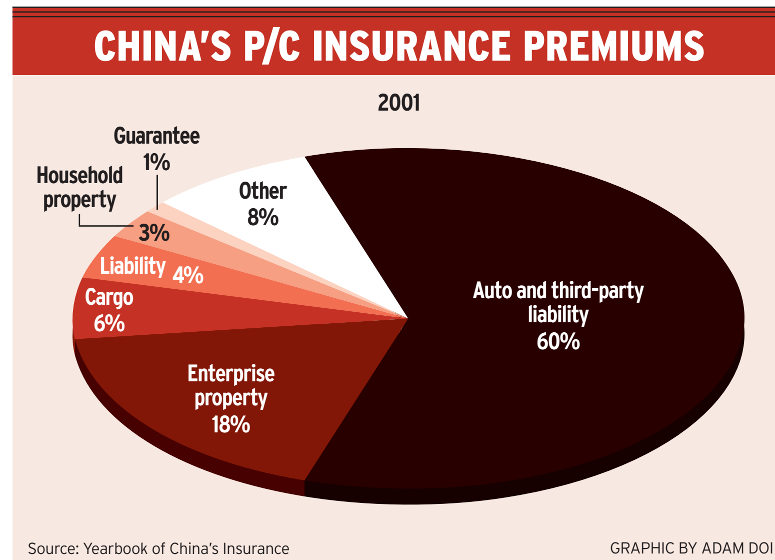


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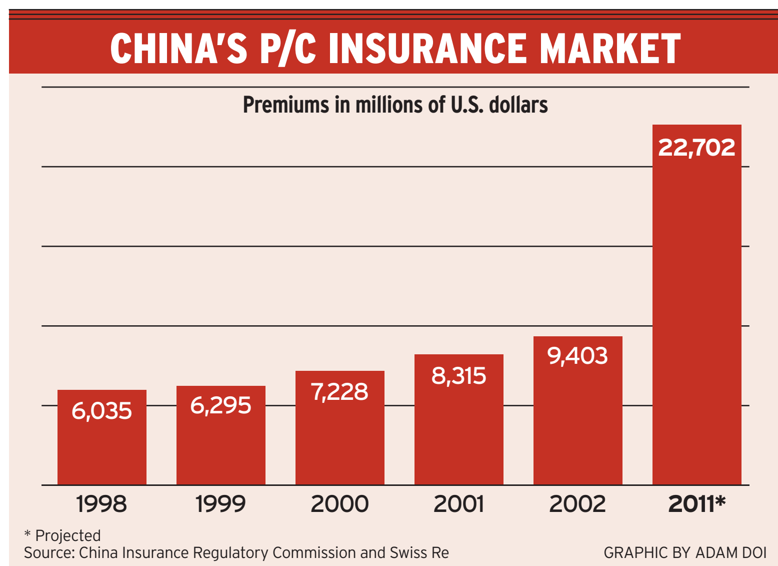


# China: Market offers foreigners big opportunities, challenges

**Continued from page 18**

cense to operate in China in July.

"This is something professional reinsurers, by virtue of historical experience, have always been confronted with. We always went into markets and (helped) the markets with their growth and, at the same time, faced the challenge that we need to make sure the market is doing the proper risk selection and professional underwriting," he said.

Although Munich Re has had business connections in China since 1956 and has offices in Beijing, Shanghai and Hong Kong, its license will allow the reinsurer to operate in China without limitations, Mr. Trumpp said.

"It gives us the opportunity to consider reinsurance in any segment of any market where Chinese insurance companies need reinsurance. And there are a lot," he said.

The direct insurance industry in China needs to grow and expand its market share, Mr. Trumpp said. To do that, they need capital, "and to grow capital in China you can either go to the stock market and generate capital or you can buy reinsurance to substitute capital," he said.

In addition to Swiss Re and Munich Re, several other international reinsurers also are poised to take part in the developing Chinese market.

In July, Lloyd's of London filed for an onshore reinsurance license from the Chinese government.

**'Clearly, with some of the catastrophic risks that that market is exposed to, they would benefit by being able to cede business to the global reinsurance industry.'**

*Julian James*
*Lloyd's of London*

"We had some very encouraging meetings," said Julian James, director of worldwide markets for Lloyd's. Lloyd's Chairman Lord Peter Levene visited China in July as part of a British business delegation accompanying Prime Minister Tony Blair. "They are looking very seriously at our application," Mr. James said.

"Lloyd's has a long history with China," he said. "We currently provide a lot of offshore reinsurance capacity and have done so for the last 30 to 40 years. The license will enable us to write onshore business in local currency," he said.

"Clearly, with some of the catastrophic risks that that market is exposed to, they would benefit by being able to cede business to the global reinsurance industry," Mr. James said.

In addition, Overland Park, Kan.-based Employers Reinsurance Corp. formally applied for an operating license in China in May 2002 and is awaiting approval.

"It's the sort of thing where you have to let the authorities take the proper steps and do things in their own time," an ERC spokesman said. "We're looking at this as a marathon, not a sprint."

"The whole financial services sector there is still emerging," he said. "What we want to be is a positive supporter of change to help that sector grow profitably."

Although ERC has been developing relationships and providing some services to several Chinese insurers since 1976, the license will enable ERC to provide reinsurance services to clients. At the same time, ERC also "can bring a lot of expertise to the market and provide access to a lot of our professional and management development programs," he said.

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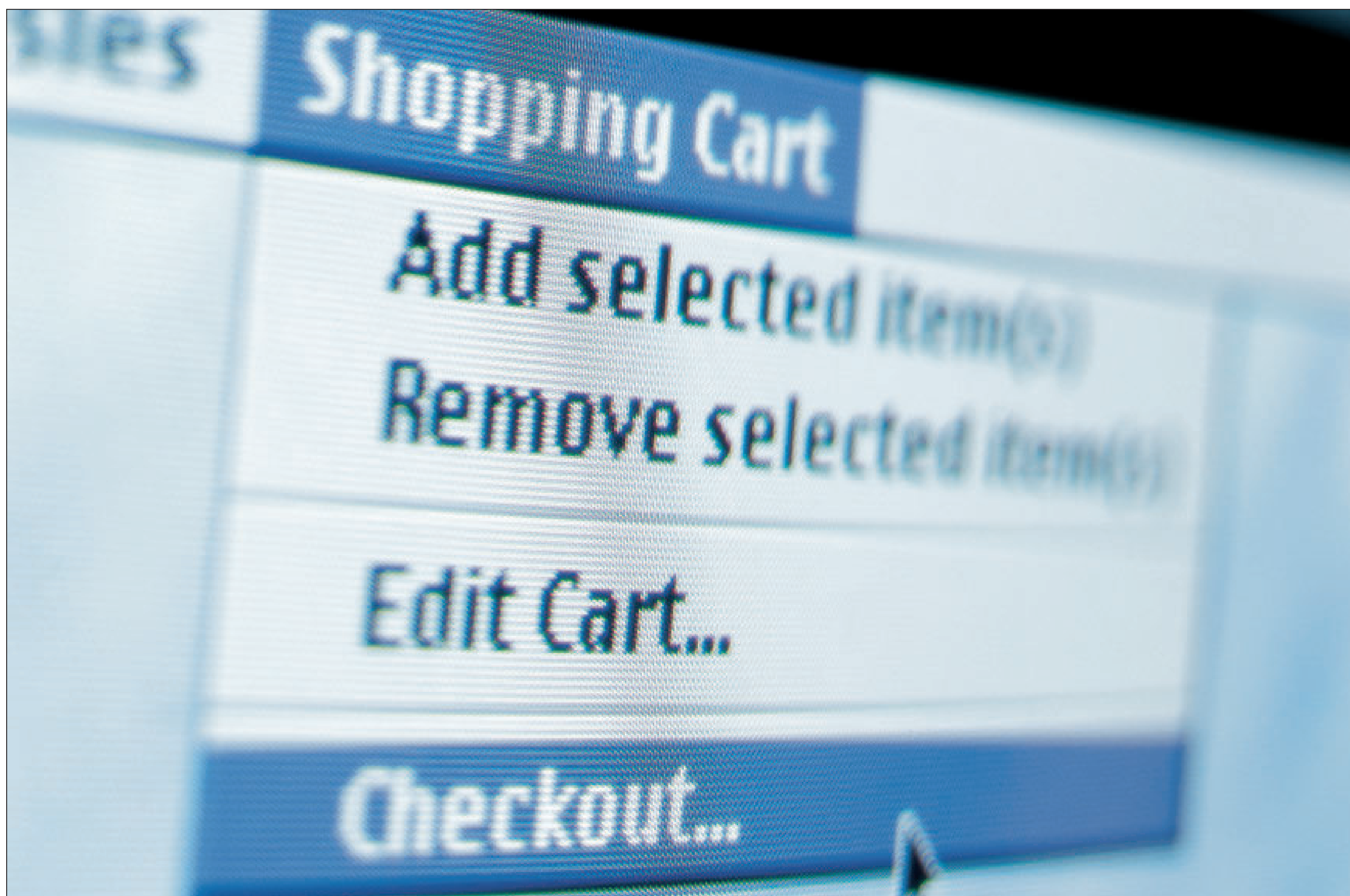
AGENT/BROKER TOPICS

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

# Customer Service




# Self-service rewards brave few who try it

By MICHAEL PRINCE

It seems that many insurance agents and brokers simply won't take the leap into 21st-century technology.

Despite the widespread use of the Internet for customer self-service throughout the financial world, insurance intermediaries have been very reluctant to adopt the technology for themselves.

In addition to being intimidated by the Internet in general, observers say, some agents are concerned that giving customers direct access to services via the Internet will take away some of the value of the services they offer.

But customer demand may force many intermediaries to offer Web-based customer self-services. Those that have implemented self-service technology are finding themselves reaping the rewards.

"It is catching on slowly," said Jeff Yates, executive director of the Agents Council on Technology in Alexandria, Va.

Although it has been available for a number of years, customer self-service "is still in its infancy," said Laura Nettles, president and chief executive officer of Nettles Consulting Network in Atlanta.

"I think this thing is just getting started," said Richard Roy, chairman and CEO of idNET Inc., a creator of customer self-service software in Simsbury, Conn.

Generally, agencies have two ways to obtain the technology. Either an agency management system can buy software to add the capability as an added feature to their Web site or agencies can turn to an outside vendor that links an existing system to the Internet.

Using either method allows an agency's clients to access detailed policy information from Web-connected computers. In addition, systems generally allow policyholders to print certificates of insurance and identification cards and to make minor changes to policies.

Despite the numerous advantages self-service offers, agencies have been slow to adopt the new technology.

In general, insurance agencies are conservative when it comes to new technology and are slow to implement it, said Kevin Wheeler, president of Cardinal Insurance Services Inc., a four-employee agency in Indianapolis.

"We move at a snail's pace with anything that involves the word 'change,'" Mr. Wheeler said.

So far, only agencies that have a high degree of technological savvy and are open to new ventures have been willing to take this step, said Mark Parrish, president of Ajasent Inc., an application service provider in West Monroe, La.

"The early adopters now are adopting it," Mr. Parrish said.

Adoption has been especially slow by agencies in rural areas, Mr. Yates said. But with agents that have large blocks of commercial business, especially with clients in the trucking or construction industries, the adoption has been more brisk, he said. These businesses often need quick access to certificates of insurance, and a Web site is a great way for them to obtain them, Mr. Yates explained.

Many agencies have adopted the technology in response to customer demand, observers say.

Around-the-clock Internet access is common for so many other businesses that policyholders are wondering why they can't also have it for their insurance needs, Mr. Roy said. This attitude has been forcing agencies to respond, he said.

"I think the customers will drive it faster

See SELF-SERVICE/next page

'No-fax' rule draws industry's ire / 20C

Customer focus key to gaining loyalty / 20D

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# Self-service: Rewards adopters

Continued from previous page
than the agencies," he said.

It's becoming harder for agencies to ignore the movement toward self-service, said Steve Anderson, president of The Anderson Network, an agency consulting firm in Nashville, Tenn.

"Consumers are going to demand it," he said.

Another roadblock to wider adoption is policyholders' performance of administrative tasks, which strikes at the heart of what many agencies believe is their role, Ms. Nettles said.

"They are very threatened by the new technology that takes away the processing," she said.

Too often, Ms. Nettles said, agencies define their relationship by pushing paper, so that when the paper goes away, "the agency does not know where they fit." These agencies need to focus on serving their clients as insurance experts and consultants, she said.

Agencies can see a number of significant advantages to implementing online customer self-service systems.

Such systems provide a unique customer service arrangement. Policyholders can access their policy information 24 hours a day, print out their own insurance certificates and identification cards and perform numerous transactions. Insurance customers are no longer restricted to doing business only when their insurance agencies are open.

Customers can use the Web site "to do their own thing at their own pace," Mr. Wheeler said.

Online self-service also cuts down on the mundane administrative tasks and allows agencies to focus more on their customers, Ms. Nettles said.

"The misconception is that self-service takes the agency out of the picture," she said. Ms. Nettles explained that self-service merely lets customers handle the tasks they can perform on their own.

With a system in place, an agency can market itself as having around-the-clock customer service, giving it a significant advantage over its rivals, said Donna Wilson, senior vp at Bowen, Miclette & Britt, an agency in Houston. The 170-employee agency has had a system in place for about three years, Ms. Wilson said.

"It's a value-added service to our clients," she said.

A few years ago, Mr. Wheeler's agency started using the popular system sold by idNET called CSR24. The system connects the agency's existing management system to the Internet and provides customers access to policy information and transactions.

"It's been huge. It sets us apart from some of our competitors," Mr. Wheeler said.

Another advantage has been the 24-hour telephone backup service offered along with CSR24, he said.

The benefit of the phone backup was proven last year, when the agency lost electricity for five days after a tornado struck the area. The agency's offices lacked phone service but customers were still able to transact business over the Internet and file claims through the backup phone service, Mr. Wheeler said.

One concern, though, is that some customers might need to be convinced that the online access benefits them and gives them greater freedom rather than just requiring them to do more work, Ms. Wilson said.

"We don't want our customers to think we're trying to get them to do the work," she said.

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AGENT/BROKER TOPICS

# 'No-fax' rule draws ire of industry groups

By JOANNE WOJCIK

The federal government's decision last month to postpone implementation of a "no-fax" rule doesn't mean that insurance agents and brokers can rest easy, industry sources warn, though some say that reversal of the regulation is likely.

The rule on faxes, issued June 26 by the Federal Communications Commission as part of a "no-call list" law, requires businesses, organizations and individuals to obtain written permission from recipients before sending them unsolicited faxes that can be considered advertising.

Such a restriction, which eliminates an exception in previous FCC rules that had allowed businesses to communicate by fax with individuals with whom they have an existing business relationship, could hamper the ability of agents and brokers to provide effective customer service, according to Pat Borowski, senior vp of the National Assn. of Professional Insurance Agents in Washington.

"PIA absolutely understands that everybody in this country is fed up with getting calls and stuff from people you don't even know. If I get one more call from an aluminum siding company, I'm going to blow my stack," she said. "But our guys don't do what one would reasonably recognize as either junk faxes or unsolicited advertising."

"If you have an established business relationship with someone, it doesn't seem to make sense that you wouldn't be able to…send them faxes, that you would have to get constant approval," said Gary Karr, director of federal media relations for the American Insurance Assn., a Washington-based trade organization for property/casualty insurers.

"This is the collision of the privacy issue with just pure business efficiencies," said Joel Wood, senior vp of government affairs at the Washington-based Council of Insurance Agents & Brokers.

But even though the FCC has postponed implementation of the new rules until Jan. 1, 2005, the PIA's Ms. Borowski is not letting up on the offensive.

"This doesn't mean they're backing away from the order," she said. In fact, one of the reasons for postponement cited in the FCC stay order is that the delay gives businesses and others affected more time to obtain permission to send unsolicited faxes, she pointed out.

Although the rule is vague on the subject of how often permission must be obtained, Ms. Borowski said it could be as often as every six months, depending on how frequently an organization sends faxes.

A spokeswoman for the FCC said that the PIA, like other organizations, now has "14 months to notify the members and get some kind of authorization from them to continue sending faxes," adding that the rule also applies to the trade group's members individually in their communications with customers.

"The rules as we adopted them haven't changed," the FCC spokeswoman said. "After Jan. 1, 2005, you will have to get their approval to send faxes, even though you have a business relationship."

Indeed, the FCC's Aug. 18 stay order states: "Section 64.1200(a)(3)(i), as amended, requires the sender of a facsimile advertisement to first obtain from the recipient a signed, written statement that includes the facsimile number to which any advertisements may be sent and clearly indicates the recipient's consent to receive such facsimile advertisements from the sender.

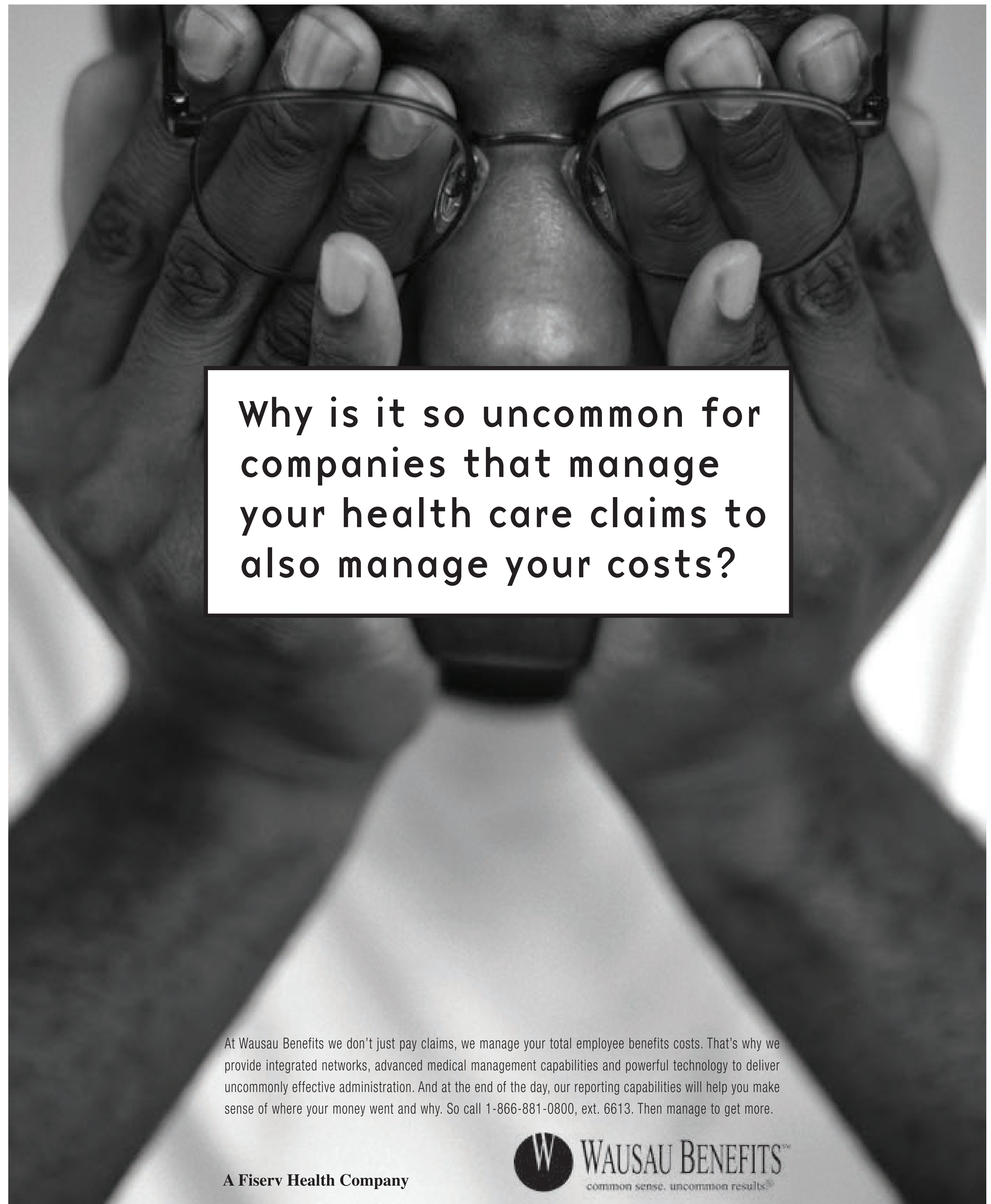
"The comments filed after the release of the 'Report and Order' indicate that many organizations may need additional time to secure this written permission from individuals and businesses to whom they fax advertisements. We believe that, in light of this new information, the public interest would best be served by allowing senders of such advertisements additional time to obtain such express permission before the new rules become effective."

Both Mr. Karr and Mr. Wood say the FCC's decision to postpone implementation of the new rule and accept additional comments means that the rule likely will be reversed.

"It's a moot point," said Mr. Karr of the controversial rule.

"It was just causing a groundswell of opposition and real outrage," said Mr. Wood. "I'd be shocked if this rule weren't substantially altered. It actually was unnerving to me how many of our members were contacting us spontaneously about this, and we were only one sector of the entire economy."

"Let's put it this way: There will be plenty of faxes going in to Capitol Hill over the course of the next year or two, whether the senator or representative gave them express authorization to do so or not," Mr. Wood said.

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# Customer focus gains elusive customer loyalty

By ALLISON REYNOLDS

A new study linking customer loyalty with customer service indicates it may be increasingly important for insurers and brokers to add value to the servicing side of their relationships with clients.

The "Walker Loyalty Report for Financial Services and Insurance," released in July by Indianapolis-based Walker Information, shows that 66% of financial services and insurance customers are not truly loyal to their suppliers. And, according to the report, the key driver of loyalty is customer focus.

Walker's report measured customers' attitudes and experiences with vendors in four industry sectors, including health and medical insurance, retirement/investment plans, property/casualty insurance and commercial banking.

The study surveyed a panel of senior-level executives whose responsibilities include purchasing financial services and insurance products for organizations with 50 or more employees. The findings are based on 2,278 observations gathered from 767 questionnaires completed during 2003.

"While satisfaction with insurance providers measures specific experiences, only loyalty provides an understanding of the relationship and future customer behaviors," according to the study.

The top five drivers of loyalty include customer focus, overall quality of the company, value for the money, brand and quality of the products or services, Walker found.

"In terms of the overall findings, one of the strongest drivers of loyalty is customer focus," said Marc Drizin, vp and loyalty specialist for Walker Information. "It's the No. 1 driver in all areas of the market."

Specifically, 75% of those surveyed indicated at least some satisfaction with their current vendor, but a large percentage were not pleased with the overall relationship and/or have low intentions of continuing it, according to the report.

Customer loyalty levels were split into three categories: "high risk," those with low intentions of continuing with the provider; "trapped," those likely to continue business with the company but not pleased with the relationship; and "truly loyal," those who plan to maintain the relationship with the provider.

Those described as "high risk" make up 31% of those surveyed, while those categorized as "trapped" make up 33%. With another 2% as "accessible," meaning they may not continue doing business despite being pleased with the relationship, just 34% were "truly loyal."

Moreover,just one in four of those surveyed say that they would not consider offers from other insurance vendors. Nearly 39% are very open to considering competitive offerings, but only one-third plan to increase their business with existing suppliers.

Only half of those surveyed have positive perceptions of customer service, the enrollment/renewal process, and the relationship with their agent or broker, according to the study.

Mr. Drizin suggests that, in today's market, when customers have trouble differentiating the products of insurance companies, distinguishing good customer service is needed to create more "truly loyal" customers.

Mr. Drizin said that a lot of the trouble in the industry is caused by the focus on the acquisition of new customers and not the retention of existing customers.

"The initial sale is easy," Mr. Drizin said. "It's not just talking the talk but walking the walk."

Traditionally, insurers have won customers through competitive fees and rates while building relationships with customers. But it may be important for insurers to realize that it's not just low prices that count but the customer service provided that determines customer loyalty.

"I think most customers would be OK with paying a little more if they know they would be getting better service," Mr. Drizin said.

The research suggests that increased customer focus, followed by improvements in quality, brand and reputation, are all needed for turning "trapped" and "high-risk" customers into "truly loyal" ones.

*Information on the "Walker Loyalty Report on Financial Services and Insurance" is available online at www.walkerinfo.com/resources/reports.*

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# Market: Prices remain high for most reinsurance

**Continued from page 10**

lack of any significant loss activity over the last 20 months, pricing is beginning to level off or even soften slightly, but at very profitable levels mostly," he said.

Mr. Lohmann said the areas where some softening can be seen are in the low frequency/high severity lines, such as property catastrophe and airline insurance.

"Additionally, we have seen some return to competition for large property risk business that I would call the national accounts" in the United States, the Converium CEO said.

"In these areas, my expectation is that future rate development will become largely event-driven. If no further large-shock losses arise, we can expect to see some further pressure on pricing. If losses occur, I expect we will see a leveling off or maybe even some increases—particularly in the reinsurance contracts covering these risks."

"It's really a very quiet market," said Steven Bolland, senior vp at reinsurance intermediary Gill & Roeser Inc. in New York. "It's softening up. No big surprises, but we're just seeing an overall easing in pricing, and there's a lot of capacity and generally very few problem areas."

"The last year-and-a-half has been very good from a catastrophe standpoint," Mr. Bolland said. "And, at least on the property side, people have made a lot of money, and they're trying to put it to use."

"Casualty's a little different, but not much," he said, citing medical malpractice and D&O as problem areas.

Mr. Lohmann said that in areas such as casualty or longer-tail lines and in specialty lines—including credit and surety—he continues to see rate increases and tighter underwriting standards, with capacity tight and terms and conditions still moving in reinsurers' favor.

"Here, the past loss emergence is keeping the fire to the feet of the primary companies, and reinsurers have also been observing deterioration of the experience," Mr. Lohmann said. "This will keep pricing moving upwards, particularly as many markets see the drop in investment income flow through to their (balance sheets) due to ever lower investment returns being generated on the operating cash flows," he said.

Mr. Lohmann said he expects that in many areas, particularly casualty lines such as professional liability, products liability and umbrella liability, renewal negotiations this January might be even tougher than last year's.

"From a capacity point of view, two areas have been suffering from shortages in reinsurance capacity: D&O and surety," Mr. Lohmann said. "The number of reinsurers providing both classes has declined, and in D&O reinsurers are more keenly aware of the danger of accumulation across cedents, since many primary insurers are cutting back their limits and a buyer of D&O has to tap into many more providers in order to secure the limits their directors are demanding."

## Impact of new players

It's widely agreed that the capacity that came into the Bermuda market since the terrorist attacks of Sept. 11, 2001, has had a significant impact on the catastrophe reinsurance market.

"Clearly, there is more supply for catastrophe risk than there is demand, with the exception perhaps of certain peak zones such as Gulf Coast hurricane risk in the U.S.," Mr. Lohmann said. "This has led to a quicker leveling off of pricing on catastrophe business than one might have expected. That is not to say that prices are not attractive, because they are. This is largely because many of the new markets in their first 12 to 18 months acted as following markets and not as price leaders."

**'The last year-and-a-half has been very good from a catastrophe standpoint. And, at least on the property side, people have made a lot of money, and they're trying to put it to use.'**

*Steven Bolland*
*Gill & Roeser Inc.*

The lack of significant losses at Bermuda reinsurers has served to increase capacity in the market, Mr. Bolland said. "All that capital that went to Bermuda after 9/11, basically nothing has happened," he said. "Those guys are making a lot of money, and their capital has increased proportionately."

Given the hurricane season, clearly significant risks persist for those reinsurers, but, "If nothing happens in the next six to eight weeks…those reinsurers are going to have another real great year," Mr. Bolland said.

On the other hand, "It will be interesting to see what the Bermuda capacity does if we get the big one or two at the end of the year," said Paul Walther, CEO and principal consultant at Reinsurance Directions Inc. in Healthrow, Fla.

Mr. Lohmann said he thinks a key issue is where that new Bermuda ca-

**See MARKET/page 24**

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# Market: Prices remain high for most reinsurance

**Continued from page 22**

pacity will go next.

"The real question lies in what will the new markets do as they begin to increase their diversification and move into noncatastrophe lines," he said. "Many have been gearing up and clearly have an appetite to increase their market share. This will probably have a greater influence on the shape of broker-driven markets, such as the U.S. or U.K., than it will on classically direct markets such as continental Europe, where client access and local market knowledge are key."

## Signs of trouble?

While the current market appears to be a healthy one for reinsurers, there are signs that not all are well. In August, Standard & Poor's Corp. said that continued rate increases in the global reinsurance market have not stemmed downward pressure on credit ratings in the sector.

"Despite further price increases in the January 2003 renewal season, the market continues to suffer from diminished quality of capital, reduced financial flexibility (defined as the ability to source capital relative to requirements), prior-year liabilities, the overhang of reinsurance recoverables and the likelihood that many companies' operating performance will fall short of expectations," the rating agency said.

The ease of new players' entry into the reinsurance market and increased competition has hurt established reinsurers' ability to improve their fortunes, S&P said.

"Even though it's a healthy market, not all the players are healthy," said IPCRe's Mr. Bryce, adding that issues such as adequacy of capitalization and reinsurer payment are factors in some quarters.

"There seems to be a polarization where the strong are getting stronger," he said. "It's not doom and gloom for everyone, but you're starting to see it get easier to differentiate. It's not just ratings, it's, 'Is the reinsurance performing?' It's not the promise, it's the execution of the promise."

"One of the things that a lot of people are looking at is the subject of performance in reinsurance," said Robert W. Hammesfahr, a member of the Cozen O'Connor law firm in Chicago. "And performance is not just on the reinsurer's side—i.e., payment of claims—it's also somewhat on the cedent's side in terms of integrity of accounting."

A weak global economy, underperforming investments—particularly the large equity portfolios of many European reinsurers—and a decade of underpricing have all taken their toll on the financial positions of many reinsurers, Mr. Hammesfahr and others say.

**'Even though it's a healthy market, not all the players are healthy. ...There seems to be a polarization where the strong are getting stronger. It's not doom and gloom for everyone, but you're starting to see it get easier to differentiate.'**

*James P. Bryce*
*IPCRe Ltd.*

"What a lot of people would say is there has been good performance in terms of 9/11 claims," Mr. Hammesfahr said.

Aside from those, however, "There seem to be a lot of delays," he said. "I think the reality of the matter is, you can only drain the cash so many times."

A telling factor is the number of reinsurance disputes in the courts, the attorney said.

**See MARKET/page 26**

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## Standard & Poor's Top 20 reinsurer groups

S&P ranking based on 2002 reinsurance net premiums written

| Rank | Company | Home country |
|---|---|---|
| 1. | Munich Re Group | Germany |
| 2. | Swiss Re Group | Switzerland |
| 3. | Berkshire Hathaway Re Group | United States |
| 4. | Hannover Re Group | Germany |
| 5. | Employers Re Group | United States |
| 6. | Lloyd's of London | United Kingdom |
| 7. | SCOR Re Group | France |
| 8. | Allianz Re Group | Germany |
| 9. | Gerling Global Re Group | Germany |
| 10. | XL Re Group | Bermuda |
| 11. | Converium Re Group | Switzerland |
| 12. | PartnerRe Group | Bermuda |
| 13. | Everest Re Group | Barbados |
| 14. | AXA Re Group | France |
| 15. | Transatlantic Re Group | United States |
| 16. | London Reinsurance Group | Canada |
| 17. | Millea Insurance Group | Japan |
| 18. | Reinsurance Group of America | United States |
| 19. | Sompo Japan Insurance Group | Japan |
| 20. | Odyssey Re Group | United States |

Source: Standard & Poor's Corp.

# Market: Most reinsurance prices remain high

**Continued from page 24**

"From the legal side, there are more than 150 new reported reinsurance cases (in the U.S.) in the last five years," he said. This is "really significant when you think that most reinsurance cases aren't reported, they're handled through arbitration."

Meanwhile, "The dot-coms, the Enrons and the WorldComs of the world disclosed that the internal accounting standards of a lot of companies that were considered very reputable companies were inadequate," he said. Given those deficiencies in financial data among previously well-respected companies, "then you could see why reinsurers are saying that performance is a two-way street."

"I think the reinsurance companies have every reason to expect that there be integrity in the financial figures," Mr. Hammesfahr said. "They're asked to pay based on very limited information."

Mr. Walther said he's starting to see ceding companies address some of their concerns over their reinsurers' ability to pay future claims in the reinsurance contract language.

"It is intriguing to see there are agreements in certain contracts that the ceding company can make changes if the reinsurer's rating falls below a certain level," he said. "I think a lot of self-respecting buyers of reinsurance really do need to take a look at their contract wording and make sure their interests are protected upfront."

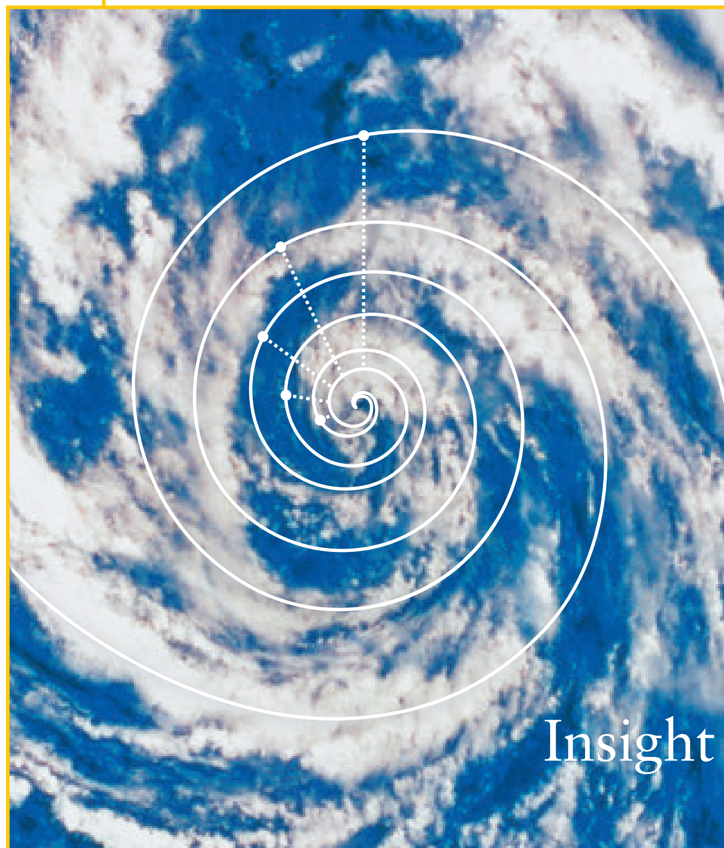
> **'I think the reinsurance companies have every reason to expect that there be integrity in the financial figures. They're asked to pay based on very limited information.'**
>
> *Robert W. Hammesfahr*
> *Cozen O'Connor*

"It's all part of the negotiating process. And, again, it's sort of a function of supply and demand," Mr. Walther said. "It's all very well to pay X price for Y coverage, but at the end of the day, part of the determination of that pricing has to be the likelihood that XYZ Co. is going to be around to pay that loss down the road."

Mr. Bolland said the increased ability of reinsurance buyers to take such steps is a result of increasing competition in the market.

"What we're seeing is people looking at security. People have a lot more options than they did last year," he said. "I'm not saying they would have taken any offer last year because, obviously, they wouldn't. But this year they're able to move up in terms of security."

"Cheap reinsurance is only cheap if the guy's there to pay," Mr. Bolland said.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# Reinsurers aiding efforts to address climate change

By JOANNE WOJCIK

Two major European reinsurers are taking the lead in helping the global business community address climate change issues.

Initially, much of the effort has focused on evaluating the industry's loss exposure by studying how changes in global weather patterns are contributing to the increasing incidence of hurricanes or the spread of pathogens such as the West Nile virus to the United States.

And though they are competitors, Munich Reinsurance Co. and Swiss Reinsurance Co. have collaborated in examining how the 1997 Kyoto Protocol—under which participating nations agreed to limit their production of greenhouse gasses within certain quotas—might affect the insurance business.

And now, Swiss Re is taking the next step by rolling out a risk-financing product for companies that participate in the global trading of emissions credits. Under that practice, known as carbon trading, companies with high emissions levels are allowed to produce emissions beyond target limits by purchasing "credits" from low-producing companies.

> **'We've been given the opportunity to work anywhere in the organization where we see risk and opportunity as a result of climate change and emissions reduction.'**
>
> *Chris T. Walker*
> *Swiss Reinsurance Co.*

Carbon trading, which has been conducted informally around the world for years, is set to begin formally this October when the Chicago Climate Exchange opens its doors.

"In mid-2000, I ran a feasibility study looking at where, when and how a company like Swiss Re could play a role in dealing with the emissions reductions issues that were being adopted worldwide to address climate change," said Chris T. Walker, managing director of Swiss Re's Greenhouse Gas Risk Solutions in New York.

"As a result of the feasibility study, we formed Swiss Re's Greenhouse Gas Risk Solutions. It's our long-term risk management strategy. We've been given the opportunity to work anywhere in the organization where we see risk and opportunity as a result of climate change and emissions reduction," he explained.

While much of Greenhouse Gas Risk Solutions' work initially focused on research, it soon will release a product that Mr. Walker hopes will encourage companies to invest in efforts to reduce greenhouse gas emissions.

"We're trying to get people to think a little bit differently about insurance. I see insurance as a facilitator or an enabler of things," he said. "It's the old story: You could build a high-rise building, but if you didn't have someone to insure it, you couldn't actually have people work in it. So basically, was it insurance or the elevator that facilitated high-rises?"

Swiss Re's new product, called Contingent Cap Forward for Emissions Reduction Trades, helps ensure that companies buying and selling emissions credits on the open market complete the transactions economically.

The product "facilitates the trades," Mr. Walker said, guaranteeing that the cost of the emissions credits stays within a certain range and helping ensure that the credits are delivered, should the transaction apply to some future time period.

"They're buying an option for the next five years. The idea is, if (the selling company) isn't here five years from now, you don't get what you purchased. So, the insurance standing in between will either provide what you purchased if we can get it from some other source, or, if we can't, we'll at least try to cap a little bit of your downside exposure," he said. For example, "if credits are now $15 a ton, and you bought them for $5, you're covered for some of your initial cash outlay," Mr. Walker explained.

"If we can build a portfolio of these, we're much better able to take that kind of risk than individual companies doing the trades," Mr. Walker said. "And we can also reduce their transaction costs, so that instead of doing 10 trades to obtain the necessary amount of credits, the companies could do fewer trades. Otherwise, the trades are being done on a risk management basis," he said, "in that they'll buy only a little amount from a bunch of sources so they spread their risk across a portfolio."

Insurance coverage could be valuable to emissions traders seeking to mitigate the risk of such transactions, according to Joel Swisher, principal and team leader in energy and resources at the Rocky Mountain Institute. The institute is a nonprofit research organization in Snowmass, Colo., that, among other services, promotes market-based solutions to problems

See CLIMATE/next page

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Swiss Reinsurance Co.'s new product helps ensure that companies buying and selling emissions credits on the open market complete the transaction economically.

# Climate: Reinsurers aid efforts

**Continued from previous page**

businesses face.

"The people who are considering participating in the carbon credit market are very nervous about the potential volatility, so everyone who's doing it is talking about options, talking about risk mitigation," he said. "It makes sense if someone is exposing their business to this type of instrument that they would want to mitigate any risk it imposes."

Thomas Loster, head of weather/climate risks research at Munich Reinsurance Co.'s Geo Risks Research Department in Munich, Germany, says that while Swiss Re's application of the product may be new, it's really an old idea being recycled.

"This is a form of credit insurance," he said.

Munich Re has some ideas of its own on the drawing board.

"We thought the insurance that needed to be changed was business interruption," Mr. Loster said. Munich Re is developing a coverage that would respond to increased regulatory costs should a company's "clean" power plant break down, forcing it to use an alternate plant that doesn't meet Kyoto, or any other, emissions limits.

In addition to offering its emissions trading product, Swiss Re also is asking directors and officers of companies what they are doing about reducing greenhouse gas emissions as part of the D&O liability insurance renewal process.

"These groups like Climate Justice, that's what they're going to be targeting. They're going to be targeting companies that they feel have not done their share in mitigating their footprint," said Mr. Walker, referring to a group formed in Europe to use litigation to force companies and governments to reduce greenhouse gas emissions.

**'If you would see a series of environmental disasters, like many oil tanker spills, hurricanes affecting your country or many floods, then, of course, the overall awareness of environmental issues would change.'**

*Thomas Loster*
*Munich Reinsurance Co.*

"So, internally, we've developed a questionnaire that will be asked with renewals. It's very simple at this point in time. Our role is to educate our clients to what we see as potential threats. And we're also trying to evaluate our own potential exposure," he said.

The questionnaire asks several simple questions, Mr. Walker said, such as "Are you in a potential compliance regime for emissions reductions? If you are, what is your strategy? And if you don't have a strategy, please explain why not."

The reinsurers' efforts reflect a mutual philosophy, according to Mr. Loster. "Both companies are working in the same direction. The overall awareness (of global warming issues) in Europe is greater than in the U.S.," he said. "Maybe the Europeans are a little bit too excited. Whereas in the U.S., global warming is not taken very seriously."

"At the moment, social problems, war problems, Iraq problems, dominate the news. But if you would see a series of environmental disasters, like many oil tanker spills, hurricanes affecting your country or many floods, then, of course, the overall awareness of environmental issues would change," he said.

"Then we need to be prepared," he said.

In the current economy, "people look at issues like climate change as something to do on the side," said a spokeswoman for Swiss Re in New York.

But, "50 years ago, people were not anticipating the kinds of claims that there are now on asbestos," she said. "There could be things like that" involving global warming, "and we just want to drive awareness on that level."

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*Reactions, May 2003, worldwide survey of insurance-industry buyers of legal services.

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# Web sites: Sites helping ease risk manager's job

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Wash.-based Microsoft Corp. "The struggle is to refine it so there is not too much information and people stop reading it."

Many risk management Web sites include a page of frequently asked questions to answer the most common sources of phone calls and e-mails to risk managers.

For example, the most frequently asked questions include those related to the filing of claims, requests for certificates of insurance, company policies on matters such as travel insurance and rental cars and how to handle various hypothetical situations.

Mr. Warren said that while e-mails still come in with commonly asked questions, the Web site has helped to a degree.

In addition to online forms and FAQs, contact information, event contracts, certificates of insurance and descriptions of various services are also available through risk management Web sites, according to risk managers.

**For some organizations, the cost of starting a risk management Web site can be relatively small if the services of the information technology department are enlisted.**

For some organizations, the cost of starting a risk management Web site can be relatively small if the services of the information technology department are enlisted.

Ms. Mediavilla said that the Collier County Web site is being created using the IT department and is incurring no outside costs.

StorageTek also constructed its risk management Web site using an in-house process and internal resources to cut down on costs, said Ms. Pixler.

A company that opts to use an outside contractor to get the initial site up may find the process more expensive, according to Mr. Warren.

When Microsoft started its risk management Web site about five or six years ago, the cost of an outside contractor was $10,000 to $15,000 to get the initial site up, Mr. Warren said. He estimated that costs today would be in the range of $10,000 to $20,000 but could be less if the IT department already has a Web server up and running.

Getting a Web site started and deciding what to put on it may be the most difficult part of the process.

Connie Burkhard, the loss control specialist for StorageTek, said that when the company started formulating the Web site, the whole risk management department got together to add input and ideas.

The Web site was launched before the company had any templates for its Web design, so portions of the site design were borrowed from the Web sites of other groups within the organization.

"The Web site has changed several times," Ms. Burkhard said. "That's the beauty of it—it's easy to change and update."

For example, forms on the Web site started out in a document format that would have to be attached to e-mails to be sent, but they now are in an online format and can be sent electronically directly to the correct recipient.

In addition, any program or policy information can be easily updated.

Deciding on a coherent and easy-to-follow format for the Web site was also a concern for Ms. Stein, who said she and her co-workers spent many hours with pieces of paper, trying to lay out a logical progression of information on policies, claims, contact information and FAQs.

Ms. Burkhard added that actually creating the Web site is fairly easy, provided the creator has basic knowledge about the Internet, though she noted that an organization's IT department can be a big resource.

Deciding which information should be publicly accessible and which should be available only to employees and staff members is another concern, according to Ms. Stein.

Often a company will opt to place its risk management site on its company intranet. That puts the site behind a firewall and allows only authorized users to view it.

Another challenge with creating the Web site was determining which outside sites to link to as good information sources and then obtaining permission to link the Web page to those other sites, according to Ms. Stein.

Mr. Warren said that making a risk management Web site requires working with other groups, both within the company and externally, to provide hyperlinks to other sites.

"One of the most interesting things is integrating with other groups on the Web site; it helps to streamline things on a real level, and not just on the Web site," he said, meaning that working with other groups within the company keeps them connected and informed.

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# Law firm sets up facilities to provide med mal cover

By MICHAEL ROMANO

For doctors facing sky-high malpractice insurance premiums, lawyers and insurers have reached the top of the "public enemy" list in recent years.

Now, though, a group of lawyers is coming to the aid of doctors, offering a new med mal coverage option.

The national law firm of Duane Morris L.L.P., which formed a new nonprofit reciprocal insurance company for doctors in Pennsylvania about eight months ago, is planning to expand the concept to Florida, another state that has been hit hard by skyrocketing malpractice premiums and a scarcity of coverage options for many physicians.

Under the plan, an insurance exchange will provide coverage to physicians, who must pay a "surplus contribution," the equivalent of a membership fee, to become eligible for insurance. The Pennsylvania Healthcare Providers Insurance Exchange's estimated 500 clients each paid anywhere from $6,000 to $30,000 to help capitalize the company, depending on its specialty, and also were required to submit to certain risk management requirements.

"The pitch to physicians is that we're trying to stabilize the marketplace," said Thomas Gaudiosi, a longtime insurance executive and president and chief executive officer of American Healthcare Providers Insurance Services Co., the management company that operates the insurers. "We look at this in the long term."

Mr. Gaudiosi said he expects about 700 physicians to sign up over the next year or so for the Florida Healthcare Providers Insurance Exchange, which will be based in Miami. That city is home to some of the highest malpractice costs in the nation, particularly in high-risk surgical and obstetrical specialties.

In Pennsylvania, where malpractice insurance rates have increased so dramatically that many doctors say they've been forced to relocate, the insurance company has been operating at a surplus because it concentrates on solid risk management and a small segment of doctors with solid claims histories, said Mr. Gaudiosi.

He acknowledges that the company is still too small to make much of a dent in the current malpractice crisis. The company won't even begin to write policies in Florida until January 2004.

Chuck Moran, a spokesman for the Pennsylvania Medical Society, said he hasn't heard much about the exchange, but said, "Helping 500 doctors is better than leaving 500 without any options for insurance."

In effect, each doctor insured by the exchange becomes an owner by contributing capital through the surplus contribution, in addition to paying premiums. The law firm receives an annual fee as the principal owner of the management company that is operating the two insurance exchanges.

The company hopes to attract physicians who have a strong track record and who are willing to assume some risk as well as a certain degree of practice oversight. Prospective physician customers are required to agree to conditions of membership that include early reporting of adverse outcomes, coordination of legal defenses and mandatory risk management education.

Mr. Gaudiosi said physicians shouldn't expect bargain-basement rates from the new company. In fact, rates for the company's Pennsylvania operation are among the highest in the state. The same is expected to be true in Florida, where only about five companies now write malpractice insurance for doctors.

Mr. Gaudiosi said the new company provides one more option in the dwindling marketplace.

"If you look at this as a one-year deal, we could be the most expensive," he said. "So it's a tough sell for us. But we're going to have rates that are actuarially based, not market-driven. Doctors have been getting sticker shock because they've been paying premiums that were unrealistically low."

As the predominant owner of the management company that runs the exchanges, Duane Morris, which has about 40 lawyers who specialize in health care, will not do any legal defense work to avoid conflicts of interest.

Asked about the rationale behind creating a new insurance company and moving into a turbulent market that experienced insurers have fled, Mr. Gaudiosi said, "This is the law firm's attempt to expand, to diversify."

"We think we can continue to spawn (other insurance exchanges) in other states," he said, noting that it's too early to tell what states the company might target in the future.

*Michael Romano is a reporter for Modern Healthcare, a sister publication of Business Insurance.*

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# Blues plan scraps conversion bid

By CINDA BECKER

**NEWARK, N.J.**—Taking note of the difficulties suffered by other Blues brethren in recent months in transforming into for-profit companies, Horizon Blue Cross & Blue Shield of New Jersey has scrapped its years-long exploration of a conversion.

The insurer made no public statement concerning the change in strategy, but in a memo that went out to all employees on Aug. 14, President and Chief Executive Officer William Marino cited the difficult regulatory environment. Successful conversion in New Jersey would require satisfying a slew of interests, including customers, three state agencies and the Blue Cross & Blue Shield Assn., Mr. Marino said in his memo. Noting several failed conversion attempts in other states in the last six months, Mr. Marino said, "We received no indication that New Jersey would not follow the same path."

Conversion plans in Kansas and Washington state have been blocked and waylaid, respectively, in recent weeks. But it was a decision in July by Blue Cross & Blue Shield of North Carolina to abandon its hard-fought conversion plan that really hit home in New Jersey, said a Horizon spokesman. In scuttling their effort, officials at the North Carolina plan cited the lengthy and costly process as well as their fear that regulators' conditions for approval would be prohibitive.

Newark, N.J.-based Horizon never got as far in the process as other plans across the country. It never filed an application with any state regulatory agency, nor did it submit a proposal with the national Blues association, which licenses the Blues name.

The New Jersey Hospital Assn. gave the decision a mixed review. "On one hand, we were encouraged that there would have been created a community trust from which millions of dollars could have been dedicated to health care as a result of the conversion. On the other hand, we were concerned that premiums would have increased," said a spokesman for the hospital association.

Horizon resurrected plans to convert in late 2001, when new state legislation established a procedure for setting up a charitable foundation. Five years before that the insurer had tried and failed to convert into a for-profit mutual by merging with Indianapolis-based Anthem Blue Cross & Blue Shield. That deal fell through over questions concerning Horizon's charitable obligation.

With 2.8 million members, $700 million in reserves at the end of 2002 and steady growth over the last five or six years, Horizon will just concentrate on the business of staying on top, the company spokesman said.

"Without the efforts around conversion, we can now concentrate all of our energy on the execution of our business plan and be even more successful," Mr. Marino said in the memo.

*Cinda Becker is a reporter for Modern Healthcare, a sister publication of Business Insurance.*

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# Presenteeism: Employers seeking to measure costs

**Continued from page 4**

jobs. But we are not going to create them, which means the workforce in place now is going to have to carry the recovery. That means we can't have presenteeism as a problem."

Just a few years ago, presenteeism was merely a concept discussed in publications, employers say. But more employers are now moving forward, implementing programs to measure and manage it.

"I think more and more employers are starting to do that now," said Dr. Pamela Hymel, vp of medical services and benefits at Hughes Electronics Corp. in El Segundo, Calif.

Hughes, for example, is gathering productivity data with a survey tool embedded in an employee health risk appraisal. Participating in the appraisal is voluntary for Hughes employees.

**With smaller staffs, 'we want to optimize productivity....But also, with increased health care costs, everyone is looking for the optimal plan design.'**

*Dr. Pamela Hymel*
*Hughes Electronics Corp.*

To win worker cooperation, the company gives each participant a $300 discount from the annual premium for a preferred provider organization health plan, according to Dr. Hymel.

To measure presenteeism, Hughes Electronics' survey questions employees about a number of health conditions, asking if they think their work capacity has diminished because of those conditions, Dr. Hymel explained.

Preliminary results from that effort show that employees are reporting a diminished work capacity due to various illnesses, Dr. Hymel said.

Employers can use such employee self-reporting information in combination with other data, such as medical and disability claim costs, Dr. Hymel explained.

Employers can then use that information to obtain an increasingly precise picture of which health conditions cause the greatest amount of employee time loss and financial impact, she continued.

Going a step further, employers can then improve their health care benefits by focusing them on employees' most prominent needs, according to employers. They may be able to reduce those benefits that are not necessary while making sure to provide those that their workers need most.

If, for example, employers find that depression is a problem among their workers, the employers can be sure to adequately fund employee assistance programs and other mental health benefits, Dr. Hymel pointed out.

For migraine headaches, employers might ensure the appropriate pharmaceuticals are included under their prescription benefit plan formularies. Or, in the case of widespread allergy problems, employers may want to evaluate how their prescription plans address nondrowsy medications in comparison to other brands that may cause drowsiness.

"In today's corporation, with smaller and smaller staffs, we want to optimize productivity," Dr. Hymel said.

"But also, with increased health care costs, everyone is looking for the optimal plan design to cut back on medical costs," she said.

To measure presenteeism, Hughes Electronics is relying on a survey tool called the Health and Performance Questionnaire. It was developed by researchers at the Harvard Medical School Department of Health Care Policy in cooperation with the World Health Organization.

Several other health-related productivity tools also have emerged in recent years, according to employers.

Although the field is still emerging, the new tools are impressive for their ability to help employers take action on ailments affecting employees, said Ron Loeppke, president and chief executive officer of Health & Productivity Corp. of America.

Brentwood, Tenn.-based HPCA helps employers, including Hughes, synthesize employee data to find solutions for medical-related productivity losses and rising medical costs.

Although employers are finding the various tools helpful, they say they would like to see greater uniformity and standardization in the measurement and reporting of disabilities resulting in absenteeism and presenteeism.

There are efforts to address the lack of standardization, Ms. Darling said. But employers realize presenteeism and other health-related productivity concerns such as absenteeism are "a big problem," she added.

So employers are not waiting for all the "technical infrastructure" issues to be solved before starting to measure presenteeism and other productivity factors, Ms. Darling said.

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# Between the Lines

Compiled by Joanne Wojcik

## Forewarned is forearmed

To prevent power tools from costing users—and manufacturers—an arm and a leg, the Limb Preservation Foundation set up a booth at a recent DeWALT Million Dollar Challenge at a Denver-area Home Depot store.

The Golden, Colo.-based foundation handed out first-aid treatment guidelines while contestants nearby raced to sink screws into a piece of wood with cordless drills, for a chance to win $1 million. DeWALT safety videos also were shown.

"We're trying to prevent people from losing their digits," explained Sue Stempel, executive director of the Limb Preservation Foundation. "There are a lot of people who modify tools by taking the safety guards off," and such injuries can lead to expensive product liability litigation for the toolmaker.

Golden Home Depot Store Manager Chip LeRoy hopes the campaign will reduce the angry letters he gets from customers injured when they misuse tools. "One guy actually took a picture of his finger and sent it to me," he said.

## Chocolate lovers take heart

Can a spoonful of chocolate help blood pressure go down? That's what a German study published last week in the Journal of the American Medical Assn. suggests.

The study involved 13 adults with untreated mild hypertension who were given three-ounce chocolate bars every day for two weeks. Half ate a confection known as white chocolate, while the other half ate dark chocolate. After two weeks, systolic blood pressure—the top number—had dropped an average of five points, and the diastolic fell an average of two points, for those in the dark chocolate group.

Dark chocolate contains polyphenols—ingredients scientists think also are responsible for the heart-healthy attributes of red wine.

More study is likely, however, before either is added to drug formularies.

## Coverage gives skiers a lift

A new insurance product will help skiers recoup part of the cost of their annual ski passes if a gnarly mogul puts them out of commission before the season's end.

Skier Insurance Services, a new division of Kalispell, Mont., managing general agent Tourist Insurance Services, is offering "Skier Guard" at five resorts in three states—Colorado, California and Nevada.

For a premium equal to 6% of the price of an annual ski pass, this first-of-its-kind coverage indemnifies policyholders for the unused value of a ski pass due to illness or injury, on or off the slopes, said Ron Iverson, president of Skier Insurance Services. The policy also pays up to $15,000 for emergency evacuation and $10,000 in accidental death and dismemberment benefits.

Resorts that offer the coverage to skiers receive commissions equal to 10% of the premiums, and save money by not having to pay refunds, which injured skiers often request, he said.

National Union Fire Insurance Co. of Pittsburgh, Pa., a unit of American International Group Inc, underwrites the insurance. For more information, contact Skier Insurance Services at 800-624-0039.

## Putting a stop to construction theft

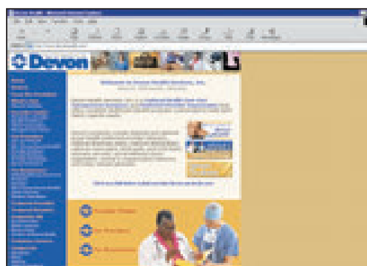
In an effort to reduce the more than $1 billion in construction equipment losses due to theft annually, Chubb Corp. is waiving deductibles up to $10,000 for uncovered contractors equipment protected by LoJack's Stolen Vehicle Recovery System.

Equipment owners covered by Chubb's commercial inland marine insurance also will be able to buy LoJack commercial systems at a special rate and receive a free seven-year extended warranty, including parts and labor.

LoJack has developed a "ruggedized" version of its radio frequency-based technology so it could withstand the rigors and conditions of an active construction site. In 2002, the systems succeeded in helping police recover about 87% of stolen trucks, trailers and construction equipment in less than 24 hours.

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

# Products & Services



## Devon Health expands service offerings

**KING OF PRUSSIA, Pa.**—Devon Health Services Inc. is now offering additional health care services to national clients.

The King of Prussia, Pa.-based company, founded as a preferred provider organization, has negotiated discounted rates on pharmaceutical plans, dental and vision plans, national PPOs, third-party administration and other services. The company also has established Devon Health Strategies, a consulting department formed to assist potential clients in reviewing their health plans and researching alternatives.

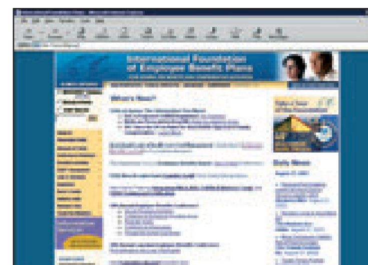
"We learned from our existing and potential clients that today's health care payers require additional consulting services to help them make the best decisions about their plans," said Charles Falcone, chief operating officer of Devon, in a statement. "We also discovered that these same clients were looking to purchase their products from one company with a portfolio of health care services."

More information is available from Devon at 610-265-8000 and at *www.devonhealth.com.*

## Benefits journal adds new section

**BROOKFIELD, Wis.**—Various strategies employers can use to more efficiently manage and improve health care benefits can be found in a special section of the Employee Benefits Journal, published by the Brookfield, Wis.-based International Foundation of Employee Benefit Plans.

Articles discuss how employers can use health promotion programs that result in a healthier workforce, successful implementation of medical self-care plans, disease management, cash value health insurance and more.



A new section, the Compensation Quarterly, features abstracts of recent writings on compensation issues.

Information on the Employee Benefits Journal is available from the foundation, a nonprofit educational association, at 888-334-3327, option 4, or 262-786-6710, ext. 8240. The IFEBP's e-mail address is *books@ifebp.org.*

## Evolution Benefits offers transit card

**AVON, Conn.**—A new transportation management account is in the works for third-party administrators and their employer clients.

Evolution Benefits Inc., a debit benefit card provider in Avon, Conn., has joined with WiredCommute, a San Francisco-based transportation services company, to develop an enhanced transit and parking benefit for workers.

Evolution Benefits launched a transportation management account for employers earlier this year that allows employees in some parts of the country to use a swipe card to pay for parking and transportation services. In areas where the card cannot be used, employees will be able to access WiredCommute services to purchase transportation and parking services.

The integrated system is expected to be in place in the first quarter of 2004.

More information is available from Evolution Benefits at 866-882-3669 or online at *www.evolutionbenefits.com.*

## MetLife enhances benefits portal

**NEW YORK**—Metropolitan Life Insurance Co., a unit of New York-based MetLife Inc., has enhanced MetLink, its online benefits administration portal for group customers to help human resource executives navigate the site more easily.

MetLink enhancements include more powerful reporting capabilities, a simplified process to add employee information and an online library of benefit administration forms.

The portal provides real-time access to benefit plan information and enables employers to make claims inquiries, submit disability claims and review enrollment and eligibility records, among other things. For more information, visit *www.metlife.com.*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## Munich Re reports net loss, but Swiss Re, Hannover Re and SCOR see profits rise

# Hard market helps European reinsurers

By SARAH VEYSEY

The first half of 2003 was a period of mixed fortunes for Europe's largest reinsurers, several of which reported their financial results last week.

The world's largest reinsurer, Munich Reinsurance Co., reported a net loss in the first half and was hit by downgrades from rating agencies, which maintain a negative outlook for the reinsurance market in general. In spite of that outlook, other major European reinsurers—including Hannover Reinsurance Co., SCOR S.A. and Swiss Reinsurance Co.—reported profits for the first six months of the year.

Munich, Germany-based Munich Re reported a net loss of 603 million euros ($693.6 million) in the first half, compared with a 4.1 billion euro ($4.04 billion) profit a year earlier.

Meanwhile, Standard & Poor's Corp. lowered its rating of Munich Re two notches to A+ from AA-, and A.M. Best Co. cut its rating by one notch to A+ from A++.

Munich Re blamed its loss largely on Germany's taxation of investment writedowns and disposals of shares. The company recorded writedowns on investments of 1.91 billion euros ($2.02 billion) in the first half of 2003.

> **Munich Re's capital adequacy ratio is not currently consistent with its A+ rating and S&P expects the reinsurer to raise capital and improve this ratio to a level consistent with an A+ rating by the end of 2004.**
>
> *Nigel Bond*
> *Standard & Poor's Corp.*

Munich Re's reinsurance premium volume grew 1.8%, to 12.9 billion euros ($14.84 billion), in the first half, while premiums from primary insurance operations grew 6.7%, to 8.9 billion euros ($10.24 billion).

Munich Re expressed confidence that it would be able to capitalize on the current hard market for reinsurance and achieve profitability.

But S&P flagged concerns about Munich Re's capital position and cited a "historic relative underperformance in its nonlife underwriting profitability" as a factor behind the downgrade.

S&P analyst Nigel Bond in London said that the rating agency has re-evaluated the entire reinsurance industry's risk as well as Munich Re's position within that industry.

Rob Jones, another S&P analyst in London, said that following a thorough review of the reinsurance industry, further ratings actions at other companies are likely in the coming weeks.

But Mr. Jones noted that although rates are beginning to soften in some lines of reinsurance, the market overall remains hard, with many reinsurers seeing continued improvements in terms and conditions.

These factors, he said, might enable reinsurers to continue replenishing some of the capital lost during the soft market. He noted, however, that some companies are still coping with adverse reserve developments.

Mr. Bond said that Munich Re's capital adequacy ratio is not currently consistent with its A+ rating and noted that S&P expects the reinsurer to raise capital and improve this ratio to a level consistent with an A+ rating by the end of 2004.

"Incorporated into the A+ rating is the expectation that Munich Re will raise capital," said Mr. Jones.

Munich Re objected to the downgrade, saying in a statement that it believes the move to be "unjustified and the reasons given for this measure to be unconvincing."

The reinsurer said that its equity funds increased during the second quarter of 2003 by about 50% to more than 18 billion euros ($19.62 billion), due in part to a bond offering in April, and noted that the company's internal risk model "evinces a totally adequate level of capitalization."

### Swiss Re

Swiss Re reported net income of 691 million Swiss francs ($511.1 mil-

See EUROPE/page 35

# London power outage serves as 'wake-up call'

**LONDON**—A power failure that hit south London Thursday evening during rush hour wreaked havoc on the city's transportation system but is unlikely to lead to insurance claims.

But even though few losses are expected, the incident serves as "a further wake-up call" to risk managers about the need to have contingency plans, according to David Gamble, executive director of the London-based Assn. of Insurance & Risk Managers.

Two weeks after the massive power outages in the United States and Canada, a power outage in south London at about 6:20 p.m. Greenwich Mean Time resulted in disruptions on about 60% of London's subway network.

Power was restored by about 7 p.m., according to National Grid Transco P.L.C., which operates the electricity grid of England and Wales. London-based National Grid said it is investigating the cause of the outage.

Transport for London, which operates the London underground system, said that the subway network's trains—including some stuck in tunnels between stations—were evacuated and that no passengers were injured.

Subway services had almost returned to normal by Friday morning, Transport for London said.

In addition, about 250 sets of traffic lights in southeast London were affected by the blackout, "but power supplies were restored to them fairly quickly," the company said in a statement.

Sources in the London market said that business interruption policies were unlikely to be triggered by the blackout because power was lost for a relatively short period of time.

Mr. Gamble also noted that the outage did not occur at a time when it would have greatly disrupted trading.

*—Sarah Veysey*

**A London subway train stands stationary due to a major electrical failure during rush hour last Thursday.**

# GIO investors win record settlement

By NEIL HODGE

**SYDNEY, Australia**—After four years of legal wrangling, 23,000 investors in GIO Holdings Ltd. have won a record settlement of $112 million Australian ($73.1 million) regarding AMP Ltd.'s takeover of the group in 1999.

The settlement—announced Aug. 8 and approved by Sydney's federal court Aug. 26—is the largest class-action victory in Australian legal history, both in terms of number of claimants and size of the cash award.

Former shareholders of Sydney-based GIO launched the class action in 1999 against the insurer, nine of its former directors and their advisers—investment house Grant Samuel & Associates Pty. Ltd. and Macquarie Bank Ltd., both based in Sydney; and the Sydney practice of PricewaterhouseCoopers Ltd.—after following the recommendation of directors to reject a takeover bid of $3 billion Australian ($1.63 billion) by Sydney-based financial services conglomerate AMP, believing it to be "hostile." This would have valued the insurer at $5.35 Australian ($2.91) a share.

But by January 1999, AMP had achieved a 57% holding of GIO, taking full ownership later in the year at just $2.75 Australian ($1.70) per share after GIO stock plummeted when the company announced that its reinsurance division, GIO Re, had incurred losses of $759 million Australian ($413.2 million) for the 1998/99 fiscal year. Those reinsurance losses were the major factor in GIO's overall 1998/99 loss of $743 million Australian ($404.5 million).

The shareholders claimed in court that they had been misled. They said that they were later forced to sell at a lower offer after GIO reported in 1999 a discrepancy of $1 billion Australian ($661.1 million) between its earnings forecasts and actual results for 1998/99.

The shareholders also claimed that the directors knew about the company's pending reinsurance losses and that Grant Samuel, which prepared documentation for the shareholders on the board's behalf, ought to have known that the losses were imminent.

AMP said in a statement released Aug. 8 that its subsidiary, AG Australia Holdings Ltd.—formerly GIO Australia Holdings Ltd.—would pay $56.8 million Australian ($37.1 million) as its part of the settlement, with the rest coming from other parties, including the nine directors and GIO's advisers.

See GIO/page 35

# World Updates

## Lloyd's raises profit forecast

Lloyd's of London has upped its marketwide profit forecast for 2002, but the market's expected loss for the 2001 year of account also has grown. Lloyd's now predicts that, under its traditional three-year accounting system, the 2002 year will produce a profit of £1.665 billion ($2.50 billion)—up from an April forecast of £1.484 billion ($2.23 billion). The 2001 year, Lloyd's said, will likely produce a £1.783 billion ($2.57 billion) loss under the three-year system, a deterioration from £1.653 billion ($2.38 billion) forecast in April. The 2001 year of account is the next to close under the three-year system.

## Wellington posts profit increase

London-based Wellington Underwriting P.L.C. made a pretax profit of £23.3 million ($36.7 million) for the first half of 2003, up from £3.7 million ($5.6 million) a year earlier. Wellington said that the account written by its 56%-owned Lloyd's of London syndicate 2020 was continuing to do well. But it noted that rate reductions by other insurers in lines such as U.S. property would likely result in 2020 writing less business. Wellington Underwriting Inc., the group's U.S. subsidiary, recorded a pretax, half-year profit of £2.8 million ($4.4 million), up 27.3% from 2002. Aspen Re, the reinsurer in which Wellington holds a 19.8% stake, had gross written premiums of $807 million for the half-year, Wellington noted.

## Singapore proposal could aid employers

Singapore's prime minister has proposed changes to the country's generous state-run pension program that would cut employers' contributions. Goh Chok Tong told Parliament last Thursday that the measure would reduce business costs by $1.3 billion Singapore ($745.4 million) a year. Singaporeans currently have to contribute 20% of salary to the CPF, with employers providing another 16%. Under the proposal, business contributions would be cut to 13%, and total contributions would fall from 36% to 33% beginning in October. He also proposed a more-flexible contribution schedule, with employer contributions rising to 16% in good times and falling to 10% in bad.

## Briefly noted

London-based insurer **Prudential P.L.C.** has opened a branch office in Beijing, its second in China. Prudential, which is not related to U.S.-based Prudential Insurance Co. of America, has had a branch office in Guangzhou since 2000.

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## LEGAL NOTICE

NOTICE OF SANCTION OF SOLVENT SCHEME OF ARRANGEMENT
IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
COMPANIES COURT
No 1740 of 2003
No 1735 of 2003
No 1739 of 2003
IN THE MATTER OF

**MARLON INSURANCE COMPANY LIMITED (formerly SKANDIA MARINE INSURANCE COMPANY (UK) LIMITED and VESTA (UK) INSURANCE COMPANY LIMITED)**
**THE NATIONAL INSURANCE & GUARANTEE CORPORATION LIMITED (formerly THE NATIONAL INSURANCE & GUARANTEE CORPORATION PLC)**
**RIVERSTONE (STOCKHOLM) INSURANCE CORPORATION (PUBL) (formerly ODYSSEY RE (STOCKHOLM) INSURANCE CORPORATION (PUBL) and SKANDIA INTERNATIONAL INSURANCE CORPORATION (PUBL))**

IN THE MATTER OF THE COMPANIES ACT 1985, Section 425

NOTICE IS HEREBY GIVEN that, by three Orders dated 25 July 2003 made in the High Court of Justice in England and Wales in the matter of each of the above companies, the schemes of arrangement proposed (the 'Scheme') to be made between the Companies and their Scheme Creditors (as defined in the Scheme) pursuant to section 425 of the Companies Act 1985, which were voted on and approved by Scheme Creditors during the meetings held on 10 July 2003, were sanctioned. A copy of the Scheme was lodged with the registrar of companies on 14 August 2003, and the Scheme became effective on that date.

Scheme Creditors are required to submit a completed Claim Form by 12 November 2003 or will be adjudged to have a claim valued at nil. Returned Claim Forms must reach PricewaterhouseCoopers on or before this date.

Should you have any questions regarding this Notice, please address them to Fiona Christie at: PricewaterhouseCoopers LLP, Plumtree Court, London EC4A 4HT, United Kingdom (Telephone: +44 (0)20 7583 5000, Facsimile: +44 (0)20 7212 6316)

## LEGAL NOTICE

THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

IN THE MATTER OF THE LIQUIDATION )
OF LEGION INDEMNITY COMPANY ) 02 CH 06695

NOTICE OF CLAIM FILING DEADLINE AND PROCEDURES

**PLEASE TAKE NOTICE,** that on April 9, 2003, the Circuit Court of Cook County, Illinois, entered an Order of Liquidation with a Finding of Insolvency ("Order of Liquidation") against Legion Indemnity Company ("Legion Indemnity"). J. Anthony Clark, Director of Insurance of the State of Illinois, is the statutory and court-affirmed Liquidator of Legion Indemnity (the "Liquidator").

**TAKE FURTHER NOTICE,** that pursuant to the Order of Liquidation, all rights and liabilities of Legion Indemnity and its policyholders, creditors and stockholders, and all other persons interested in its property or assets, are fixed as of April 9, 2003, unless otherwise provided in subsequent orders of the Court.

**TAKE FURTHER NOTICE,** that on June 12, 2003, the Circuit Court of Cook County, Illinois, entered an Order Providing for the Filing of Claims and the Setting of Claim Filing Deadlines ("Claim Filing Order"). Pursuant to the Claim Filing Order, all persons, companies or entities who have, or may have claims against Legion Indemnity, its property or assets, or against a Legion Indemnity insured or policyholder, shall have the right to present and file with the Liquidator proper proofs of claim on or before October 11, 2004 at 4:30 p.m. (C.D.T.).

**TAKE FURTHER NOTICE,** that any insured under an insurance policy issued by Legion Indemnity shall have the right to present and file with the Liquidator a proper proof of claim setting forth a contingent claim on or before October 11, 2004 at 4:30 p.m. (C.D.T.). No contingent claim shall be allowed for purposes of participating in any distribution of estate assets that may be made at the fourth priority level, 215 ILCS 5/205(1)(d), unless such claim has been liquidated and the insured claimant has presented and filed evidence of payment of such claim to the Liquidator on or before April 10, 2006 at 4:30 p.m. (C.D.T.). Any contingent claim for which a proper proof of claim is filed on or before October 11, 2004 at 4:30 p.m. (C.D.T.), but which is not liquidated on or before April 10, 2006 (C.D.T.), may be estimated pursuant to 215 ILCS 5/209(4)(b) for purposes of participating in any distribution of estate assets that may be made at the fifth priority level, 215 ILCS 5/205(1)(e), unless otherwise directed by the Court.

**TAKE FURTHER NOTICE,** that the form and required contents of all proofs of claim are described in 215 ILCS 5/209. Proofs of claim, along with supporting documents, if any, are to be filed with, and may be obtained from, the Liquidator of Legion Indemnity, c/o the Office of the Special Deputy Receiver, located at 222 Merchandise Mart Plaza, Suite 1450, Chicago, Illinois 60654, or by internet at **www.osdchi.com.** A proof of claim shall be deemed "filed" with the Liquidator upon the Liquidator's receipt thereof. The Liquidator reserves the right to require such additional information with respect to any claim filed with him as he may deem necessary. The Liquidator further reserves any and all defenses available to Legion Indemnity upon all filed claims. All proofs of claim must be duly sworn to before an officer authorized to take oaths.

THE LAST DATE FOR THE FILING OF PROOFS OF CLAIM WITH THE LIQUIDATOR IS SET FORTH ABOVE. NO PERSONS, COMPANIES OR ENTITIES HAVING OR CLAIMING TO HAVE ANY CLAIM AGAINST LEGION INDEMNITY, ITS PROPERTY OR ASSETS, OR AGAINST A LEGION INDEMNITY INSURED OR POLICYHOLDER, SHALL PARTICIPATE IN ANY DISTRIBUTION OF THE ASSETS OF THE COMPANY UNLESS SUCH CLAIMS ARE PROPERLY FILED WITH THE LIQUIDATOR ON OR BEFORE OCTOBER 11, 2004 AT 4:30 P.M. (C.D.T.)

[Please note: The above claim filing deadlines apply to claims against Legion Indemnity only. The deadlines do not apply to claims against either Legion Insurance Company or Villanova Insurance Company. For information concerning either Legion Insurance Company or Villanova Insurance Company, please contact the Pennsylvania Department of Insurance]

Cathleen M. Travis
Special Deputy Receiver

## ADVISORY NOTICE

**To All Creditors of Pan Atlantic Insurance Company Limited in Provisional Liquidation:** As of January 13, 2000, all of Pan Atlantic's title to reinsurance recoverables, with the exception of claims against Lloyds Syndicates/Equitas Limited (the "Assigned Recoverables") were assigned to PAICO Receivables, LLC ("PRLLC"). All amounts due from reinsurers to Pan Atlantic in respect of the Assigned Recoverables are the property of PRLLC.

If you have claims against the Pan Atlantic estate, please note that the Scheme of Arrangement that was sanctioned by the High Court on July 22, 2003 calls for filing of claims on a gross basis (no netting of offsets). All claims must be submitted with the Scheme Officers on or before September 18, 2003 as provided for in the Scheme. The obligation, if any, of PRLLC to accept offset of amounts due a reinsurer by PAICO against amounts due on the Assigned Recoverables, may depend on various facts and circumstances. **Please be advised that PRLLC does not intend to accept offset of any amount against any of the Assigned Recoverables for any claim not timely filed and accepted by the Pan Atlantic Scheme Officers.**

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# Europe: Hard market helps reinsurers

Continued from page 33
lion) for the first half, up 485% from the same period last year.

The Zurich-based reinsurer credited hard market conditions in its property/casualty and financial services business. In addition, Swiss Re's first-half 2002 results were hit by investment writedowns of 917 million euros ($903.8 million).

John Coomber, chief executive of Swiss Re, said in a statement that he is pleased with the results and that he expects the current hard market conditions to continue.

The company's property/casualty arm recorded a profit of 822 million Swiss francs ($608.0 million), up 690% from the first six months of 2002. Premium volume grew 18.2%, to 7.86 billion Swiss francs ($5.81 billion).

## Hannover Re

Hannover Re also is optimistic about future earnings after recording an 11% increase in net income to 162.4 million euros ($186.5 million) in the first half, despite lower premiums written.

The Hannover, Germany-based reinsurer attributed the increase in part to improved rates and conditions in almost all areas of its property/casualty business. In property/casualty reinsurance, the group recorded an 11.7% increase in net income, to 101.3 million euros ($116.3 million).

Gross written premiums overall dipped by 2.9%, to 5.98 billion euros ($6.87 billion) for the half. This reflects the group's "more from less" plan, under which it has withdrawn from certain unprofitable property/casualty segments, Hannover Re said.

Investment income, meanwhile, increased 27.9%, to 486.2 million euros ($558.4 million) for the half. In June 2003, Hannover Re boosted its capital base by 530 million euros ($609.5 million) through a share issue.

## SCOR

Paris-based SCOR reported a big increase in net income for the first half of 2003, which it attributed in part to improved underwriting results stemming from its restructuring plan.

SCOR reported net income of 42 million euros ($45.7 million) for the first half, a 100% increase from the same period in 2002.

Chairman Denis Kessler said "the fundamentals of the SCOR group are improving."

SCOR's first-half result was boosted, in part, by a foreign exchange-related gain of 86 million euros ($93.7 million), as well as improvements in underwriting results, he noted.

Gross written premiums dipped 18%, to 2.07 billion euros ($2.25 billion). This drop was caused, in part, by the cessation of underwriting at SCOR's Bermuda subsidiary, Commercial Risk Partners Ltd., in January.

As part of the reinsurer's restructuring plan (*BI*, July 14), Mr. Kessler said negotiations on the sale of CRP were continuing. Commutations of CRP's book began in July, he noted, and so far about one-sixth of the portfolio has been commuted.

SCOR is also seeking potential investors for its life reinsurance subsidiary, and its investment bankers are talking with potential capital providers.

SCOR remains confident that rating agencies will restore an A rating to the group before year end, Mr. Kessler said. The group was downgraded to BBB+ by S&P earlier this year.

Mr. Kessler said that while 30% of contracts written by SCOR contained cancellation clauses whereby cedents may annul the contracts if the reinsurer's rating falls below A, the company has so far lost only 10 million euros ($10.9 million) of business because of such clauses.

In SCOR's credit derivatives business, which was an area of concern for S&P, Mr. Kessler reiterated that the company had only had two claims—totaling about $30 million—since it announced its restructuring plan in November 2002. He also noted that SCOR had written no new credit derivatives business since 2001, and that it believed its reserves of about 130 million euros ($141.7 million) to be adequate.

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# GIO: Investors win record settlement

Continued from page 33
The settlement essentially resolves all claims in the proceedings.

AMP said in the statement that the $56.8 million Australian to be paid by AMP is covered by reserves held within the group and will not affect profits. AMP Chief Executive Officer Andrew Mohl said in the statement that he was pleased to be bringing an end to the litigation related to the GIO takeover.

"We believe we have reached a settlement that is in the interests of all parties," Mr. Mohl said. "From AMP's perspective, bringing this matter to an end allows us to focus on issues including our demerger proposal."

AMP's demerger plans, first announced in May, would essentially split the company into an investment management business based in the United Kingdom and an Australian property/casualty insurance business.

The Federal Court was expected to approve how the remainder of the settlement is to be apportioned between the other parties by Sept. 1. The claimants are scheduled to receive the first half of AMP's payment in November, with the remainder to follow "shortly after."

Sources close to the case say that GIO's former directors could be collectively liable for up to $20 million Australian ($13.1 million) as part of their payment to shareholders. But the cost is likely to be paid by insurers, as former GIO Chairman David Mortimer, Chief Executive Nick Steffey and non-executive directors Ron Ashton, Marina Darling, Bruce Hogan, Andrew Kaldor, Lloyd Lange, David O'Halloran and Ian Pollard all have directors and officers coverage, drawn up as part of their remuneration package.

D&O insurance covers legal costs and compensation for directors and senior executives but only if they have not admitted wrongdoing, which the GIO directors and officers have not.

One source who is closely involved in the case but who asked not to be named said that "GIO's directors were not at fault, and the judgment when it is handed down will confirm this. Directors always acted based on information they had…and…in the best interests of shareholders." The source also said that even after the takeover, AMP did not discover the full extent of the problem for about six months.

Bernard Murphy, partner in the Melbourne law firm of Maurice Blackburn Cashman, which represented the former shareholders, said he believes the class action is likely to set a precedent for market investors and that shareholder class actions will become more frequent.

Mr. Murphy said the settlement "will close the book on one of the most unfortunate chapters in Australian corporate history."

"This case goes to the heart of corporate governance in Australia. Corporations should learn a lesson from this sorry experience. Corporate governance is not just a university course. It must be a daily responsibility for our biggest and most successful companies," he said.

He added that "there is likely to be more of this kind of litigation because of the growing level of share ownership in Australia." Mr. Murphy also said that after the bad publicity surrounding both GIO and the failed HIH Insurance Ltd., "it is very possible that federal regulators will want to examine further the way that companies are run and the qualifications of board directors."

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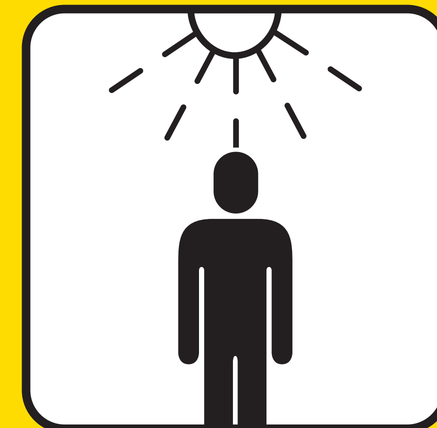

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# Debit: IRS says it may withdraw reporting rule

Continued from page 1

Mass.-based developer of a debit card called the Flex Convenience Card.

"There is a serious question: whether the data is available," said Robert Patricelli, founder of Evolution Benefits Inc. in Avon, Conn., which markets a debit card called the "Benny Card."

"This just seemed to have caught just everyone off guard," said Bonnie Whyte, chief operating officer for the Employers Council on Flexible Compensation in Washington.

"No one anticipated this requirement," said Andy Anderson, a consultant with Hewitt Associates Inc. in Lincolnshire, Ill.

Those concerns are being heard at the IRS, where a top benefits official has promised a government review and the possible elimination of the requirement for FSAs and HRAs.

"We are going to revisit the 1099 issue," said Harry Beker, IRS Health and Welfare Benefits Branch chief.

"What we're going to look at is, one, whether it is appropriate to delay enforcement of the 1099 requirement or whether it's appropriate to waive the 1099 requirement with respect to FSAs and HRAs entirely," Mr. Beker said in a speech delivered last month at a flexible benefit plan administrators conference in Chicago sponsored by the ECFC.

Experts say that review and additional guidance on the 1099 requirement—as well as the possible waiver—could come quickly.

**'There is a desire to create a favorable atmosphere. The IRS wants to fix this.'**

*Mark Wincek*
*Kilpatrick & Stockton*

IRS officials "understand that employers are thinking about next year. This has to happen pretty fast. Hopefully, it will be weeks, not months" until additional guidance comes out, said Mark Wincek, a senior partner at the law firm of Kilpatrick & Stockton L.L.P. in Washington.

"This certainly appears to be good news," noted Ms. Whyte of the ECFC.

While exact figures are not available, vendors say the cards now are used by 400,000 to 500,000 FSA or HRA plan enrollees, a number that is expected to increase sharply due to the appeal of cards to employees and employers.

One attraction of the cards is the avoidance of reimbursement delays and hassles. For example, in a typical FSA arrangement the employee funds his or her account through salary reduction. When the employee pays for health care expenses as they occur, he or she must file a reimbursement form and receipt and must wait for the reimbursement to be processed. Health care debit cards eliminate both the paperwork and the wait.

In addition, Web sites or telephone interactive systems maintained by plan administrators enable employees to maintain an up-to-date record of their account balances.

The cards have proven so popular, vendors say, that enrollment in FSAs typically increases by 30% to 40% when a debit card is offered. That, in turn, means cost savings for employers. Because FSA contributions are pretax, they reduce employees' income for payroll tax purposes. For every $1,000 contributed to an FSA, an employer generally would save $76.50 in payroll taxes.

Mr. Wincek said he is confident that the IRS will favorably resolve the 1099 issue. Referring to the rest of the IRS guidance, he said: "There is a desire to create a favorable atmosphere. The IRS wants to fix this."

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# RRG: Policyholders seek pricing stability

Continued from page 3

eral domiciles, the long-term care facility operators believed that Montana better fit their business culture, said Ms. Olson, who noted that they also appreciated the responsiveness of Montana captive insurance regulators.

Guardian Risk Retention Group is the sixth company to be licensed under Montana's captive statute, which was enacted in 2001. John Huth, captive insurance coordinator with the Montana State Auditors Office in Helena, says Montana could have as many as 10 captives by the end of the year.

Amid the hard property/casualty insurance conditions, at least three other risk retention groups have been formed this year for nursing home operators, including one each in Florida, Pennsylvania and, most recently, in Kentucky.

The Florida and Pennsylvania RRGs both received financial support from their respective states.

PELICAN Insurance (A Reciprocal Risk Retention Group), licensed in March in Vermont, provides general and professional liability coverage to Pennsylvania county-owned and -operated facilities and nonprofit facilities that are members of the Pennsylvania Assn. of County Affiliated Homes (*BI*, April 21).

PELICAN was launched with a $5 million grant from the commonwealth of Pennsylvania, making it the first risk retention group to be started with state funds that do not have to be repaid.

Earlier, a Florida state agency provided an interest-free $6 million surplus note to enable LTC Risk Retention Group Inc., which provides professional liability coverage to LTC facilities in Florida, to get off the ground (*BI*, March 31). Those funds, though, must be repaid.

Long-term care facilities were one of the first businesses to feel the effects of higher rates and diminished capacity for medical malpractice liability insurance, in advance of broader firming in the property/casualty market, as a result of significant losses and increased liability exposures in the late 1990s (*BI*, Nov. 6, 2000).

# Dean: Touting health care for all

PHOTO: GETTY

**Democratic presidential hopeful Howard Dean called for national universal health care coverage at campaign rallies across the country late last month, including an appearance in New York's Bryant Park.**

Continued from page 4

"I also believe that one of the resolutions of the malpractice problem is to have the law essentially say that if you adhere to quality standards, you can't be sued," Mr. Dean said in an interview last Monday afternoon on a flight from Spokane, Wash., to Austin, Texas. "Or you can be sued, but an absolute defense against malpractice is to have adhered to the quality standards that are required by some kind of uniform quality indicator.

"I don't want to go to a position where all medicine is cookie-cutter," he said, "but I also don't want to continue doing what we're doing now, where you can do basically anything you darn well please."

Back at the rallies, Mr. Dean points to his record of building near-universal coverage in Vermont as the blueprint of what he would do if elected president.

"In my state, everybody under 18 has health insurance," Mr. Dean said. "Ninety-nine percent of our kids are eligible, 96% have it. Everybody under 150% of poverty has health insurance. All of our working, low-income people have health insurance. Seniors under 225% of poverty get help with their prescription benefits."

Mr. Dean says that if it can be done in a small rural state, 26th in income in the country and with a balanced budget, the United States should be able to join other industrialized nations in doing the same.

"I'm tired of being a second-class citizen," Mr. Dean said at gathering after gathering, from Boise, Idaho, last Sunday morning, attended by about 300 people, to Seattle, where the crowd was 8,000 to 15,000, according to campaign staff estimates.

Mr. Dean's plan calls for expanding Medicaid and enlarging the states' Children's Health Insurance Program to all children and young adults under age 25 up to three times the poverty level. It also would require employer health plans to offer coverage to employees' dependents up to age 25.

For those at lower income levels, Mr. Dean would extend programs for children to include parents up to 185% of the federal poverty level. And he would allow people with incomes above that to buy into a health plan similar to the one for federal government employees, offering a tax credit to those who face premiums greater than 7.5% of their adjusted gross income.

Mr. Dean says reform of the health care delivery system will have to take a back seat to expanding health insurance coverage.

"We don't have to have a complicated government-run system," he said last Monday morning at a town-hall style meeting in Spokane. "I'd love to go after the insurance companies and the pharmaceutical companies. It makes you feel good, but you'll never get the plan passed. We'll have the big fight about how to reform the system after everyone is covered."

*Elizabeth Thompson Beckley is a reporter for Modern Physician, a sister publication of Business Insurance.*

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# College: Principal offers savings plan

Continued from page 4
favor simplicity and fewer choices," Mr. Sager said.

Mr. Sager said the plans are appealing for employers to make available because, unlike many other benefit programs, there is virtually no cost to the employer, while employee appreciation is high.

**A parent, grandparent or other family member can open a 529 for a beneficiary. Annual contributions, under the federal gift tax law, are limited to $11,000 a year. States, though, also limit life-time contributions....**

Section 529 plans are state-sponsored tax-favored vehicles for individuals to set aside and invest funds for a relative's college expenses. Congress created the plans in 1996 to complement prepaid tuition plans that many states already had set up.

Congress, as part of a 2001 tax law, made Section 529 even more attractive by changing tax law so that distributions taken to pay for college expenses are tax-free. Previously, investment income earned on contributions was taxed when withdrawn.

A parent, grandparent or other family member can open a 529 account for a beneficiary. Annual contributions, under the federal gift tax law, are limited to $11,000 a year. States, though, also limit lifetime contributions, with the Iowa cap currently $239,000.

Iowa also gives state residents an annual tax deduction of up to $2,230 for the contributions.

Funds withdrawn for college expenses are not taxed. If these distributions—which can be used to pay for tuition, fees, required equipment, books and room and board at accredited schools—are taken for other reasons, they are subject to income tax as well as a 10% penalty tax.

If a 529 plan beneficiary decides not to attend college, the account's owner can name a new beneficiary.


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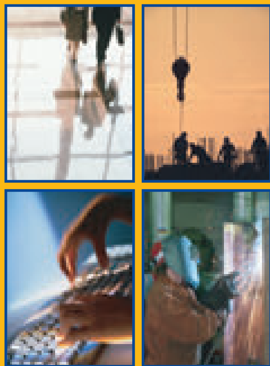

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# Liability: Risk managers paying more for less limits

Continued from page 1

is understood and valued," Mr. Brady said.

And, apparently, that's most recognized by the very largest companies, as U.S. companies with annual revenues of $10 billion or more—those most likely to be able to absorb the balance sheet hit of a loss—decreased their liability limits only 0.6% in 2003 compared to 2002.

"The smaller firms made the most dramatic change in what they bought," Mr. Brady said. "So to me, an observation is, if you don't purchase risk transfer, then really what you're doing is putting your balance sheet out there. I found it interesting that the firms with the largest balance sheets continue to buy the largest limits."

Marsh's survey examined the insurance buying practices of 4,329 respondents, of which 2,726 were U.S. companies.

The Marsh study also found differences in buying habits between those companies that have experienced a loss of $5 million or more and those that haven't. Average limits purchased by companies that had not sustained such a loss decreased 21.9% to $75.0 million in 2003 from $96.0 million in 2000, while companies that had a loss maintained essentially the same level of limits—$207 million this year—throughout the hard market.

A key factor driving changes in the liability market is the increasing frequency of large jury awards, according to the study.

**'What's happening is, not only are companies paying more for their (liability) coverage, the coverage itself is attaching slightly higher up.'**

*Timothy P. Brady*
*Marsh Inc.*

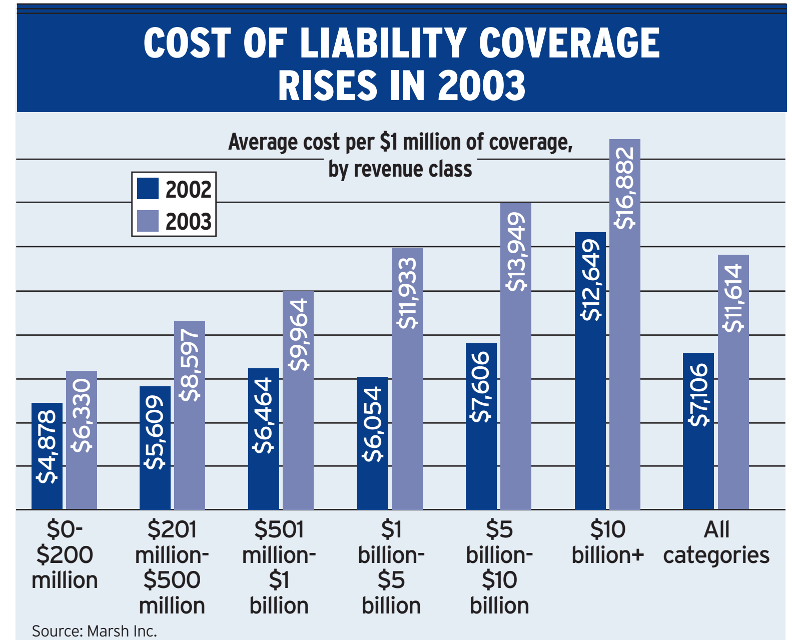
Looking at "peak probability awards"—the peak figure in the middle 50% of all awards in a category—Marsh reports that the PPA for U.S. product liability awards tripled between 1994 and 2000 to $4.8 million and nearly doubled between 2000 and 2001 to $9.4 million.

Meanwhile, the PPA for death to adult males in the United States increased 185.7% to $4.0 million in 2001 from $1.4 million in 1994. The growth in the PPA for death to adult females is even greater, increasing 370% to $4.7 million in 2001 from $1.0 million in 1994.

"One of the cost drivers is at what point is your umbrella attaching excess your primary coverage," Mr. Brady said. At the level of current average awards, "an individual death is approaching that value," he said. Consequently, "the umbrella underwriters are seeing a greater frequency of claims that are penetrating the umbrella layer," he said, and they are moving to raise umbrella liability coverage attachment points.

"What's happening is, not only are companies paying more for their coverage, the coverage itself is attaching slightly higher up," Mr. Brady said.

Factors such as increases in the size of jury awards and health care cost inflation raise another serious issue for insurance buyers, Mr. Brady said, which is determining the likely value of the loss at the time the claim is actually paid.



Source: Marsh Inc.

"Part of what we have to consider is when do these claims get paid," he said. "One of the things we've uncovered is these claims, on average, take four or five years to wend their way through the legal system."

As a result, insurance buyers need to think in terms of what their limits will be worth in four or five years, Mr. Brady said. "They're doing the same sort of work that the underwriters have been doing," he said. "And the challenge there is to value the loss when it's going to be paid, not necessarily when it occurs."

Differences in litigation environments around the world also have a significant effect on companies' loss experience, according to the study, and must be factored into risk managers' insurance buying decisions, Mr. Brady said.

"The challenge there is, where are your exposures?" he said. A U.S. risk manager protecting a company based on U.S. liability risks is "very likely to find themselves well protected elsewhere in the world," Mr. Brady said. But, for a company based in a less litigious country but with U.S. exposures, "the challenge then becomes to buy limits for the worst-case scenario in the worst-case legal environment," he said.

*Copies of the Marsh's "Limits of Liability 2003" report are available through local Marsh offices or by calling Peggy Sheretz at 212-345-3393.*

# Asbestos: Michigan considers priority for claimants

Continued from page 1

sources might be available to them. As a result of these claimants staking their claims now, reform advocates contend that compensation to truly ill claimants is delayed or diminished. In addition to bankrupting many former asbestos manufacturers, more companies with only the slightest connection to asbestos find themselves defendants in liability suits because of the need to find new resources to pay the enlarged pool of claimants.

The document filed in Michigan supports a petition calling for an administrative order that would create an inactive docket for asbestos claims. A group of more than 50 Michigan-based companies, including such well-known companies as Dow Chemical Co., Ford Motor Co. and General Motors Corp., filed the original petition with the court earlier this summer.

Business groups that joined in the new document—which is technically a memorandum in reference to the original petition—include the National Assn. of Manufacturers, the U.S. Chamber of Commerce's National Chamber Litigation Center Inc. and the National Assn. of Wholesaler-Distributors.

The National Assn. of Independent Insurers, the American Insurance Assn. and the Alliance of American Insurers also joined in the memorandum, as did the American Tort Reform Assn. and the Washington Legal Foundation.

The memorandum notes that individual judges in districts across the country have created inactive dockets to help deal with the flood of asbestos injury cases, and it describes how those work, holding that they have proved their effectiveness. According to the memorandum, the Michigan Supreme Court has "the unique opportunity" to address the asbestos litigation in Michigan by creating a statewide inactive docket. Such a docket "would greatly benefit the truly sick as well as asbestos defendants," it says. It would also help "unimpaired victims by protecting their claims from being time-barred should an asbestos-related disease develop later. It would also "conserve scarce financial resources needed to compensate sick claimants."

Finally, it would reduce the "specter of more employers being driven into bankruptcy" because of asbestos litigation, "thereby helping to assure that adequate resources remain for impaired claimants in the future."

Action by the Michigan high court could have nationwide ramifications, say reform advocates.

"It would send a strong signal to courts in other states that the asbestos problem crisis must be addressed and that courts should do what they can within their borders to address it within their jurisdiction," said Mark Behrens, a partner in the Washington office of the Kansas City, Mo.-based law firm of Shook, Hardy & Bacon L.L.P. Mr. Behrens prepared the memorandum on behalf of the insurer-based Coalition for Litigation Justice Inc.

"Oftentimes, we find that federal legislation and state efforts are complementary of one another. To the extent that the states are permitted to experiment on different solutions to the crisis and solutions emerge that are sound and fair, they provide models for federal policymakers to consider," he said.

**Action by the court 'would send a strong signal to courts in other states that the asbestos problem crisis must be addressed and that courts should do what they can.'**

*Mark Behrens*
*Shook, Hardy & Bacon L.L.P.*

Laura Kotelman, a state counsel for the Des Plaines, Ill.-based National Assn. of Independent Insurers, noted that Congress has failed to act on the issue. "We continue to see cases filed," with some estimates indicating that 90% of the cases are filed by people who are not currently ill, said Ms. Kotelman, whose responsibilities include Michigan.

"Michigan was a good place to file this because of all of the manufacturing there and because of some of the companies that are in trouble there," she said.

"The bottom line is that, from a Michigan standpoint, it's hurting everyone," said Frederick Damm, a partner in the Detroit law firm of Clark Hill P.C. and counsel of record on the memorandum. "You have people within the judicial system who are not able to have their cases processed because the system is simply jammed. The folks that are alleging injury are stymied, and the court is overwhelmed," said Mr. Damm, whose firm represents the Michigan Manufacturers Assn.

"If anything happens in Michigan, that will be helpful with respect to courts taking cases with actual injuries, but the asbestos problem is a nationwide problem and that's only one state," said Quentin Riegel, vp-litigation for the Washington-based NAM. He noted that the inactive docket approach doesn't deal with "the issue of overall limits on liability; it just says when the cases will be heard rather than how much money will be paid."

"States can address the problem, but ultimately a federal solution is needed because you're still likely to have a few jurisdictions that operate outside the mainstream," said Mr. Behrens. "You may be able to solve many of the problems if you do this on a state-by-state basis, but, because of forum shopping"—whereby plaintiffs' attorneys file suit in the jurisdictions considered most plaintiff-friendly—and other factors, you'll continue to have "a few jurisdictions that don't operate with consideration of the national interest," he said.

Mr. Behrens said that any administrative rule-making process to create a statewide inactive docket would take months to complete.

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# Late News

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said Mexican fertilizer producer Grupo Fertinal filed criminal charges arising from the insurer's refusal to pay a hurricane damage claim. Fertinal seeks $300 million, but Comercial America is disputing the amount and trying to restore access to its accounts, she said.

## Credit Lyonnais indicted over ELIC acquisition

A federal grand jury in Los Angeles has issued a criminal indictment against French bank Credit Lyonnais and others related to the bank's 1991 acquisition of the failed Executive Life Insurance Co., according to press reports. Credit Lyonnais revealed earlier this month that it would likely face criminal charges if no settlement were reached. Since the late 1990s, state and federal investigators have probed whether the group of French investors that bought $3.25 billion worth of ELIC's junk bonds was actually a front for Credit Lyonnais. Under U.S. law, the French bank cannot be involved in such a deal because it is owned by a foreign government.

## Captive formations on rise in New York

Media giant Viacom Inc. has become the 10th corporation to form a captive insurer in New York, with the licensing of Sammarnick Insurance Corp., the New York Insurance Department said. Viacom officials could not be reached, and an Insurance Department spokeswoman declined to comment. New York-based Viacom owns CBS Inc., Paramount Pictures, publisher Simon & Schuster Inc. and other media properties. New York regulators have already licensed seven other captives, including insurers formed by Moody's Investors Service and New York's Metropolitan Transportation Authority. Two additional captives have been incorporated and are awaiting licensing, the spokeswoman said.

## Broker Palmer & Cay launches reinsurance unit

Savannah, Ga.-based Palmer & Cay Inc. has formed a property facultative reinsurance brokerage arm and reinsurance underwriting unit. John W. Threlfall, a former Guy Carpenter managing director, is now president of Palmer & Cay Reinsurance Brokers, based in Hartford, Conn. J. Kevin Brawley, who briefly was president of Guy Carpenter's reinsurance underwriting subsidiary Triad Reinsurance, is now president of Savannah Reinsurance Underwriting Management L.L.C. Based in Stamford, Conn., managing underwriter Savannah Re will specialize in facultative reinsurance.

## Consumer-directed plans unpopular in California

Consumer-directed health plans remain a rarity in California, which typically leads the nation in using innovative health care models, a California HealthCare Foundation report has found. Among other findings, California lags the rest of the nation in enrollment in health reimbursement arrangements, and "design your own" products that let employees choose their own set of providers and benefit features so far are nonexistent in the state.

## P/C insurers' surplus falls despite gains

Profits and revenues may be higher for the U.S. property/casualty insurance industry, but surplus has fallen, according to the Jersey City, N.J.-based Insurance Services Office Inc. ISO says the industry's surplus in 2002 fell by about 1.5% to $285.2 billion. This decrease was largely a result of stock market losses and came despite the insurers' largest premium increase since 1986, ISO noted. Growth in written premiums exceeded 14% last year, the highest increase in 16 years, while growth in losses was less than 3%, a five-year low.

## Summit Global Partners forms benefit consultant

Summit Global Partners Inc., a Dallas-based insurance brokerage and consulting company, has formed a benefit consulting unit. Summit Global Partners Employee Benefits Consulting Group will focus on helping middle-market and large employers provide health care insurance and other benefits, SGP said. Glenn Morrison has joined the benefit consulting unit as president of the Eastern division and will open an office in Chicago. He previously was an area president for Arthur J. Gallagher & Co. of Itasca, Ill.

## Briefly noted

The Bermuda Supreme Court has appointed Mike Morrison and John Wardrop, who are KPMG L.L.P. partners in Bermuda and London, respectively, as provisional liquidators of **Trenwick Group Ltd.** and affiliate LaSalle Re Holdings Ltd. Trenwick and LaSalle Re filed for bankruptcy earlier this month....**Oxford Health Plans Inc.** said it has agreed to settle a coverage lawsuit with some of its excess liability insurers over claims relating to a securities class action against the managed care company. Under the agreement, Oxford said some of the insurers would pay $14.3 million to settle about $17.9 million of claims but that the company would pursue a $23.9 million claim with another excess insurer. Oxford would not identify the insurers....Surplus lines insurance industry veteran Don Alberico is leaving his post as senior vp at Aon Corp.'s Swett & Crawford Group to join independent wholesaler **American Wholesale Insurance Group Inc.** Mr. Alberico, who has 17 years of wholesale insurance brokerage experience, will open American Wholesale's new Chicago office, serving as president of AmWINS Brokerage of Illinois....**XL Insurance (Bermuda) Ltd.**, a unit of XL Capital Ltd., has named Don Baker as executive vp responsible for Bermuda operations. He also will be director of global programs for XL Insurance Global Risk, the insurer's operation for large commercial accounts. Mr. Baker previously was chief executive officer of Zurich Insurance Co.'s Bermuda branch....Bermuda-based **Arch Capital Group Ltd.** has named Robert T. Van Gieson as president and CEO of its London unit, Arch Capital U.K. Ltd. He previously was CEO of Chicago-based CNA Insurance Cos.' global operations....Robert B. Lockhart has been named president and chief operating officer of **Hilb, Rogal & Hamilton Co.** Mr. Lockhart fills the position previously held by Martin L. Vaughan III, who became HRH's chairman and chief executive officer this spring upon the retirement of Andrew Rogal. Mr. Lockhart joined HRH as vp and director of the brokerage's Northeast region in 1999 when HRH acquired American Phoenix Corp.

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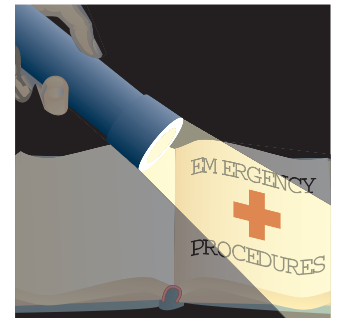
## Online Poll

[ 8/25 - 8/29 ]

**Has the recent blackout led your organization to review its emergency preparedness?**




| | |
|---|---|
| Yes | 20.51% |
| No | fc67.95% |
| Not sure | 11.54% |

## *BI* Stock Index

[ 8/25 - 8/29 ]

**Up-to-the-minute data for all 84 companies that comprise the *BI* Stock Index can be found at *www.businessinsurance.com.***

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

| | | |
|---|---|---|
| *BI* Stock Index | 1970.12 | 0.33 |
| Dow Jones | 9415.82 | 0.72 |
| S&P 500 | 1008.03 | 1.51 |

**Largest gains**

| | |
|---|---|
| Acceptance Insurance | 40.00% |
| NYMagic Inc. | 17.10% |
| Clark Bardes Holdings | 9.24% |
| Endurance Specialty | 7.68% |
| SCPIE Holdings Inc. | 6.94% |

**Largest losses**

| | |
|---|---|
| ESG Re Ltd. | -16.67% |
| Baldwin & Lyons Inc. | -5.42% |
| SCOR | -5.00% |
| PXRE Corp. | -4.88% |
| Berkley W.R. Corp. | -3.64% |

**Weekly change by market segment**

| | |
|---|---|
| Brokers | 2.36% |
| Insurers/Reinsurers | 1.35% |
| Managed Care Organizations | 1.91% |

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

Pending Senate bill would permit importation of prescription drugs

# Resolve to bar Canadian meds dwindles

By JOANNE WOJCIK

**PITTSFIELD, Mass.**—Another Massachusetts city may try to reduce its prescription drug-related benefits costs by allowing plan participants to buy prescriptions from Canada.

The city of Pittsfield is "looking into the possibility of purchasing drugs from Canada," said a spokeswoman in the mayor's office. She declined to provide further details.

Last month, the city of Springfield, Mass., announced that it would pay the full cost of drugs purchased from Canada by members of its health plan. Because prescription drugs generally cost between 30% and 80% less in Canada, the city expects to save $4 million this fiscal year (*BI*, Aug. 18). Prescription drug costs are lower in Canada than in the United States because of price controls imposed by the Canadian government.

The U.S. Food and Drug Administration prohibits businesses from reselling drugs manufactured in the United States and exported to other countries. The FDA also bars consumers from bringing nonapproved drugs into the country. However, the FDA has not been rigorously enforcing that prohibition, and pharmacies have been springing up in Canada to fill prescriptions for people in the United States.

A bill pending in the U.S. Senate would allow people to import FDA-approved prescription drugs from 25 countries, including Canada.

PHOTO: GETTY

Kevork O'Hanian's pharmacy in Montreal caters to U.S. senior citizens who cross the border to take advantage of lower prescription prices.