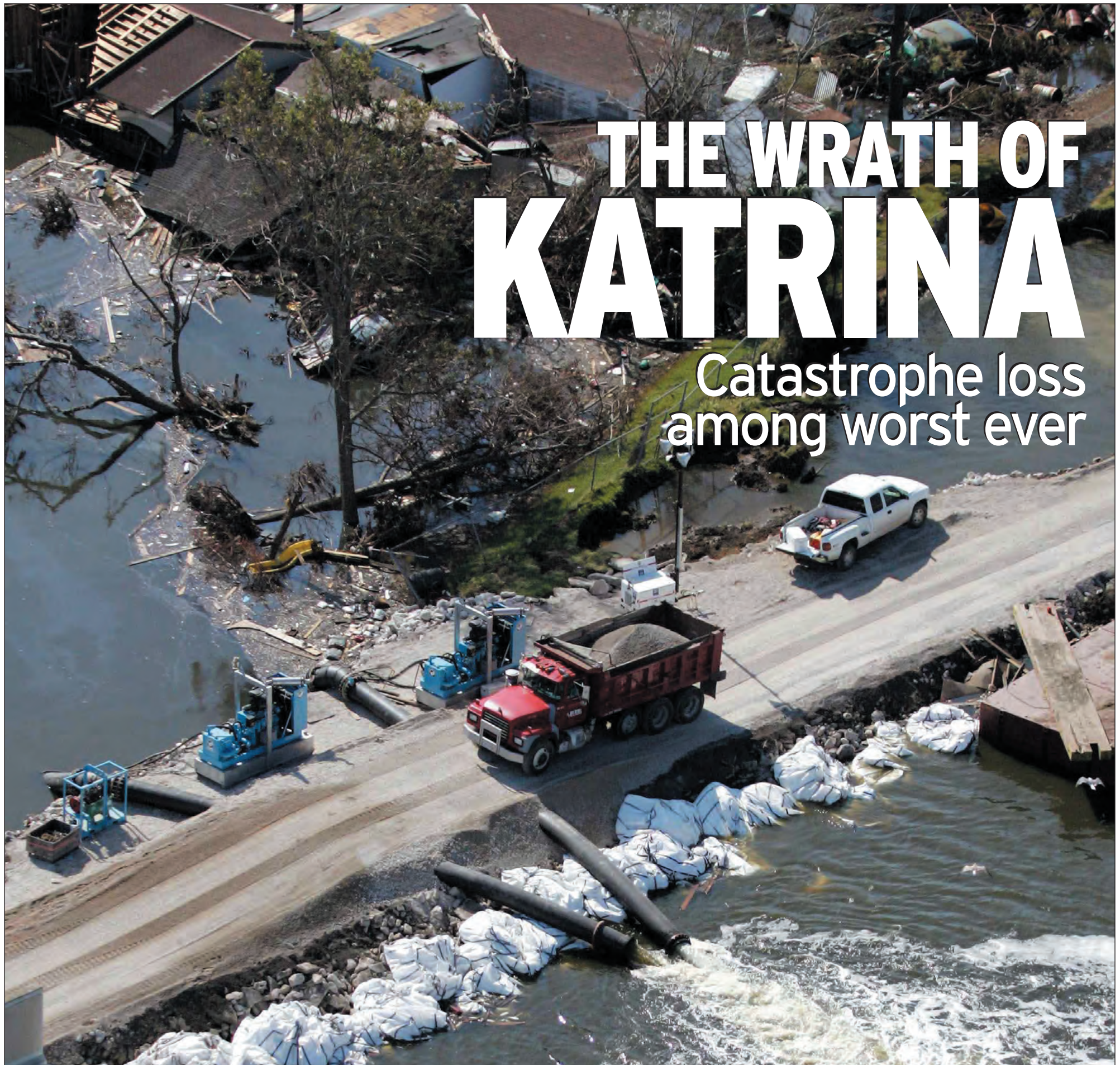


Business Insurance®

September 12, 2005

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\$5



THE WRATH OF KATRINA

Catastrophe loss
among worst ever

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INSIDE

\$50 billion loss?
Damage estimates rising,
but final tally won't be known
for some time

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Lives interrupted
Nature of disaster
raises questions about
business interruption claims

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At the scene
A *BI* senior editor relates
an eyewitness account
of devastation in Louisiana

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Late News

Mercer chief named CEO of Marsh

Marsh & McLennan Cos. Inc. has named Brian M. Storms chairman and chief executive officer of brokerage unit Marsh Inc. Mr. Storms, who most recently served as president and CEO of Mercer Human Resource Consulting, succeeds Michael G. Cherkasky, who continues as president and CEO of parent company MMC. William A. Malloy will continue as president of Marsh, a role he took on earlier this year. E. Michael Caulfield, former chief operating officer of Mercer, is assuming Mr. Storms' former position as president of Mercer.

Alea rating cut to BBB+

Standard & Poor's Corp. has lowered its financial strength rating on Bermuda-based reinsurer Alea Group Holdings (Bermuda) Ltd. to BBB+ from A-. S&P said the downgrade followed Alea's announcement last week of first-half results that "did not meet the expectations of Standard & Poor's or Alea's management and continued the disappointing operating performance trend of recent years." Alea reported pretax profits of \$25.9 million for the first half of 2005, down 47% compared with the first six months of 2004. Following the downgrade, Alea said its board is

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Inside



CHARGES FOR CEO?

Gen Re's Brandon gets 'Wells notice' from SEC. **PAGE 3**

IT'S PRIVATE

Marsh sells Crump Group to private equity firm. **PAGE 3**

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DEVASTATION ON THE GULF

Katrina losses could hit \$60 billion

Estimates rising, but extent of storm's damage remains difficult to determine in ravaged areas

By **MARK A. HOFMANN** and **SARAH VEYSEY**

Insured damage from Hurricane Katrina could reach \$60 billion—and possibly more—when claims are finally totaled, observers say.

And that tally could be months in coming, they warn.

How such a huge potential loss will impact the property insurance market will also take months to determine, say reinsurers and others.

Meanwhile, risk managers continue to try to get a handle on their losses in an area that is partially under military control, without electric power or basic services and is closed to the general public.

Newark, Calif.-based Risk Management Solutions Inc. revised its estimate of total insured damages from Katrina upward to between \$40 billion and \$60 billion on Friday, with \$15 billion to \$25 billion related to flooding. The other major modelers, Boston-based AIR Worldwide Corp. and Oakland, Calif.-based EQECAT Inc. had not yet revised their estimates of \$17 billion to \$25 billion, and \$14 billion to \$22 billion, respectively.

Adjusters and others feared total insured damage would far exceed the initial projections.

"I think this will be around \$50 billion," said Thomas Crawford, president of Atlanta-based adjuster Crawford & Co.

"If I had to go up or down, it would be up," he said, adding that fully assessing the human and economic toll of Katrina "will take a long period of time."

"It's obviously a tremendous amount of damage, it's such a widespread area and it's going to take months to look at everything," said Hart Hubbard, Columbia, S.C.-based assistant vp-catastrophe services for Parsippany, N.J.-based GAB Robins North America Inc.



PHOTO: BARBARA DAVIDSON/RTT

A firefighter walks past a burning apartment building in New Orleans. The full amount of insured damage in the city is unlikely to be known for months.

Storm damage raises coverage questions

Business interruption complications expected

By **DAVE LENCKUS**

A city ordered evacuated ahead of a monster storm. A wild combination of widespread wind damage and storm-surge flooding exacerbated a day later by levee breaches. A city—once a thriving tourist destination, port and energy center—now an uninhabitable cesspool and abandoned for months.

These are not only the unique circumstances of the toll that Hurricane Katrina has taken on New Orleans. They are also the factors that property policy experts suggest could create some knotty coverage

issues as risk managers begin to sort out their direct and contingent business interruption losses with insurers in the months ahead.

Business interruption losses—typically gross earnings, or lost profits and continuing expenses from a loss—are among the most difficult claims to resolve even under far less dramatic circumstances, brokers and policyholder attorneys note. Losses arising from Hurricane Katrina will be even more complicated, they predict.

The destruction of New Orleans,

See **INTERRUPTION** / page 54



Continued coverage

EAPs EXPAND ROLE

In Katrina's wake, EAPs are expanding their services.

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TALLYING LOSSES

Insurers and reinsurers estimate their exposure.

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POWER SURGE

Rates already increasing for energy risks.

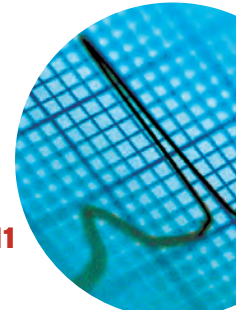
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SPOTLIGHT SURPLUS LINES

Equity firms eye wholesalers, buyers to benefit.

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House panel examines terror risk to 'soft' targets

Communication, federal funding said key to efforts to safeguard civilian targets.
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Apologizing for mistakes may aid hospitals

Illinois joins efforts to reduce victim anger, litigation from medical errors.
Page 4

Katrina underscores need to prepare for disasters

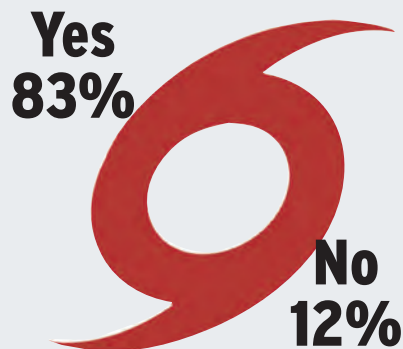
Paul Winston says all cat-exposed areas need to be ready when disaster strikes.
Page 6

Wholesale market changes should benefit buyers

Retail/wholesale separation should be good for risk managers, an editorial says.
Page 8

Online poll - [9/5-9/9]

Do you think losses stemming from Hurricane Katrina will drive property insurance rates higher?



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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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Marsh sells wholesaler unit Crump to private equity firm J.C. Flowers

By ROBERTO CENICEROS

DALLAS—Crump Group Inc. will be in better position to grow its business when its sale by Marsh Inc. to private equity firm J.C. Flowers & Co. L.L.C. goes through, according to a top executive at the Dallas-based wholesaler.

As an independent wholesaler with backing and advice from New York-based J.C. Flowers, Crump will be able to move forward without concerns arising from investigations into retail brokerages, said Glenn Hargrove, chief operating officer of Crump.

"Being under Marsh ownership, particularly post-Spitzer, I don't think that was the best

position for us to be able to continue to grow," Mr. Hargrove said. "Being independent is going to be a big factor for wholesalers going forward, and we are pleased to be amongst those ranks."

J.C. Flowers is one of several private equity firms interested in investing in the wholesaler market, and ownership by the investment firms should bring benefits to the whole sector, observers say.

New York-based Marsh last week announced a definitive agreement to sell Crump to J.C. Flowers. Terms of the deal were not disclosed, and J.C. Flowers Chairman Christopher Flowers did not return telephone calls.

Business Insurance estimates that Crump generated gross revenues of \$94.9 million in 2004, making it the fourth-largest wholesaler (see chart, page 26).

Mr. Hargrove described the arrangement between J.C. Flowers and Crump's upper management as a "partnership." But he declined to disclose specific details of the arrangement or say how much of an ownership stake Crump managers might retain.

Crump's current nationwide office structure will remain unchanged. The sale includes the Hamilton, Bermuda, office of Price Forbes Ltd.,

See CRUMP / page 56

SEC may charge Gen Re chief Brandon



Gen Re CEO Joseph P. Brandon

Gen Re CEO, two others get 'Wells notices' in probe of finite risk transactions

By DOUGLAS McLEOD

STAMFORD, Conn.—A federal investigation of General Reinsurance Corp.'s finite risk transactions reached the company's highest management levels last week as Chief Executive Officer Joseph P. Brandon and two other current or former senior executives were warned that regulators may bring civil fraud charges against them.

The Securities and Exchange Commission served Mr. Brandon last Thursday with a "Wells notice" in connection with its finite reinsurance investigation, Gen Re's parent, Berkshire Hathaway Inc., reported. Soon after

the disclosure, Berkshire announced that two additional Gen Re officers—Robert Graham, senior vp and assistant general counsel, and Christopher Garand, a retired senior vp—had also received Wells notices.

Lawyers for Messrs. Graham and Garand informed Berkshire of the notices Friday, the company reported.

The notices to the three men warn that the SEC is considering charges that they "violated or aided and abetted violations" of securities laws. It also warns that any SEC lawsuit against them may seek injunctive relief and monetary penalties, as well as an order barring them from serving as officers or directors of a publicly traded company, Berkshire reported.

Recipients of Wells notices are allowed to

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Benefits professional leads wellness tour

Gary Earl pedals from coast to coast to raise awareness of the need for healthy lifestyles

By JOANNE WOJCIK

When Gary Earl decided to become a health benefits professional, it was more than just a career choice. It was a calling.

So it was only natural that when he left his position earlier this year as director of health benefits at Caesars Entertainment Inc. that he would set out on a mission.

To show America "that leading a healthier life is as easy as shifting gears on a bicycle," Mr. Earl pedaled his touring cycle from coast to coast, stopping along the way to tell anyone who would listen why they need to take charge of their health.

The tour began June 24 in San Diego and ended in Ocean City, N.J., on July 30. During the trip, Mr. Earl, an avid cyclist, rode an average of 97.2 miles a day, spending six hours and 15 minutes in the saddle daily.

Mr. Earl admits that there were times along the way when he was tempted to veer off his chosen path—such as when he was in the 90th mile during a 120-degree day—but the strength of his convictions kept him going. Now, after logging some 3,100 miles and meeting with thousands of people, Mr. Earl is reflecting on the trip that whittled inches off his waist even as he rolled through America's Barbecue Belt.

"I'm down to some single-digit body fat,



Gary Earl, front left, leads riders on the last leg of the Health Awareness Tour 2005, a 3,100 mile, cross-country cycling trip designed to promote healthy lifestyles.

See TOUR / page 40

Senate panel passes pension funding reform bill

Cash balance aspect raises concerns

By JERRY GEISEL

WASHINGTON—Legislation to stiffen pension funding rules soon will be headed to the Senate floor.

Last week, the Senate Health, Education, Labor and Pensions Committee, on an 18-2 vote, approved a measure that would speed up the amount of time employers would have to fund liabilities, create a new way to value liabilities, boost premiums that employers pay the Pension Benefit Guaranty Corp. and curb the ability of employers with

underfunded plans to improve benefits.

In a provision that has alarmed business groups and others, the bill also would require employers that convert traditional plans to cash balance plans to meet new requirements and force existing plans to retroactively meet new rules that the Treasury Department will issue.

"If the cash balance provisions of the HELP bill or anything that resembles them becomes law, the result would be catastrophic" for employers, employees and the federal government, warns Larry Sher, a principal and director of retirement policy in the New York office of Buck Consultants.



The measure is still a "work in progress."

Sen. Mike Enzi
R-Wyo.

On cash balance, "no bill (at all) would be better than this one," said Kyle Brown, an attorney with Watson Wyatt Worldwide in Arlington, Va.

The committee action follows approval of a somewhat different measure earlier this summer by the Senate Finance Committee. Members of both committees will meet over the next couple of weeks to try to work out the differences and agree on a measure that the full Senate will consider.

In the House, the Education and the Workforce Committee also has approved funding reform legislation, while the Ways and Means Committee is soon expected to un-

veil its own bill.

While legislators are moving at a rapid pace—increasing the likelihood of congressional approval of a reform bill by the end of the year—the final details of that measure are far from certain.

Indeed, HELP Committee Chairman Mike Enzi, R-Wyo., acknowledged that the bill approved by his committee was very much a "work in progress."

Other panel members, while supporting the bill, said they will work to change it. "My concerns are fairly significant. I don't think we have the language quite right," said Sen.

See PENSIONS / page 56



Hotels, malls and transportation systems are examples of 'soft targets' for terrorist attacks.

Additional funding needed to protect 'soft targets' against terrorist attacks

By MARK A. HOFMANN

WASHINGTON—Increased federal funding for nonairline security measures will be critical in protecting so-called "soft targets" against terrorist attacks.

In addition, enhanced communication between authorities and private entities must be established to maintain public safety, a panel of private- and public-sector representatives told a House subcommittee last week.

The comments came during a hearing on how best to protect civilian targets—which include "soft targets" like malls, hotels

and transportation systems—from terrorist attacks such as the July bombing of the London subway system.

Protecting such targets is no easy task, the House Committee on Homeland Security's Subcommittee on Economic Security, Infrastructure Protection and Cybersecurity freely admitted. In a free society, there is "an infinite number of such potential targets," said Rep. Dan Lungren, R-Calif. Terrorists enjoy numerous advantages, and authorities are limited in their responses, he

See TARGETS / page 50

Errors & Omissions

• A chart in the July 18 edition misstated the percentage of Willis Group Holdings Ltd.'s business that was attributable to reinsurance and wholesale business in 2004. The correct figures are: Wholesale, 10%; and reinsurance, 24%.

• Due to an editing error, a story in the June 20 edition on Canadian private health care coverage incorrectly identified Vancouver, British Columbia-based employee benefits consulting company Heath Benefits Consulting Inc.

IRS bars linking HSA contributions to wellness program participation

By JERRY GEISEL

WASHINGTON—Employers offering health assessment and disease management programs alongside health savings accounts may have to change the way they use financial incentives to promote participation in those programs under newly proposed Internal Revenue Service regulations.

The long-awaited IRS "comparability" HSA regulations involve plan designs in which employers contribute to the accounts that employees use to pay for uncovered health care expenses. The regulations, for example, clear up a number of uncertainties, including whether employers can advance-fund contributions and how employers can, if they so desire, continue to contribute to an employee's HSA after the individual leaves the company.

For now, though, experts are focusing on the interaction of the rules with health promotion programs.

In such programs, employers, for



example, give employees financial incentives to have their blood pressure or cholesterol levels checked or to lose weight through exercise. One type of financial incentive would be for an employer to condition all or a part of its HSA contribution on the employee participating in such programs.

The proposed regulations, though, make clear that conditioning employer HSA contributions on participation in health promotion programs will not pass muster.

"The comparability rules will not be satisfied if an employer conditions contributions to an employee's HSA on an employee's participation in health assessments, dis-

ease management programs or wellness programs, because if all comparable participating employees do not elect to participate in all the programs, they will not receive comparable contributions to their HSAs," the IRS said.

To be sure, employers contributing to HSAs could continue to give employees financial incentives—such as a cash payment—to participate in health assessment and disease management programs. But the payment could not be made as an HSA contribution and thus would be added to employees' taxable income.

The proposed regulations, would allow—with a new restriction—employers that make HSA contributions as part of flexible benefits plan to condition an HSA contribution on employee participation in health promotion programs.

But another part of the regulations—giving an example of an HSA contribution made through a flexible benefit plan—suggests that

See HSAs / page 50

Two Illinois hospitals to test power of apologies in malpractice cases

Some concerned that 'Sorry Works!' program could increase litigation

By MEG FLETCHER

Illinois' new medical malpractice law contains provisions that will test the impact of encouraging hospitals and doctors to apologize to patients and their families for mistakes and unintended consequences resulting from medical procedures and treatments.

Supporters say a newly authorized pilot program reflects a growing national trend of promoting increased candor to enhance doctor/patient relationships and reduce lit-

igation costs.

Skeptics, however, express concerns that such frankness could lead to more litigation and possibly higher awards, especially in the absence of laws that shield health care providers from some liability associated with statements of apology.

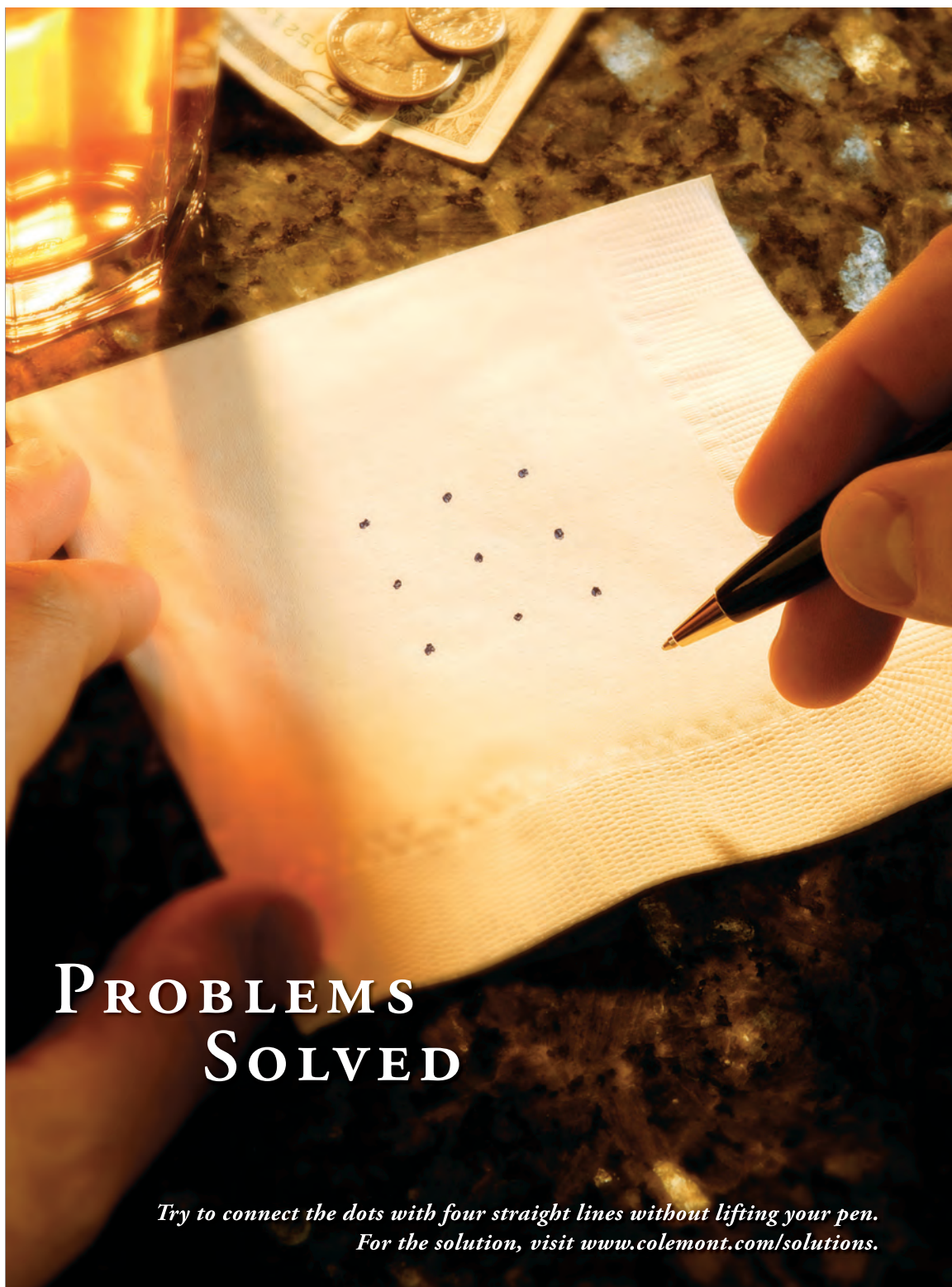
Meanwhile, hospital managers are grappling with the need to strike a balance between doing the right thing by patients and protecting their organizations. Deciding what steps to take requires analyzing the legal environment as well as

a hospital's culture to determine the extent to which it can support enhanced disclosures.

'Sorry Works!'

Illinois' medical malpractice law, enacted in August, authorizes a two-year pilot program called "Sorry Works!" that will encourage up to two hospitals and their doctors to "promptly acknowledge and apologize" for mistakes in patient

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PAUL WINSTON

Editorial Director

Cities paying a high price for their unpreparedness

In the wake of Hurricane Katrina, as in other previous disasters—including Sept. 11—there has been an outpouring of support from individuals and private industries to help those on the Gulf Coast to rebuild their lives, homes and cities.

This charitable spirit is admirable, and one estimate puts such private donations at more than \$200 million and growing. This is in addition to the tens of billions of dollars that taxpayers will incur for federal relief efforts, which have at last kicked into high gear. But at the risk of seeming less than charitable, I can't help wondering how much better off those in Katrina's path would have been if a fraction of these amounts had been spent to better prepare at all levels of government.

It's not as if the risk to the Gulf in general, or New Orleans in particular, was unknown. Every time a hurricane crossed near New Orleans, the observation was made that the city was situated in a bowl beneath sea level protected by an antiquated system of levees.

And while it may have shocked people elsewhere that such a large percentage of New Orleans' population were impoverished city dwellers without cars, it should not have surprised local officials and emergency preparedness agencies.

And yet, preparations appear to have been glaringly lacking. The afflicted cities, notably New Orleans, were caught flat footed and paid with the most precious of assets—the lives of thousands who were killed or died in the wake of the storm. I can only guess that in the not-too-distant past, people in charge took a gamble not to allocate the necessary resources and now realize that bet carried a terrible cost.

If anything good is to come from this disaster, apart from the outpouring of support from the hearts of others more fortunate, it must be that public officials in the Gulf—and all other areas nationwide with obvious cat exposures—take the necessary steps and incur the costs required to plan for the worst and assure the safety of their populations. This land has plenty of known perils and the adage of "hope for the best but prepare for the worst" is apt.

The risk management and insurance community has much to offer in this regard and should volunteer their expertise to develop effective disaster response plans. This contribution of knowledge and resources is in the best interests of businesses to protect their investments and the economies of markets in which they

operate. It's in the best interests of insurers to minimize exposure to catastrophic losses. And it's in the best interests of local officials to tap this resource before another epic loss of life brings such ruin and shame to another community.

Pirates and global warming

It's been said that laughter is an effective balm to tragedy and despair. In that spirit, I would like to share a novel theory about the cause of natural disasters that has turned up in an unexpected place.

In a submission this summer to the Kansas State Board of Education, an Oregon man sought equal consideration of his "religion" as part of the board's controversial decision to allow intelligent design to be taught in state schools along with the natural selection theory of evolution. In describing his belief system, Bobby Henderson wrote:

"You may be interested to know that global warming, earthquakes, hurricanes, and other natural disasters are a direct effect of the shrinking numbers of Pirates since the 1800s. For your interest, I have included a graph of the approximate number of pirates versus the average global temperature over the last 200 years. As you can see, there is a statistically significant inverse relationship between pirates and global temperature."

To give this startling and heretofore un contemplated syllogism your full consideration, perhaps you should know a bit more about Mr. Henderson's religion. He writes:

"Let us remember that there are multiple theories of Intelligent Design. I and many others around the world are of the strong belief that the universe was created by a Flying Spaghetti Monster. It was He who created all that we see and all that we feel. We feel strongly that the overwhelming scientific evidence pointing towards evolutionary processes is nothing but a coincidence, put in place by Him."

To learn more about this "faith" and its growing number of adherents, sometimes referred to as Pastafarans, visit Mr. Henderson's Web site, www.venganza.com (named for a pirate ship, naturally).

You might as well know that Sept. 19 is International Talk Like a Pirate Day (www.talklikeapirate.com/piratehome.html).

Whether this resurgence of interest in swashbucklers and privateers has any effect on global warming and natural disasters, matey, is a matter of conjecture...or faith. Arrrrrrgh!

Editorial Director Paul Winston's commentary appears fortnightly. He can be reached at pwinston@businessinsurance.com.

Editorial

Hurricane exposes myopic planners

HURRICANE KATRINA IS an excellent example of the importance of the risk management and insurance communities getting involved in the political process.

As a preface, it should be obvious that the damage inflicted by Katrina—regardless of any actions that could have been taken before the storm hit—inevitably would be catastrophic. A Category 4 hurricane is not going to just blow through.

That said, it is not unreasonable to suggest that if some basic loss prevention steps had been taken, perhaps the loss of life and property damage might have been less. A lot less.

We wonder, for example, if the levees that were supposed to protect New Orleans from the flooding caused by hurricanes had been better maintained or were higher, that perhaps the damage might not have been as severe.

In the same vein, it is possible that if there were been tougher rules on how barges, some of which broke loose and may have damaged the levees, were to be secured, that

the storm damage also might not have been as great.

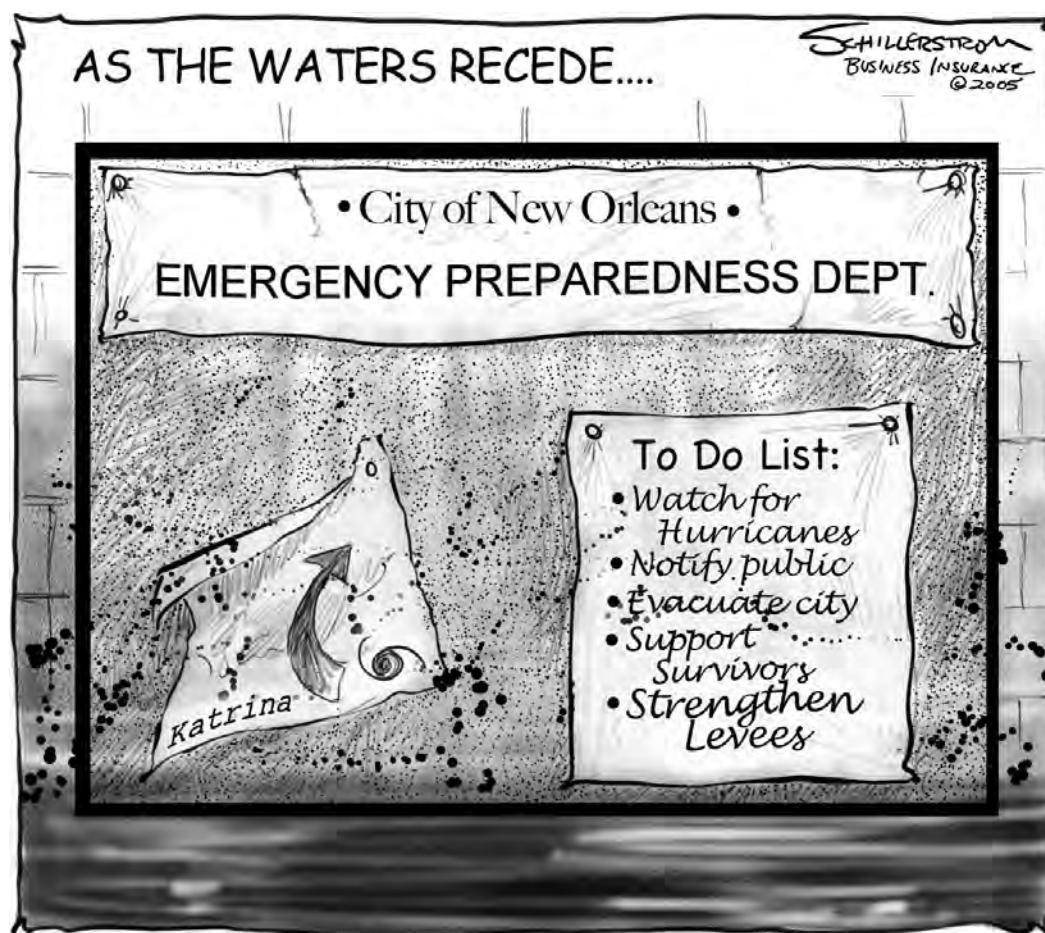
Finally, we wonder if the storm damage would have been so massive if more coastal wetlands had been preserved, with curbs placed on building along the Gulf.

Regrettably, none of these common-sense loss prevention steps were taken. In the case of levee maintenance, much of the blame rests with shortsighted politicians, who may have been pennywise and pound foolish. And politicians should not have responded to the pressures of developers and rather acted in the best interests of the broader community they represented.

Looking back, we wonder if insurers and risk managers—who are, we think, the best-informed sources about the costs resulting from storms—had warned politicians of the possible consequences of their actions, their words might have carried some weight.

That, of course, is speculation. But we do know that one of the lessons of Hurricane Katrina is that acting in the broader community interest may be the best way of protecting one's own interests.

Schillerstrom



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Wholesaler divestment welcome for risk managers

ON BALANCE, WE THINK risk managers should welcome the continued divestment of wholesale brokerage business by the largest retail insurance brokers.

Even though the rise of independent wholesalers likely will increase the need for risk managers to keep a firm grasp on their program placements, the wider choice available and the separation of retail and wholesale placements should work to buyers' advantage.

As we report on page 3, Marsh & McLen-

nan Cos. Inc. has become the latest retail broker to sell its wholesale arm. Willis Group Holdings Ltd. sold its wholesaler earlier this year, and Aon Corp. has its wholesale operation on the block.

The moves are widely considered a response to New York Attorney General Eliot Spitzer's investigations of insurance brokers. Although Mr. Spitzer did not target the ownership of wholesalers by retail brokerages, the sales pre-empt accusations that owning a wholesaler represents a conflict of interest whereby retailers channel business to their own wholesalers.

In addition to curbing potential conflict of interest risk, the sales also will lead to growth in independent wholesalers. Indeed, new wholesalers also may form as teams of brokers leave retail operations and set up their own companies during the divestment process.

Although the consolidation in the brokerage industry over the past 15 years has brought advantages to risk managers in terms of market clout, the reduction in choice of service providers has, we think, been a significant downside.

Of course, the sales will also mean that

risk managers may have to keep a tighter grip on their program placements than in the past. Risk managers have seldom needed to exercise control of their placements in the wholesale market, but they will no longer have the convenience of turning over such placements to affiliates of a longtime retail brokerage.

As a result, increased risk manager contact with wholesale brokerages and more careful review of the nonadmitted markets that they use should be a necessary, and in the end welcome, consequence of the wholesale selloff.

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Public entities leery of wholesale market

By SARA HARTY

When it comes to the surplus lines market, risk managers for public entities and risk managers for construction companies don't always agree.

For construction companies, which sometimes find it very difficult to find the coverages they need in the admitted market, the surplus lines market is a solution. Yet the public entities that hire the construction companies sometimes are so leery of insurance coverages placed in the nonadmitted market that their contracts may include language requiring all insurance to be placed in the admitted market.

Public entities have good reasons to prefer admitted coverages; chief among them is gaining access to state guaranty funds in the event of insurer failures. Both sides say that there are ways to resolve the disagreements, which rarely reach an impasse.

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Buyers to benefit from sales of surplus lines units

By ROBERTO CENICEROS

The unraveling of a 15-year-old trend that saw retail brokers buying up wholesalers will provide policyholders with more choice as a wider range of independently owned surplus lines brokers emerge, several industry observers say.

Decisions by the largest retail brokers to sell their wholesale arms, coupled with an increase in start-up operations by staff disrupted by the sales, will create a much more diverse wholesale broking market, where independents will more effectively compete for large account business, they say.

As a result, risk managers likely will gain greater control over their surplus lines placements.

The reversal of the consolidation trend, which follows New York Attorney General Eliot Spitzer's investigation into the commercial insurance industry, will give independently owned surplus lines brokers

See MARKET / next page

Private equity firms eye surplus lines brokers

By SALLY ROBERTS

The announcement last week that Crump Insurance Services Inc. will be bought by a private equity firm comes amid a period when few other potential investors have either the appetite or the resources to purchase large wholesalers.

Crump's owner, Marsh & McLennan Cos. Inc., and its main rival, Aon Corp., stated their in-

tentions of divesting their wholesale units earlier this year in the wake of industry investigations led by New York Attorney General Eliot Spitzer.

Since then, potential private equity players have been eyeing both firms, which comes as no surprise to investment advisers, given the size and brand recognition associated with Crump and Swett & Crawford Group, they say.

And given current market dynamics observers say Swett, like Crump, is likely headed toward private equity ownership.

For Aon and Marsh, such a deal alleviates any conflict-of-interest concerns about a retail insurance brokerage owning a wholesale brokerage, advisers say. But at the same time, the wholesalers would be perpetually for sale, because private equity firms only hold on to their investments for a limited

period of time.

Speculation over the potential buyer of at least one of the wholesalers ended last week when New York-based Marsh Inc. announced that it had signed a definitive agreement with an affiliate of New York-based private equity firm J.C. Flowers & Co. L.L.C. to sell Crump for an undisclosed amount (see story, page 3).

Marsh said in May that it was seeking "strategic alternatives" for

Dallas-based Crump. The move followed MMC's \$850 million settlement with Mr. Spitzer to resolve fraud and bid-rigging charges within its retail brokerage unit.

In a second-quarter analysts' call, executives from Chicago-based Aon said they are in "intense discussions with one party" regarding the sale of Swett, which

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RANKINGS: Surplus lines insurers / 16 Wholesalers and MGAs / 26

Independent wholesalers

The largest wholesalers that are not owned by brokers or insurance companies. Based on 2004 premium volume.

Largest independent wholesale brokers

Company	2004 premium volume
American Wholesale Insurance Group Inc.	\$2,401,669,101
BISYS Commercial Insurance Services Inc.	\$1,010,000,000
ARC Excess & Surplus L.L.C.	\$450,000,000
Westrope	\$370,000,000
U.S. Risk Insurance Group Inc.	\$367,765,000

Largest independent MGAs/Underwriting Managers

Company	2004 premium volume
Burns & Wilcox Ltd.	\$650,000,000
Gresham & Associates Inc.	\$364,820,155
NIF Group Inc.	\$220,024,494
W. Brown & Associates Insurance Services	\$214,000,000
WKF&C Agency Inc.	\$158,000,000

Source: BI survey

Market: Buyers to benefit

Continued from page 11

a better chance of winning business that previously was handled by the wholesale units of large retail operations, the observers say.

The expectation that more surplus lines business will be placed by independents has rested in part on a widespread assumption that as Aon Corp. divests itself of Swett & Crawford Group, and Marsh & McLennan Cos. Inc. divests itself of Crump Insurance Services Inc., another retail broker is not likely to purchase them.

That assumption proved true in the case of Crump. Marsh last week announced that it had agreed to sell

its wholesale brokerage operation to J.C. Flowers & Co. L.L.C., a New York-based private equity firm.

Both Aon and Marsh had signaled that they would sell their wholesale units in the months following Mr. Spitzer's investigations into the brokerage industry. The investigations did not target the ownership of wholesale operations by retail brokers, but the announcements were widely believed to be a move to avoid any allegations of conflicts of interest arising from such ownership arrangements.

The world's third largest brokerage, Willis Group Holdings Ltd., sold its wholesale unit, Stewart Smith Group, to Charlotte N.C.-based American Wholesale Insurance Group in February. (BI, Feb. 21).

"We have gone almost complete circle in that now retailers are divesting themselves of wholesalers," said Richard Bouhan, executive director of the Kansas City, Mo.-based National Assn. of Professional Surplus Lines Offices Ltd. "We are back with a lot of retail-owned wholesalers, particularly the four or five large ones, that are going to be independent."

Independently owned wholesalers say they are already placing a bigger share of business than previously as they land accounts that large retail brokers used to direct exclusively to their wholesale affiliates.

Henderson, Nev.-based Black/White & Associates cannot quantify precisely how much of such business it has placed recently, said Euclid Black, president of the independent wholesaler. But even though prices for many surplus lines policies have softened considerably from a year ago, and standard insurers are now writing coverages that were the nonadmitted market's domain until recently, Black/White is "not struggling," he said.

An increase in the quantity of business it writes that was formerly placed by retail owned wholesalers is helping offset soft market conditions, Mr. Black said.

In other cases, independent wholesalers say business flowing from retailer-owned wholesalers has not flooded their offices yet, but they are expecting an uptick in business as a result of the divestitures.

Doors that were previously closed to independents are opening, said Maureen Caviston, president of Partners Specialty Group L.L.C. in Stamford, Conn.

Producers for the large retailers that own some of the world's largest wholesalers are now holding preliminary discussions with independent wholesalers about placing the retail producers' surplus lines business, she said.

Previously, those conversations did not occur as the retail producers funneled much of their business to their affiliated wholesalers, Ms. Caviston said.

Independents also are picking up some staff from wholesalers that are being divested.

"People get itchy when you have an announced sale," said Alan Jay



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BI Ranks

Over and under

Ranked by combined ratio as determined by A.M. Best Co. and/or Standard & Poor's Corp.

Lowest

American Empire Surplus Lines Insurance Co.	65.9%
Adriatic Insurance Co.	74.1
Admiral Insurance Co.	82.2
Nautilus Insurance Co.	82.2
Essex Insurance Co.	85.6

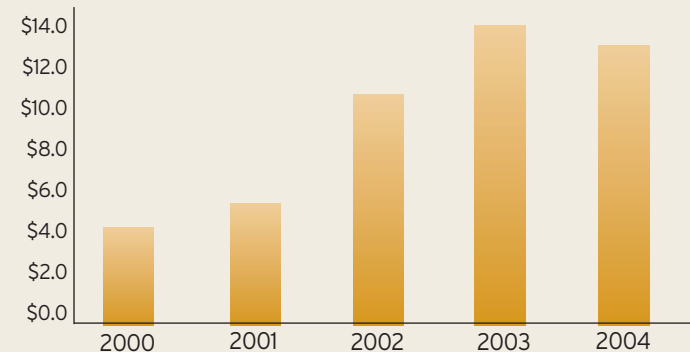
Highest

First Specialty Insurance Corp.	126.4%
St. Paul Surplus Lines Insurance Co.	123.2
General Star Indemnity Co.	107.4
General Star National Insurance Co.	107.4
Arch Specialty Insurance Co.	101.1

Source: BI survey

Up and down

Total nonadmitted direct written premiums by the 10 largest surplus lines insurers, in billions of dollars



Source: BI survey

Largest U.S.-based surplus lines insurers

Ranked by 2004 nonadmitted direct written premiums

Rank	Company/Address/Parent	Phone/Fax	2004 nonadmitted direct written premiums	Percent change from 2003	2004 gross premiums	Percent change from 2003	2004 net written volume	2004 net income (loss)	Combined ratio*	Principal officer
1	Lexington Insurance Co. ^{1,2} 2711 Centerville Road, Suite 400, Wilmington, Del. 19808 <i>American International Group Inc.</i>	617-330-1100 Fax: 212-458-7018	\$4,904,259,650	7.8%	\$6,474,272,848	6.4%	\$3,318,666,706	\$211,881,930	97.0%	Kevin H. Kelley, president/ executive officer
2	American International Specialty Lines Insurance Co. ² 1400 W. Benson Blvd., Suite 315, Anchorage, Alaska 99503 <i>American International Group Inc.</i>	212-770-7000 Fax: 212-509-7059	\$2,077,067,775	-40.7%	\$2,146,902,130	-39.7%	\$357,489,579	\$34,178,773	92.7%	Robert P. Jacobson, president/treasurer
3	Steadfast Insurance Co. ¹ 1400 American Lane, Schaumburg, Ill. 60196-1056 <i>Zurich Financial Services Group</i>	847-605-6000 Fax: 847-605-7895	\$1,438,335,078	-4.2%	\$1,509,539,554	-2.8%	N/A	\$7,924,763	N/A	Thomas Bradley, president
4	Scottsdale Insurance Co. ¹ 8877 N. Gainey Center Drive, Scottsdale, Ariz. 85258-2108 <i>Nationwide Mutual Insurance Co.</i>	480-365-4000 Fax: 480-368-5856	\$1,186,194,278	8.8%	\$2,541,672,111	7.4%	\$560,267,963	\$53,333,886	N/A	Michael D. Miller, president
5	Arch Specialty Insurance Co. 1 Liberty Plaza, 53rd Floor, New York, N.Y. 10006 <i>Arch Capital Group Ltd.</i>	212-651-6500 Fax: 646-746-8105	\$826,792,118	23.4%	\$866,175,278	25.1%	\$61,039,733	(\$555,430)	101.1%	Ralph E. Jones III, CEO
6	Evanston Insurance Co. 10 Parkway N., Deerfield, Ill. 60015 <i>Markel Corp.</i>	847-572-6000 Fax: 847-572-6259	\$824,934,004	-5.2%	\$985,990,682	-2.9%	\$718,259,840	\$89,329,862	89.8%	Michael A. Rozenberg, president
7	Columbia Casualty Co. ¹ CNA Plaza, Chicago, Ill. 60685 <i>CNA Financial Corp.</i>	312-822-5000 Fax: 312-817-0040	\$788,835,980	8.8%	\$795,853,707	4.8%	N/A	\$3,827,803	N/A	Stephen W. Lilienthal chairman/president
8	Admiral Insurance Co. 1255 Caldwell Road, Cherry Hill, N.J. 08034-3220 <i>W.R. Berkley Corp.</i>	856-429-9200 Fax: 856-429-8611	\$579,120,193	5.2%	\$638,697,224	1.7%	\$597,558,296	\$119,702,003	82.2%	James S. Carey, president/CEO
9	Essex Insurance Co. 1209 Orange St., Wilmington, Del. 19801 <i>Markel Corp.</i>	804-273-1400 Fax: 804-273-1435	\$543,385,311	0.6%	\$572,141,221	1.0%	391,385,526	\$54,269,597	85.6%	William B. Dickler, president
10	National Fire & Marine Insurance Co. 3024 Harney St., Omaha, Neb. 68131-3580 <i>Berkshire Hathaway Inc.</i>	402-536-3269 Fax: 402-536-3350	\$455,956,361	11.2%	\$463,292,080	2.0%	\$378,157,285	\$129,768,298	89.4%	Donald F. Wurster, president

*Combined ratio as determined by A.M. Best Co. and/or Standard & Poor's Corp. 1 Figures provided on a pooling basis. 2 The data is as reported in the company's filed 2004 annual statement. The company is in the process of restating its 2004 annual statement and expects to file the statement on or about Oct. 15, 2005. N/A Not available

Source: BI survey

Visit www.businessinsurance.com for more information and access to the full searchable directory of surplus lines insurers.

Market: Increase in independent wholesalers should benefit policyholders

Continued from page 12

Kaufman, chairman, president and chief executive officer of Farmington Hills, Mich.-based Burns & Wilcox Ltd.

"If you work for a company and you have a new owner coming up and you don't know who that is, there is turmoil," said Mr. Kaufman, who recently hired producers from wholesalers being divested.

In still other cases, wholesale producers have found the announced divestitures reason to launch their own independent brokerages. In June, for example, Fresno, Calif.-based Sierra Specialty Insurance Services Inc. opened its doors with 21 employees. Many of those employees came from a Swett & Crawford office as well as from other national wholesale brokerages.

Sierra writes small commercial lines and its brokerage arm handles nearly all lines of business, a statement from the company said.

They will now compete against their former employers.

Kathy Schroeder, a former Swett & Crawford senior vp and now president of Sierra, said that uncertainty drove her to create her own wholesaler and other former Swett

employees joined her for similar reasons.

"We just felt that with all the stuff going on with Swett & Crawford, we were safer going on our own than to hang around and wait and see what happens," Ms. Schroeder said.

Because wholesale producers are often entrepreneurial, however, it is not uncommon for them to strike

vested, said Gary L. Tiepelman, senior vp of underwriting for Scottsdale Insurance Co. in Scottsdale, Ariz.

"The season really has been quite ripe for the independents," Mr. Tiepelman said.

Departing surplus lines producers usually take their business with them, sources add.

The divestitures and the increase in the number of independent wholesalers will benefit policyholders who are likely to have more choices as greater competition emerges among wholesalers who ultimately place risk managers' business, said Jane A. Keegan, enterprise risk manager for the Port of Oakland in California.

Additionally, risk managers could gain more information about who is really placing their nonadmitted business. Prior to the trend of large retailers purchasing wholesalers, risk managers were more likely to know specifically who placed their surplus lines coverages, Ms. Keegan said. But risk managers lost touch with the wholesale transaction when the large retailers gained greater control over those arrangements by purchasing surplus lines brokers.

When large coverage arrangements include the participation of wholesalers, the large retail brokers rarely provide risk managers information about which wholesalers they turned to for nonadmitted coverage arrangements, Ms. Keegan said.

"You get documents that say Aon, Marsh, or Willis and the rest of it isn't necessarily discussed," she said.

"If you work for a company and you have a new owner coming up and you don't know who that is, there is turmoil."

Alan Jay Kaufman
Burns & Wilcox Ltd.

out on their own or move to another surplus lines brokerage, even without divestitures or market shakeups, industry observers point out.

During the past five to 10 years, the number of people with surplus lines brokers licenses has doubled in some states, said Rick J. Lindsey, president of Sandy, Utah-based Prime Insurance Syndicate Inc., an excess and surplus lines insurer.

There is plenty of opportunity for independents that want to work hard, Mr. Lindsey said. But start-ups also face some tough hurdles, especially managing general agents who want to write program business. In particular, some insurers now insist that any MGA provide them with at least a \$20 million book of business, up from \$10 million a few years ago.

"They want to be dealing with large enough numbers that it makes sense," Mr. Lindsey said. Particularly for program business, "the bar has been raised considerably."

But there is a new increased aggressiveness among independent MGA's looking to hire from the retailer-owned wholesalers being di-

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Surplus lines premiums and taxes by state

State	Gross surplus lines premiums written			Percent change		Surplus lines taxes collected			
	2004	2003	2002	2003-2004	2002-2004	2004	2003	2002	Tax rate
Alabama ¹	\$406,991,433 ²	\$317,344,133	\$240,701,250	28.2%	69.1%	\$24,419,486	\$19,040,648	\$14,442,075	6.0%
Alaska	86,653,822	89,399,989	72,531,706	-3.1	19.5	1,746,501	2,076,131	1,759,066	2.7
Arizona ³	509,184,668	395,433,211	327,228,549	28.8	55.6	15,379,570	9,237,767	5,324,242	3.0
Arkansas ⁴	202,061,141 ²	240,982,464 ⁵	145,170,159	-16.2	39.2	8,108,526 ²	9,639,299 ⁵	5,936,522	4.0
California	6,542,147,725	6,003,968,512	4,352,803,039	9.0	50.3	167,183,075 ²	153,895,016	113,256,417	3.0
Colorado ^{3,6}	497,584,265	469,976,933	334,938,120	5.9	48.6	15,160,057	14,208,789	10,201,945	3.0
Connecticut	312,783,484	276,243,370	223,520,388	13.2	39.9	12,030,134	10,624,745	8,596,938	4.0
Delaware	73,810,093	81,881,690	49,214,553	-9.9	29.4	14,762,002	1,637,633	984,294	2.0
District of Columbia	178,630,423	169,800,375	135,857,606	5.2	31.5	3,077,593	2,852,000	2,064,742	2.0
Florida ^{3,6}	2,876,081,728	2,669,039,584	2,223,169,422	7.8	29.4	132,468,849	121,586,014	99,967,253	5.0
Georgia ⁴	852,746,750	896,272,500	702,336,050	-4.9	21.4	34,109,870	35,850,900	28,093,442	4.0
Hawaii ^{7,3}	198,509,751	148,155,546	84,767,029	34.0	134.2	9,294,008	6,927,970	3,955,473	4.68
Idaho	70,201,277	61,231,410	37,614,763	14.6	86.6	1,821,783	1,578,389	972,804	2.75
Illinois	1,012,483,750	815,041,545	511,056,626	24.2	98.1	35,440,099	28,529,162	15,334,825	3.5 ⁸
Indiana ³	375,323,146	329,365,324	304,770,491	14.0	23.1	9,383,079	8,234,133	7,619,262	2.5
Iowa ³	131,705,941 ²	132,376,439	93,655,695	-0.5	40.6	2,304,853 ²	2,647,528	1,873,113	1.75 ⁹
Kansas ³	152,678,450	150,545,505	119,520,820	1.4	27.7	9,493,876	9,117,473	7,023,531	6.0
Kentucky ³	148,702,532	157,293,071	119,568,673	-5.5	24.4	4,333,695	5,630,000	3,448,162	3.0
Louisiana	837,300,751	758,734,765	655,954,021	10.4	27.6	41,565,038	37,936,738	32,797,701	5.0
Maine ³	67,725,450	65,852,085	48,843,411	2.8	38.7	1,860,969	1,760,284	1,345,113	3.0
Maryland ⁴	395,981,938	334,464,673	241,541,456	18.4	63.9	11,873,458	10,032,440	7,192,837	3.0
Massachusetts	767,642,863	675,783,742	567,188,409	13.6	35.3	28,345,609	25,166,675	21,269,437	4.0
Michigan	683,621,656	553,478,000	391,021,000	23.5	74.8	17,898,108	13,836,950 ⁵	9,775,525 ⁵	2.5
Minnesota	377,566,333	268,908,600	200,879,867	40.4	88.0	11,326,990	8,067,258	6,026,396	3.0
Mississippi	264,177,156	233,699,040	160,594,026	13.0	64.5	10,566,888	9,347,791	6,423,332	4.0
Missouri	489,693,722	482,218,699	389,991,670	1.6	25.6	23,862,083	23,299,241	19,545,209	5.0
Montana	47,584,379	36,841,711	30,400,052	29.2	56.5	1,908,585	1,177,619	973,272	2.75
Nebraska	92,163,633	96,499,218	63,737,200	-4.5	44.6	2,764,909	2,894,977	1,912,116	3.0
Nevada	343,700,000	220,189,113	173,213,016	56.1	98.4	12,000,000	7,708,023	6,062,476	3.5
New Hampshire ⁴	90,000,000 ²	67,525,555	58,844,400	33.3	52.9	1,800,000 ²	1,350,511	1,176,888	2.0
New Jersey	1,204,845,857	1,019,791,239	894,667,076	18.1	34.7	35,021,639	30,575,586	21,842,082	3.0
New Mexico ⁴	63,189,600 ⁵	59,055,733 ⁵	55,004,533 ⁵	7.0	14.9	1,895,688 ⁵	1,771,672	1,650,136	3.0
New York	3,905,706,554	2,661,007,862	2,033,273,510	46.8	92.1	93,953,772	75,495,604	47,675,088	3.6
North Carolina	496,474,709	480,568,428	336,569,628	3.3	47.5	24,852,938	24,027,593	16,828,482	5.0
North Dakota	30,843,557	34,738,098	31,776,281	-11.2	-2.9	539,812	606,393	556,441	1.75
Ohio ⁴	567,542,039	376,218,276	375,528,946	50.9	51.1	12,062,236	8,456,426	8,447,409	5.0
Oklahoma ⁴	306,928,967	283,398,004	155,328,300	8.3	97.6	18,415,738	17,003,880	9,319,698	6.0
Oregon	257,090,552	238,303,074	173,341,174	7.9	48.3	5,141,811	4,766,061	3,466,873	2.0
Pennsylvania ⁵	1,185,757,000 ⁵	1,031,093,000	844,023,000	15.0	40.5	25,968,090 ⁵	22,118,094	18,744,009	3.0
Rhode Island	76,957,466	86,704,499	55,526,822	-11.2	38.6	2,308,726	2,601,135	1,665,805	3.0
South Carolina	389,533,050	362,454,703	309,162,181	7.5	26.0	15,581,323	14,498,225	12,366,506	4.0
South Dakota	45,127,696	21,380,388	28,962,824	111.1	55.8	1,128,192	534,510	724,071	2.5
Tennessee	298,450,000 ²	298,350,357	260,875,305	0.0	14.4	12,226,772	10,571,917	7,102,069	2.5
Texas	3,321,116,494	2,945,474,936	2,506,197,148	12.8	32.5	142,835,072	143,053,481	122,541,462	4.85
Utah	146,245,111	135,925,999	106,155,026	7.6	37.8	6,215,417	5,776,854	4,511,588	4.25
Vermont ⁷	38,173,706	30,625,988	16,948,138	24.6	125.2	1,145,211 ⁵	918,780 ²	345,734 ²	3.0
Virginia	639,201,921	531,102,628	384,869,134	20.4	66.1	14,256,074	11,930,400	8,787,988	2.25
Washington ³	709,076,554	629,147,344	424,315,393	12.7	67.1	14,818,857	12,582,947	8,486,458	2.0
West Virginia	139,249,875	124,068,143	94,868,976	12.2	46.8	5,135,375	4,679,034	3,390,768	4.0
Wisconsin	328,196,368	174,167,234	163,239,526	88.4	101.1	9,845,891	5,225,017	4,878,067	3.0
Wyoming	34,599,082	20,905,938	15,297,450	65.5	126.2	993,678	582,706	437,184	3.0
Totals	\$33,269,744,418	\$28,743,028,673	\$22,326,563,838	15.7%	49.0%	\$904,531,415	\$959,273,390	\$739,001,067	

¹ Fiscal year ending 9/30. ² Estimated. ³ Numbers revised following new information. ⁴ Fiscal year ending 6/30. ⁵ B/estimate. ⁶ Figures include independently procured coverage premiums and taxes collected.

⁷ Net surplus lines premiums written. ⁸ Tax rate changed in 2003. ⁹ Tax rate changed in 2004.

Source: B/I survey

Private: Investors see opportunity in wholesale brokerages

Continued from page 11

it put on the block in February shortly before it agreed to pay \$190 million in restitution to settle fraud and anti-competitive practices charges brought by attorneys general in New York, Connecticut and Illinois. "We hope to reach an agreement soon," the executives said.

According to a July article published by financial news Web site TheDeal.com, Swett's bidder is Dallas-based private equity firm Hicks, Muse, Tate & Furst Inc.

Spokesmen for Aon and HMTF declined to comment.

Insurance investment advisors say it's no surprise that private equity firms are interested in the wholesalers.

Swett and Crump "really bring a level of brand name to the marketplace—more so with their par-

"Private equity firms like it when industries are being changed or displaced, so it's pure opportunity."

M. Steven DeCarlo
American Wholesale Insurance

ent companies, but in and of themselves they are excellent players with good brand name recognition," said John Ward, a Cincinnati-based independent insurance industry analyst who is currently advising a major private equity firm looking to invest in the wholesale insurance segment.

In addition, the investment community considers Swett and Crump middle market investments, and many private equity firms look at the middle market as their "sweet spot," Mr. Ward said. "So you've got big name companies in the middle market publicly being identified as divestiture candidates, so it's no surprise that private equity firms are taking an interest in what's going on."

Market dynamics also are playing a role, advisors say.

"In the era of transparency, no one in the (insurance) industry is going to be a buyer," said Timothy J. Cunningham, a principal with OPTIS Partners L.L.C. in Chicago, referring to what he called "the Spitzer issue." And given Swett's size, it's not likely to be absorbed by a competitor. "So, if Aon has made the hard decision to exit the business, who's left to buy it but a buyout firm?" Mr. Cunningham said, noting that Crump had been in the same position.

"Private equity firms like it when industries are being changed or displaced, so it's pure opportunity," said M. Steven DeCarlo, president and chief executive officer of American Wholesale Insurance Group Inc., de-

scribing the interest among private equity firms in the wholesale market as "very hot right now."

Charlotte, N.C.-based AmWINS, the nation's second largest wholesaler, is 50% owned by its employees and 50% owned by Pegasus Capital Advisors L.P., a Cos Cob, Conn.-based private equity firm.

It would not be surprising to see Swett acquired by a private equity firm, said Mr. DeCarlo, whose firm is in the midst of integrating Stewart Smith Group, which it acquired earlier this year from Willis Group Holdings Ltd.

Whether a private equity firm

ultimately acquires Swett remains to be seen, but investment advisors say all the signs are pointing in that direction.

"Since the disruption last fall, there's been a lot of uncertainty in the industry," which has hit the natural buyers in the insurance acquisition market, said John Wicher, principal of San Francisco-based John Wicher & Associates. "For the wholesale brokers, 60% of the players are off the table now because vertical integration and vertical distribution are now viewed as problematic."

"The wholesale business is a great cash flow business, and I

think it's something which would be attractive to private equity players"—assuming the wholesaler's management can move the operation forward and that there is brand recognition, Mr. Wicher said.

In the case of Swett and Crump, "I think the building blocks are there for private equity players," he said.

In addition to alleviating conflict of interest concerns, there are other advantages to private equity ownership, observers note.

Typically under private equity deals, the management of the acquired firm is given equity owner-

ship in the firm either through a co-investment opportunity or through stock options, experts say. By aligning the interests of the capital providers with management, not only is the management team likely to stay with the company, resulting in less disruption and turnover, but the company also will be focused on growth.

"When a group of people have equity stakes, they are not only focused on their cash compensation, they're focused on the well-being and value creation for the entire firm," AmWINS' Mr. DeCarlo said.

Overall, private equity firms

Continued on next page



September 12, 2005

Continued from previous page

"make you better businesses," Mr. DeCarlo added. "When you're owned by a private equity fund, especially a growth private equity fund, (they) will assist you in growing. They will help you with mergers and acquisition activities."

At the same time, though, a private equity firm is always looking toward its exit strategy. The funds typically hold on to investments anywhere from three to 10 years, experts say.

"When you're owned by a private equity firm, you are for sale," Mr. DeCarlo said. "They're not going to hold an equity position in you forever. And that is what makes you a better firm, because

you're always getting ready for what people refer to as the 'next event.'"

There are basically three options for the "next event" for wholesalers owned by private equity firms, Mr. DeCarlo said.

The private equity firm could sell its stake to another private equity firm or the employees of the wholesaler could buy the firm back and make it 100% privately owned, he said.

Mr. DeCarlo noted that while an initial public offering is a third option, it's unlikely.

"Historically, wholesale brokers have not been able to stand on their own as a public company because they haven't had enough diversification," he said.

Acquirers bet change in control won't end flow of business

By SALLY ROBERTS

While private equity investors may reap rewards from owning and growing a large well-known wholesale franchise like Crump Insurance Services Inc. or Swett & Crawford Group, there are risks associated with making such an acquisition.

J.C. Flowers & Co. L.L.C. will find out firsthand about these risks. Last week, the New York-

based private equity firm purchased Crump from Marsh & McLennan Cos. Inc. Terms of the deal were not disclosed.

And although the levels vary, a certain amount of business from retail brokerage operations flows to wholesale subsidiaries. In fact, it is that flow of business and its appearance of a conflict of interest that resulted in Marsh and Aon opting to divest the units earlier this year in the wake of New

York Attorney General Eliot Spitzer's investigations into the brokerages.

But just how much of that business will continue to flow to the wholesalers after their divestitures is a risk private equity players will have to contend with, insurance analysts say.

"It's probably the No. 1 aspect that's being looked at as both an opportunity and as a threat," said John Ward, a Cincinnati-based independent insurance analyst who is currently advising a large private equity firm looking to invest in the wholesale market.

"If you're an investor or private equity firm looking at Swett & Crawford...you're concerned about the level of business being referred by your parent and whether you can depend on that going forward. But at the same time, you're looking at other firms in similar positions and

How much business will continue to flow from retailers to wholesalers after the divestitures is a risk to contend with.

looking at the opportunity to take away market share from other wholesalers," said Mr. Ward.

"The amount of volume that was flowing through Marsh and Aon to their wholesalers will be addressed in the transaction," said Rob Lieblein, president and managing principal with WFG Capital Advisors L.P. in Harrisburg, Pa.

Mr. Lieblein and Mr. Ward were interviewed before the Crump deal was announced.

"I would imagine it will be dealt with from a pricing standpoint whether in the deal structure, as to how much is paid up front vs. how much is paid over time, or in the overall pricing" of the wholesale operation, Mr. Lieblein said.

For example, the deal structure might include some type of earn-out, a supplementary payment based on earnings above a certain amount, that would indicate that a parent company would have to place a certain amount of business through its wholesaler for a certain period of time, Mr. Lieblein said. This might take the form of attempting to keep existing client relationships intact with the wholesalers for a year or so.

He noted, however, that "that's going to be a very sensitive issue they are going to have to deal with," given that Aon and Marsh are divesting the units due to perceived conflicts of interest. "They would have to be careful with any deal structure that would say, 'We're going to continue to use you just so we get the best deal for the company,'" he said.



David has been an expert in major disasters for over 40 years.

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Public: Some municipal risk managers remain leery of surplus lines coverage

Continued from page 11

"School districts and municipal entities have a lot of concerns with the surplus lines market," said Dave Dolnick, risk manager for La Mesa, Calif.-based The Brady Cos., a construction company and commercial subcontractor.

"About half of the contracts contain a specific clause requiring ad-

mitted coverage or coverage 'acceptable to the owner,'" said Mr. Dolnick.

The clauses are here to stay, chiefly because using a licensed insurer puts the public entity in a position to seek restitution from the guaranty fund should the insurer fail, said Steven A. Ring, managing director

of the public entity division for Arthur J. Gallagher & Co. in Itasca, Ill.

"There are ways to work around it, sure, but it is a natural thing for public entities to set forth their position and say 'the highest bar for quality is what we want,'" Mr. Ring said.

"There are real concerns and real issues," said Mark R. Ferraro, senior vp in the San Francisco office of the Marsh Public Entity Practice. "Serious claims do happen in the construction industry," Mr. Ferraro said, making it "politically impossible for a public entity to say they'll do business with an insurance company that isn't regulated or approved by the state insurance commissioner. It would put them in a terrible bind."

Mr. Ferraro said although the state guaranty fund limits are low, generally ranging from \$100,000 to \$300,000, "imagine the headlines if there was a problem" and the public entity didn't have that safety net.

The gold standard

"Insurers that are admitted to do business in the state are the gold standard, grade A coverage," Mr. Ferraro said. "Everything else is a step down and requires more investigation" by the public entity, he said. "That doesn't mean they don't have the latitude to negotiate something at the end. It's all about informed consent."

The public entity risk manager must make sure that the proper municipal officials are aware of why the coverages have been placed in

the nonadmitted market and must offer the proper assurances that the surplus lines insurer is financially stable.

J. Stephen Lockton, executive vp of Lockton Cos. of Colorado Inc. in Denver, a broker specializing in contractors, developers and large construction projects, said he does not usually see a requirement for admitted insurance "actually spelled out in the contract." When

mitted in at least one state, he said. "These insurers still have to demonstrate annually that they are in good financial standing. It's not like they are just fly-by-night operations."

Many municipalities acknowledge that argument, and in fact, many municipalities do not require admitted insurance in their contract language.

The city of Anaheim does not require admitted insurance on day-to-day projects, although it does typically require it on bigger projects, according to Tom Vance, the city's risk manager. Mr. Vance explained that the requirement is used to make sure that any exceptions to the contract language are carefully scrutinized up front. "It allows us to have discussions with the contractor," he said.

"We view it as managing risks rather than avoiding them," Mr. Vance added, noting that "contractual insurance can be a deal breaker for many projects. We try to work things out and not be rigid."

Charles Magazine, risk manager for the city of Boynton Beach, Fla., said that his city has never entered into the fray over admitted vs. non-admitted insurers. The city does not have a lot of big projects, he said, and "we just require a B+ or better rating from A.M. Best, along with minimum limits of \$1 million or more, depending on the project." Mr. Magazine noted that the requirement has been in place for many years and has worked well for his city.


When coverages are likely to be placed on nonadmitted paper, requiring a strong rating from A.M. Best Co. or Standard & Poor's Corp. becomes extra important since the guaranty fund won't be there to back up the insurer, says Dan Howell, a San Francisco-based senior vp at Driver Alliant Insurance Services, a broker that specializes in public entities.

Mr. Howell recommends that public entities use contract language requiring "a rating of at least A-" on admitted paper unless otherwise agreed upon or acceptable to the entity. That type of language "gives the entity a little leeway," he said, noting that once a bid goes out, it can be hard to make changes.

Mr. Howell noted that many construction claims can arise years after work is completed, making it all the more important to ensure that the insurer is likely to be around for some time.

"We are very careful about placing business in the surplus lines market. We sure don't want to be using a player that won't be able to deliver down the road," said Brad C. Gibson, senior vp of the Construction Insurance Division at Lockton. Mr. Gibson added that the same scrutiny applies to the coverages placed in the admitted market for the same reasons.

Marsh's Mr. Ferraro noted that owner controlled insurance programs may provide the easiest solution of all to the problem. With an OCIP, public entities can provide the insurance "and remove that issue from the table."




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Wary of both markets

However, "I think it is an artificial distinction for municipalities to look at surplus lines and say 'oh, how horrible,'" Mr. Dolnick said. "I think there is reason to be wary of both markets in equal measure."

After all, Mr. Dolnick noted, some of the most spectacular insurance company failures were not surplus lines carriers. "Mission was an admitted insurer and A rated right up until its implosion. Kemper was A rated. Reliance was A rated until very shortly before it failed. Everyone points to Legion and its spectacular implosion and failure, but if you look at grand stellar failures, the risk is about equal for the admitted market and surplus lines market," Mr. Dolnick said.

The authorized surplus lines list in California shows that most of the nonadmitted insurers are in fact ad-

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BI Ranks

Wholesale insurance brokers

Largest wholesale brokers* based on 2004 wholesale premium volume

Rank	Company/Address	Phone/Fax/Web site	2004 premium volume	Percent change from 2003	2004 gross revenues	Percent change from 2003	Percent surplus lines	Wholesale broker	Managing general agent	Lloyd's of London coverholder	Number of employees	Principal officer
1	Swett & Crawford Group 21650 Oxnard St., Suite 1400 Woodland Hills, Calif. 91367	800-262-6099 Fax: 818-593-2084 www.swett.com	\$2,775,000,000	-7.5%	\$246,143,000 ¹	-7.8%	61.0%	73.0%	25.0%	2.0%	850	David R. Hartoch, president/CEO
2	American Wholesale Insurance Group Inc. 4064 Colony Road, Suite 450 Charlotte, N.C. 28211	704-943-2004 Fax: 704-943-9000 www.amwins.com	\$2,401,669,101 ²	83.8%	\$163,289,000 ¹²	81.6%	49.0%	86.5%	12.5%	1.0%	695	M. Steven DeCarlo, president/CEO
3	CRC Insurance Services Inc. 1 Metroplex Drive, Suite 400 Birmingham, Ala. 35209	205-870-7790 Fax: 205-879-3739 www.crcins.com	\$2,096,000,000	29.2%	\$177,306,400	38.8%	75.0%	88.0%	6.0%	6.0%	703	Thomas Curtin Sr., president/CEO
4	Crump Insurance Services Inc. 7557 Rambler Road, Suite 350 Dallas, Texas 75231	214-265-2660 Fax: 214-265-2683 www.crumpins.com	\$1,249,000,000 ¹	18.6%	\$94,912,000 ¹	18.6%	N/A	N/A	N/A	N/A	N/A	Patrick O'Brien, executive vp/CFO
5	BISYS Commercial Insurance Services Inc. 50 California St., Suite 2000 San Francisco, Calif. 94111	877-247-9772 Fax: 312-879-1335 www.bisyspc.com	\$1,010,000,000	6.4%	\$84,000,000	1.2%	50.0%	57.0%	41.0%	2.0%	446	John Hahn, president

*Companies deriving more than 50% of their wholesale premium volume from wholesale brokerage. 1 BI estimate. 2 Pro forma to include Stewart Smith Group, acquired April 2005. N/A Not available.
Source: BI survey

MGAs/underwriting managers

Largest MGAs/underwriting managers* based on 2004 wholesale premium volume

Rank	Company/Address	Phone/Fax/Web site	2004 premium volume	Percent change from 2003	2004 gross revenues	Percent change from 2003	Percent surplus lines	Underwriting manager	Managing general agent	Wholesale broker	Lloyd's of London coverholder	Number of employees	Principal officer
1	Risk Placement Services Inc. 2 Pierce Place, 20th Floor Itasca, Ill. 60143-3141	630-285-4303 Fax: 630-285-4075 www.coveragefirst.com	\$1,150,000,000	31.9%	\$89,628,000	33.4%	60.0%	N/A	44.0%	48.0%	8.0%	651	Joel Cavaness, president
2	The Schinnerer Group 2 Wisconsin Circle Chevy Chase, Md. 20850	301-961-9800 Fax: 301-951-5444 www.schinnerer.com	\$1,011,000,000	5.8%	\$84,924,000 ¹	5.8%	5.0%	99.0%	N/A	1.0%	N/A	572	Lorna Parsons, Marie Solomon, Richard Horner, managing directors
3	Burns & Wilcox Ltd. 220 Kaufman Financial Center, 30833 Northwestern Highway Farmington Hills, Mich. 48334	800-521-1918 Fax: 248-932-9046 www.burnsandwilcox.com	\$650,000,000	8.3%	\$170,000,000	19.7%	90.0%	N/A	60.0%	30.0%	10.0%	875	Alan J. Kaufman, chairman/president/CEO
4	Gresham & Associates Inc. 1 Gresham Landing, P.O. Box 927 Stockbridge, Ga. 30281	770-389-1600 Fax: 770-389-1650 www.gresham-inc.com	\$364,820,155	3.8%	\$39,926,000	15.6%	50.0%	50.0%	N/A	45.0%	5.0%	288	James V. Gresham, chairman/CEO
5	Hub International Ltd. 55 E. Jackson Blvd. Chicago, Ill. 60604	877-402-6601 Fax: 877-402-6606 www.hubinternational.com	\$312,658,044	0.9%	\$239,016,965	34.9%	33.1%	N/A	66.3%	33.7%	N/A	1,878	Martin P. Hughes, chairman/CEO

*Companies deriving more than 50% of their wholesale premium volume from acting as underwriting managers, managing general agents and Lloyd's of London coverholders. 1 BI estimate. N/A Not applicable.
Source: BI survey

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Lobbyist has long career in industry

Maria L. Berthoud started work as a consultant lobbyist for the National Assn. of Professional Surplus Lines Offices Ltd. in May. Ms. Berthoud (pronounced "bear-two") is a vp at the lobbying firm B&D Sagamore in Washington, a subsidiary of the Indianapolis-based law firm of Baker & Daniels L.L.P. Prior to taking on NAPSLO as a client, she worked for more than 10 years as a lobbyist.

- The daughter of a U.S. Army captain, Ms. Berthoud was born in Germany and lived in several foreign countries before her family settled in Connecticut when she was 10 years old.

- Ms. Berthoud earned a bachelor's degree in political science from the University of Colorado in Boulder, Colo.

- She worked for three years for U.S. Sen. Joseph I. Lieberman, D-Conn., serving as a professional staff member in Washington and, before that, as deputy district director in Sen. Lieberman's Hartford, Conn., office.

- Ms. Berthoud spent 10 years working for the Independent Insurance Agents & Brokers of America Inc., where she rose to the position of senior vp. During her time there, she was responsible for all components of legislative lobbying, including the organization's political action committee, press strategy and government relations. She was active in lobbying the U.S. House of Representatives and the Senate on several major issues, including the Terrorism Risk Insurance Act and the Gramm-Leach-Bliley Act.

- Major federal issues Ms. Berthoud plans to address for NAPSLO include TRIA, federal chartering and the State Modernization and Regulatory Transparency Act.

—By Meg Fletcher

NAPSLO pushing regulatory reforms that would keep E&S market unfettered

Washington lobbyist hired as advocate for state-based regulation

By MEG FLETCHER

WASHINGTON—Leaders of the National Assn. of Professional Surplus Lines Offices Ltd. recently hired a Washington lobbyist to step up the association's efforts to influence congressional deliberations about modernizing insurance regulation.

Certainly, NAPSLO's wholesale broker and insurer members would

be the primary beneficiaries of such lobbying efforts, which are designed to maintain—or expand—the organization's goal of a surplus lines marketplace unfettered by rate and form regulation.

But commercial insurance buyers, too, would benefit from the continued viability of the surplus lines marketplace for specialty and excess lines risks that traditional,

admitted insurers decline, according to Richard M. Bouhan, executive director of Kansas City, Mo.-based NAPSLO.

"We are a small but vital part of the insurance industry," said NAPSLO President Richard Polizzi, who is also president of Western Security Surplus Insurance Brokers Inc. in Pasadena, Calif.

Among the commercial buyers

who seek surplus lines coverage are those with new types of exposures, difficult product liability risks or locations in storm-prone areas. They have often been turned down by admitted insurers and are willing to accept the less regulated surplus lines coverages, which lack some guaranty fund backing except in

Continued on next page

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The surplus lines market, which includes many of NAPSLO's members, writes about \$35 billion in annual premiums, constituting more than 13% of total commercial insurance premiums, said lobbyist Maria L. Berthoud, whom NAPSLO hired May 1. Ms. Berthoud is a vp with the lobbying firm of B&D Sagamore in Washington, a subsidiary of the Indianapolis-based law firm of Baker & Daniels L.L.P.

Ms. Berthoud said that, given the importance of this market segment, "it's appropriate" for them to have Washington representation. NAPSLO previously relied on Mr. Bouhan to direct all its lobbying efforts, even though he is based in Kansas City. "Dick Bouhan has done a

great job, but he can't be everywhere," Mr. Polizzi said.

"Hiring a lobbyist is the simplest, quickest and most effective way for NAPSLO to plant its flag in Washington and spread its message," said board member John F. Wood III, president of Shreveport, La.-based Specialty Risk Associates Inc., a wholesale brokerage.

To choose a lobbyist, NAPSLO used "a very deliberate process," said NAPSLO Vp Lawrence M. "Mac" Wesson Jr., president and chief operating officer of Dallas-based U.S. Risk Insurance Group Inc. The company is a specialty lines managing general agent and wholesale broker. The three NAPSLO directors who chair its legislative committee issued a request for

proposals. They reviewed resumes from six candidates and interviewed three of them before choosing Ms. Berthoud.

"Hiring a lobbyist is the simplest, quickest and most effective way for NAPSLO to plant its flag in Washington and spread its message."

John F. Wood III
Specialty Risk Associates Inc.

Ms. Berthoud, a former senior vp

for the Independent Insurance Agents & Brokers of America Inc., "had the most insurance background," said NAPSLO Treasurer Mary Ellen Rozzell, president of Continental/Marmorstein & Malone, a Paramus, N.J.-based specialty wholesale broker. Ms. Rozzell co-chaired that committee with Mr. Wood and Thomas F. Mulligan, executive vp of Western World Insurance Group in Franklin Lakes, N.J.

Ms. Berthoud offers insurance expertise as well as "a successful record of legislative accomplishments in both the House and Senate," Mr. Polizzi said in a statement (see story, page 28).

Currently, "there is increased interest within Congress about insurance regulatory reform," as well as

"competing ideas" about what should be done, Mr. Bouhan said.

"Something is going to happen, because there is too much pressure to make an adjustment," Mr. Polizzi said.

"Ms. Berthoud's first priority will be working on the current congressional action on the State Modernization and Regulatory Transparency Act, which could overhaul insurance regulation and include federal standards to be used by states," according to the NAPSLO statement.

During previous discussions of the SMART proposal, NAPSLO outlined its preference for national standards implemented by states, rather than federal regulation, according to several NAPSLO sources.

Specifically, NAPSLO wants the SMART Act to:

- Include a statement that the surplus lines market is to be free of rate and form regulation.
- Create a procedure so that surplus lines brokers would remit all state premium taxes due on surplus lines policies to one state.
- Clarify and broaden a waiver of diligent search, a so-called "automatic export" provision that currently applies for all exempt or "sophisticated insurance purchasers."
- Expand one-state compliance on multistate risks from sophisticated insurance producers to all commercial insureds.

Despite NAPSLO's concerns, Ms. Berthoud said that other issues have pre-empted the discussion in congressional committees, and she does not expect that a SMART bill will be introduced in the House this year.

The chief competing concept to the SMART bill is that of an optional federal charter, which has been on the brink of being reintroduced during the past four years, she said.

NAPSLO opposes that charter approach because it prefers a state-based system of regulation, several board members say.

In addition, NAPSLO is carefully watching discussions about extending the Terrorism Risk Insurance Act. TRIA, which was passed shortly after the Sept. 11, 2001, terrorist attacks to provide a federal back-stop for catastrophic losses from future terrorist attacks, is due to expire at the end of this year. Several insurer, risk management and business organizations have lobbied hard for the measure to be extended.

The organization has mixed views about extension because NAPSLO members incur significant administrative expenses documenting that they made the mandatory offer of coverage although few of their policyholders buy it, NAPSLO sources say. The association's members realize, though, that having a federal backstop is important for insurers writing some other lines of coverage, including workers compensation and high-risk property, Ms. Rozzell said.

Meanwhile, one of the key insurance issues before state legislatures—broker compensation disclosure—is low on NAPSLO's legislative agenda. Most model legislation, including bills enacted in Texas and Connecticut, exempt all surplus lines transactions and wholesalers because they act as intermediaries and do not have direct contact with buyers.



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Bermuda insurers showing interest in U.S. program market

Excess capital fueling partnerships with MGAs

By RUPAL PAREKH

Bermuda insurers historically have not played a significant role in the program market, but that may be changing.

Armed with capital and amid softening market conditions, Bermuda-based entities—following the lead of the marketplace at large—are showing increased interest in supporting U.S. program business, industry experts say.

“The insurance industry has had a waxing and waning interest in programs, and that is primarily due to market cycles,” said Dan Moglenicki, senior vp of underwriting at NIF Group Inc., a Manhasset, N.Y.-based managing general agent.

“The insurance industry has had a waxing and waning interest in programs, and that is primarily due to market cycles.”

Dan Moglenicki
NIF Group Inc.

However, more recently, “with the advent of new capacity flowing from Bermuda, there’s been a renewed interest in U.S. program business,” Mr. Moglenicki said. “And that new interest is reflective overall of the industry’s renewed interest in program business.”

“Not that many companies were interested in program business just a few years ago, but now, there’s many interested,” said William J. Ashley, president and chief operating officer of Glencoe Insurance Ltd. and chief underwriting officer of Glencoe Group Holdings Ltd., both units of Pembroke, Bermuda-based RenaissanceRe Holdings Ltd.

Glencoe has been a player in this sector since early 2002, Mr. Ashley said, and the company continues to find MGA’s attractive for their “entrepreneurial spirit,” as well as their niche-market expertise and industry relationships.

Safe investment

According to Kevin J. O’Connor, senior vp in New York for Brown & Brown Reinsurance Intermediaries, which specializes in locating issuing insurers and reinsurance for MGA programs, MGA partnerships also represent relatively safe investments for carriers. “In MGA program business, your numbers are containable, you are buying a book of business, you know what your costs are for that business, and your MGA is responsible for the claims.”

“The Bermuda markets have the capital, and they have to use that capital,” said Mr. O’Connor, who is

confident that Bermuda companies’ appetite for supporting U.S. program business is set to grow. “I think this area will grow in 2005 and 2006,” he said.

At the same time, managing general agents are now exhibiting a new curiosity and desire to understand the Bermuda marketplace.

“We’re very interested in the marketplace over there,” said Fran-

cis G. Johnson, president of the American Assn. of Managing General Agents, and president of Johnson & Johnson Inc. Managers, a Charleston, S.C.-based MGA.

This past February, Mr. Johnson and a group of AAMGA leaders traveled to Bermuda to meet with insurers and brokers on the island, “just

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PHOTO: DAVID SKINNER

Some Bermuda-based insurers with excess capital are finding U.S. program business attractive.



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Bermuda: Insurers may be gaining interest in writing U.S. program business

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to understand exactly how the market is put together." AAMGA also went back for a seminar in late August, and based on the numbers of attendees, Mr. Johnson thinks managing agents' interest in conducting business in Bermuda is trending upward.

"I think it's still in its infancy, and we're just learning how to do business there," he said. But, "As (insurers) get more and more comfortable with the way that MGAs do business, they will get more and more interested."

Chevy Chase, Md.-based managing general underwriter Victor

O. Schinnerer & Co. Inc., is also "very interested" in working with the Bermuda market, a company spokeswoman said.

Roy Mahlstedt, senior vp in Stamford, Conn. for Arch Insurance Group, a unit of Bermuda-based Arch Capital Group Ltd., which does "significant" business with MGAs, said he has yet to observe widespread interest from Bermuda market companies in supporting U.S. program business, but there is a possibility that could change going forward.

"There's more of a chance we will (see increased interest) than we won't, insofar that there is capacity

in Bermuda that will seek out distribution channels, and the MGA business is an established distribution channel," Mr. Mahlstedt said.

Capacity needed

Helping to drive Bermuda's increased interest in U.S. programs is the need for more insurers willing to offer capacity in this sector of the market. Some of the major carriers in the program market—such as Legion Insurance Co. and Orion Capital, a unit of Charlotte, N.C.-based Royal & SunAlliance USA Inc. that did previously business as both Artis and Connecticut Specialty Insur-

ance Co.—that pulled out of the market a few years ago "never really got replaced," Brown & Brown's Mr. O'Connor said.

Bermuda companies supporting program business in the United States may continue to do so through U.S.-based operations, though, noted Mr. Ashley of Glenco. "You need to be very close to the business," he said.

Additional Bermuda companies entering the program marketplace likely will lead to additional MGA program markets for policyholders, observers say.

"I think it may give them some more markets, with good capacity,

and good surplus," AAMGA's Mr. Johnson said, whereas MGAs "might now find some niches that we might not have been able to find before."

Mr. Moglenicki of NIF Group cautioned, however, that "the additional capacity that comes from Bermuda can be a double-edged sword for the program business market."

"As programs rise in popularity, that creates additional capacity for the insurance buyers, thus contributing to the cyclical nature of the industry as a whole, that invariably leads to better pricing and terms and conditions for the buyer." Mr. Moglenicki said. "If the Bermuda capital is to an extent dedicated to the program marketplace, then that is obviously a boon to program administrators and the ultimate insureds."

Conversely, though, "as Bermuda creates nonprogram specialty lines insurers with a large appetite for varying types of risk, that potentially reduces the need for programs and program administrators," Mr. Moglenicki said.

In order for companies to hand them the pen, MGAs must be lucrative, Mr. O'Connor said.

"The MGAs have to give profitable business to the Bermuda companies, and the Bermuda companies have to give profitable returns for their investors and their shareholders in order for this to continue."

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Lloyd's companies setting up shop in America

Underwriting agencies seek access to smaller and midsize business

By SARAH VEYSEY

Lloyd's of London has long been a significant market for U.S. surplus lines risks, but now several Lloyd's companies are taking steps to supplement that business by setting up shop in the United States itself.

While the companies expect to remain surplus lines markets, their on-the-ground operations will allow them to access business that traditionally does not make it to London, they say.

Beazley Group P.L.C., which operates two syndicates at Lloyd's, announced in February that in March it would begin underwriting specialty lines business through Beazley Insurance Co. Inc., which was formerly Omaha Property & Casualty Insurance Co. The company, acquired by Beazley in late 2004, is licensed in 50 states and rated A- by A.M. Best Co.

Beazley said it would target directors and officers liability, employment practices liability, errors and omissions, fidelity risks and fiduciary liability business for mid-size and small buyers that would not normally be underwritten at Lloyd's.

In July, Hiscox P.L.C., which operates multiline syndicate 33 at Lloyd's as well as a U.K.-based non-Lloyd's insurance company, announced it had recruited Ed Donnelly, formerly senior vp of Professional Indemnity Agency, to be president of Hiscox USA, a new entity that is slated to begin operations in 2006. The U.S. operation will focus on coverage for small business, and Hiscox said it would target professional indemnity business in particular.

And last year, Wellington Underwriting P.L.C., another large Lloyd's business, announced it had completed the acquisition of a Scottsdale, Ariz.-based company, formerly AXA Corporate Solutions Excess & Surplus Lines Insurance Co., which it has renamed Wellington Specialty Insurance Co. The company will focus on casualty coverage for small business, among other lines.

Wellington already operates a U.S.-based company, Wellington Underwriting Inc., which writes facultative reinsurance.

All of the companies say the moves to set up U.S.-based entities will not detract from the U.S. business they already underwrite at Lloyd's through Lloyd's brokers.

Andrew Beazley, chief executive officer of Beazley, said the impetus behind setting up Beazley Insurance Co. was a desire to access medium and small domestic U.S. buyers and supplement the company's existing Lloyd's business.

Many of the specialty lines products Beazley offers are suitable for medium to small buyers in the United States, but, because of brokerage costs associated with placing business at Lloyd's from the United States, that business has not traditionally come into the Lloyd's market, Mr. Beazley said.

Now "we are able to issue admitted paper, licensed in 50 states, in

addition to our surplus lines paper, so it is a broadening of our offerings," he said.

"Lloyd's remains the center for our subscription business, for complex risks" and exposures, he said. "Our U.S. business will complement that."

Steve Quick, business development director at Hiscox, said that the company wanted to gain a physical presence in the United States because that market is already important for the company. About 40% of Hiscox's business

comes from the United States, he explained.

The company also hopes to get greater access to smaller U.S. business—business, he said, that "doesn't come through the normal (Lloyd's) broker channels"—and to "broaden our net."

Hiscox's extensive use of the Lloyd's market and Lloyd's brokers will not change as a result of setting up a U.S.-based company, but Hiscox is hoping to augment those operations, Mr. Quick said.

Wellington, which already writes

about \$300 million in facultative business through Wellington Underwriting, will also use its new unit to access business that is not usually placed in London, said David Foreman, chief underwriting officer at Wellington in London.

Surplus lines business is extremely important to Lloyd's, said Julian James, head of worldwide markets, and the market currently writes \$5.6 billion in premiums of U.S. surplus lines business, he noted.

The efforts of some Lloyd's entities to access admitted markets

in the United States should not threaten syndicates that only have London-based operations, he said.

Lloyd's provides a platform for businesses to underwrite, Mr. James noted, and the market recognizes that for certain risks, the traditional Lloyd's arrangement may not be the most suitable.

"This goes to the heart of what we need to do at Lloyd's to remain competitive," Mr. James said. "We need to provide a competitive way for companies to trade."

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Softer rates, catastrophes don't dim reinsurer outlook: Fitch

By DOUGLAS McLEOD

Reinsurer financial strength ratings should remain stable for at least another year, though large losses from Hurricane Katrina and other factors could change that outlook, Fitch Ratings predicts.

While the global reinsurance industry's financial trends have been favorable, rates have been softening and competition will likely increase through 2006 and 2007 in a normal turn of the market cycle, Chicago-based Fitch projects in a report on industry conditions.

Reinsurers' financial results

should remain relatively healthy despite this and despite expected heavy catastrophe losses, the rating agency says.

Hurricane Katrina remains one of several wild cards in the financial ratings outlook, though.

The storm will take "a material amount of capital out of the sector," and will actually have the positive effect for reinsurers of firming rates on southeastern U.S. property exposures, said Mark Rouck, a Fitch analyst.

Initial insured loss estimates for Katrina ranged from \$9 billion to \$25 billion at the time Fitch pre-

pared its report. Worse-than-expected losses could lead the rating agency to revise its stable ratings outlook, Fitch said.

Global reinsurers have benefited from adequate premium levels and strong capitalization over the last couple of years, and their results should remain "reasonably healthy" this year, according to Fitch.

Over the next 12 to 24 months, the agency expects to affirm financial strength ratings for the vast majority of reinsurers, with a roughly equal number of upgrades and downgrades in a smaller number of

cases.

This would continue the trend of the last two years and mark a change from 2002 and 2003, when dozens of reinsurers were downgraded amid reserve adequacy and other concerns.

Market competition is one area where changes could affect the industry's stable outlook, Fitch says. Katrina's impact on reinsurance rates remains uncertain, but excess market capacity will likely make it more difficult to maintain profitable books of business in the next two years, Fitch predicts.

The market in 2006 will probably

be more competitive than this year, and competition in 2007 will reach the point where reinsurers will have to employ "cycle management strategies," including exiting unprofitable lines and returning capital to shareholders through dividends and share buy-backs.

Fitch has been "pleasantly surprised" by reinsurers' underwriting discipline to date, and hasn't seen any signs yet of a "feeding frenzy" among reinsurers eager to use excess capital, Mr. Rouck pointed out.

A soft market cycle, meanwhile, will fuel another trend: increased merger and acquisition activity and diversification by reinsurers unable to produce profitable organic growth.

Katrina will actually have the positive effect for reinsurers of firming rates on southeastern U.S. property exposures.

Mark Rouck
Fitch Ratings

Reinsurers are more likely to try to acquire books of business and underwriting teams from rivals than to expose themselves to potential legacy liabilities by buying the companies themselves, Fitch noted.

Still, the industry's track record in merger activity and diversification into unfamiliar lines of business is "mixed at best," and the trend could become a negative factor in Fitch's outlook, the agency said.

Federal and state regulatory investigations of finite reinsurance transactions could also become a rating question for some reinsurers.

Finite products are only a small part of the overall market, and falling demand for the products will probably produce only a drag on earnings for some reinsurers. Reduced interest in finite reinsurance will probably also produce more demand for traditional reinsurance coverages, Fitch said.

A small number of specialist finite reinsurers may see their ratings cut, though, as a result of possible large declines in premium volume or legal action, Fitch reported.

Changes in reinsurers' terrorism exposures could also alter the industry's stable outlook.

If the Terrorism Risk Insurance Act is not extended beyond its year-end 2005 expiration, demand for commercial terrorism reinsurance will grow, creating both opportunity and substantial risk for reinsurers, the agency noted.

The industry's stable outlook assumes a limited exposure to terrorism risk, Fitch said.

The report, "Mid-Year 2005 Global Reinsurance Review and Outlook: Steady as She Goes, but Do Troubled Waters Lie Ahead?" is available on the rating agency's Web site, www.fitchratings.com.



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Some employers are offering incentives to entice employees who smoke, are overweight or chronically ill to participate in wellness programs.

Programs offer cash incentives to encourage employee wellness

By JESSICA MARQUEZ

Two years ago, Sprint Corp. found itself at a loss about what to do to stem rising health care costs. After aggressively trying to control the expenses through cost-sharing and changes in its benefits, the company, which has 59,000 employees, had thought it was ahead of the curve: In the previous two years, Sprint had managed to avoid \$90 million in health care increases. But before there was time to celebrate,

Sprint's benefits team discovered that the company was still facing a \$45 million to \$50 million annual increase in health care costs if it didn't do more.

"If we did nothing, it would have meant that our salespeople were going to have to come up with \$500 million more in revenue," said Benefits Manager Collier Case. "That was significantly higher than the 12% growth rate for our industry."

Mr. Case knew that the only way to address the rising costs was to go

to the root of the problem and get employees to adopt healthier lifestyles. It would mean taking more drastic action than just having fitness centers on company grounds, which Sprint already did. Mr. Case realized that only people who already were health-conscious would go to the gym; the trick would be to encourage other groups of employees to be healthier.

Mr. Case and his team went to work on a wellness program, devising one in which employees would take health risk assessments, either online or on paper, and would receive follow-up calls discussing any conditions or potential risks found. To increase participation, Sprint gave every employee \$45 to take the assessment. Additionally, the company raffled off 25 \$500 American Express gift cards to employees and dependents who took the assessment.

Sprint is one of a growing number of companies that are realizing that simply offering wellness programs is not enough to change employee behavior. As more top executives put pressure on benefits managers to reduce health care expenses, wellness programs are evolving from a nice employee perk to a tool that employers use to pare costs, said Jack London, executive director of patient advocacy at Apex Management Group, a health care consulting firm based in Las Vegas and Princeton, N.J.

The problem with merely offering wellness programs is that the employees who typically participate are those who are already healthy, said Bruce Kelley, a senior consultant at Watson Wyatt Worldwide in Minneapolis. Employees who are obese or who smoke often do not want to get a health risk assessment only to be told that they have to change their lifestyles. But these are the very employees that companies most want to reach. They are key to reducing the company's health care costs. And that's where the incentives come in, Mr. Kelley said.

By offering incentives, employers hope that more of the smokers, the overweight and the chronically ill employees will participate in their wellness programs.

"These programs have completely changed in nature," Mr. Kelley said. "They now are more focused on targeting the higher-risk population and bringing effective solutions to those groups."

Delta Air Lines Inc. last year began raffling off gift certificates and full-year paid health premiums to employees who signed up for an online health risk assessment. The effort came after the Atlanta-based airline realized that a small number of employees were driving the majority of the company's health care costs, said Lynn Zonakis, director of health strategy and resources at Delta.

"We saw that one-tenth of a percent of participants were responsible for 10% of our health care costs and that 1.4% was responsible for nearly 33% of our cost," she said.

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By offering incentives for its wellness program, Delta hopes to get that small group of high-risk employees into its program as the first step in living healthier lives.

Creating incentives

While Sprint saw 40% of employees sign up for a health assessment, it wants to do more to reward long-term behavioral changes, Mr. Case says. Sprint is considering offering incentives to employees who take action to address unhealthy behavior. For example, the company might give cash to employees who participate in an exercise program. Sprint hopes to save \$2 in health care costs for every \$1 spent on wellness by 2007.

Ms. Zonakis agrees that providing cash to employees for taking health risk assessments won't change behavior in the long term.

"Just paying \$100 for a health risk assessment doesn't take it to the next step," she said. The airline last year had its first raffle, awarding 50 \$50 gift certificates and four full-year paid health premiums. In response, 6,384 of its 52,000 employees participated.

Rather than just entering everyone who had a health risk assessment, only those participants who agreed to an analysis of the results and follow-up could participate in the raffle. Any participant whose results indicated that there was even a moderate risk of a health problem

would be contacted by a nurse to discuss how they could improve their health, Ms. Zonakis said.

The program cost \$18,509, well below what it would have cost if the company gave \$100 to each person who took a health risk assessment, she said. "By only offering incentives to those participants that allow their results to be analyzed, we feel the program is more meaningful."

Delta's health care costs are currently \$5,208 per employee annually. The airline's goal is to keep its cost increases below 5% per year. If Delta can keep health care costs flat this year, as it did last year, it might begin offering reductions in premiums to employees who sign up for the assessment, Ms. Zonakis said.

She said that the company's wellness program has helped keep health care costs down, but it's too early to say by how much.

Craig Weber, director of well-being services and clinical care initiatives in the Americas for IBM Corp., said his company has decided against offering premium discounts because cash can often be a more effective motivator. IBM, which has had wellness incentives since 2003, started out offering prizes such as pedometers, books and towels to participants in its various fitness challenges.

But last year, the company decided to change its strategy and began offering a \$150 cash rebate to employees who participated in one of the company's physical activity

programs. Participation rates jumped from about 10,000 employees to 100,000, Mr. Weber said.

"The nice thing about cash incentives vs. a discount is that when you do an exercise program and get cash, there is an immediate reward," he said. "That is behaviorally more motivating."

Dell, which launched its wellness program in the fall, tied a cash incentive to plan participants' medical expenses. Any employee or dependent who completes a health risk assessment can earn \$50, which goes into a health reimbursement account. These accounts are set up by employers to reimburse employees for qualified medical expenses.

Employees are invited into a fol-


low-up program to address any risks or potential risks identified in the assessment. Employees who participate in those programs can earn up to \$200 a year for their health reimbursement accounts.

"We chose to offer incentives through the health reimbursement account instead of just giving them cash because we wanted to tie in the cost of healthy behavior to employees," said Tre McCallister, manager of health and welfare programs at Dell. "Also, it was much easier from an administrative point of view."

Jessica Marquez is a staff writer for Workforce Management, a sister publication of Business Insurance.

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Apology: Illinois program will test impact on medical malpractice litigation

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care and to offer fair settlements, the law says.

A nine-member commission will choose the participating hospitals, the first of which is expected to be from the East St. Louis area, according to State Rep. Dan Reitz, D-Steeleville, a bill sponsor.

Proponents of the program say that a collaborative—rather than contentious—approach between doctors and patients elsewhere has reduced the frequency and severity of medical malpractice lawsuits. Candid communication maintains the doctor/patient relationship rather than severing it and leaving

victims or their families filled with unanswered questions and anger, program backers say.

The Sorry Works! program specifically says that when medical mistakes or unexpected outcomes occur, doctors and hospitals should review the facts of the case and promptly notify the patient and his or her family of the findings.

"If an error or mistake is found, the hospital should apologize, offer answers and provide fair settlement upfront," according to a summary of the Sorry Works! program. The hospital should ask the family to retain legal counsel to ensure their rights are protected, and they

should be allowed to participate in the effort to make sure the medical error does not happen again.

This contrasts with "the climate of cover up and conceal," which is intended to reduce or eliminate lawsuits but actually encourages them, the summary notes. That climate also "leads to large jury verdicts because juries become enraged by cover-ups and seek to punish the doctors and hospitals," the summary said.

The program is based on the successful 17-year experience of the Veterans Administration Hospital in Lexington, Ky. That facility's program has reduced lawsuits, settle-

ment costs and defense costs while enhancing doctor/patient relationships, according to a statement by Dr. Steve Kraman, formerly chief of staff at the hospital and a board member of the Sorry Works! Coalition.

From 1987 on, hospital management "practiced a policy of full disclosure, including proactive disclosure when patients didn't even suspect that anything had gone wrong," said the statement from Dr. Kraman, who is now a professor at the University of Kentucky in Lexington.

Over a 13-year period, the VA hospital negotiated more than 170

settlements with patients, going to trial only three times, he said. The statement also noted that the average settlement during that period was \$16,000 vs. the national VA pretrial average of \$98,000.

The Illinois law provides for a financial backstop for participating hospitals: The committee will reimburse hospitals up to \$2 million annually from a fund if it determines that a hospital's liability costs under the program are higher than they would have been otherwise.

"It's an experiment," said a spokeswoman for the Naperville, Ill.-based Illinois Hospital Assn., who noted that several other hospitals already are involved in similar disclosure programs.

Meanwhile, the president of the

"Immunity for timely statements of regret is the most vital element of Sorry Works! to produce a meaningful impact on the litigation climate."

Dr. Craig A. Backs
Illinois State Medical Society

Chicago-based Illinois State Medical Society, which represents doctors, is interested—but wary.

"The Sorry Works! provision of this law will allow doctors and other health care providers to communicate their sympathy and concern, and when appropriate, apologize. However, in Illinois' litigious environment, a well-intended apology can easily be turned into an admission of guilt and leveraged against a health care provider," according to a statement by society President Dr. Craig A. Backs, a Springfield, Ill.-based internist.

Liability shield

The medical society emphasizes the value of another provision of the new law that provides immunity in future court or administrative hearings to health care providers who explain "an inadequate or unanticipated treatment or care outcome" and apologize, if needed, within a 72-hour period. "Immunity for timely statements of regret is the most vital element of Sorry Works! to produce a meaningful impact on the litigation climate," Dr. Backs said.

The Illinois Hospital Assn. predicted that such apology protection will encourage colleagues to learn from mistakes, which could improve the health care system "tremendously," according to an association statement.

In an effort to curb litigation, similar apology immunity laws have been adopted in 20 other states, according to a Sorry Works! Coalition statement. While that organization supports these laws because they may make doctors more comfortable in discussing out-



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Continued on next page

Continued from previous page comes, it believes that doctors and their defense attorneys would benefit if they had the option of presenting proof of apologies and offers of compensation into the courtroom, said Doug Wojcieszak, chief spokesman for the coalition and owner of a Glen Carbon, Ill.-based consulting firm.

From a plaintiffs attorney's perspective, the law creates new challenges "and may extend the duration, complexity and expense of litigation," said Keith Hebeisen, president of the Springfield, Ill.-based Illinois Trial Lawyers Assn.

"It's an interesting, outside-the-box program that the Illinois Trial Lawyers Assn. didn't object to," said Mr. Hebeisen, a plaintiffs attorney with the Clifford Law Offices P.C. in Chicago.

A growing trend

The "seminal push" for increased disclosure is the accreditation standard promulgated in 2001 by the Oakbrook Terrace, Ill.-based Joint Commission on Accreditation of Healthcare Organizations, said Carole Houk, a consultant with Carole Houk International L.L.C. in Alexandria, Va.

That standard requires that "patients and, when appropriate, their families are informed about the outcomes of care, treatment and services that have been provided, including unanticipated outcomes."

In addition, bipartisan federal legislation was introduced in July that would provide federal grants for pilot programs that encourage a full-disclosure or Sorry Works!-type approach. S. 1337 was introduced by Sens. Michael Enzi, R-Wyo., and Max Baucus, D-Mont.

Nationwide, many hospitals are

"There are legal precedents that influence how far and how quickly organizations are willing to go on the practice of disclosure."

Elizabeth Summy
American Society for Healthcare
Risk Management

in "a wait-and-see mode" regarding the disclosure issue, said Elizabeth Summy, executive director of the Chicago-based American Society for Healthcare Risk Management.

In some states, a health care provider's apology is considered an admission of fault. "There are legal precedents that influence how far and how quickly organizations are willing to go on the practice of disclosure," and "organizations are testing how far they can go," she said.

The pilot program in Illinois will follow in the footsteps of up to 70 hospitals nationwide that have adopted disclosure or mediation policies with goals similar to those of the Sorry Works! program, Mr. Wojcieszak said. His commitment to litigation options stems in part

from his brother's 1998 death due to negligent care at an Ohio hospital, which resulted in a lawsuit and was resolved through a confidential

settlement.

Several other hospitals say they are committed to the approach primarily because it is ethically appro-

Disclosure policies

The American Society for Healthcare Risk Management recommends that hospitals adopting disclosure policies establish:

- A short policy that everyone knows about and strives to follow, rather than an overly detailed policy.
- Systems that provide training and coaching for staff who may be involved in breaking bad news to a patient or family member.
- A culture that expects transparency will be the norm in communications among all parties.
- Post-event support systems for patients, families and staff.

appropriate. It also has the added benefit of being financially cost-effective, representatives say.

These include 40 hospitals in the Catholic Healthcare West system, which are located in Arizona, California and Nevada, as well as more than two dozen hospitals in a national chain that declined to be identified, representatives said.

The University of Michigan, which self-insures its five-hospital system with more than 1,500 doctor-employees, reduced its current litigation costs by nearly two-thirds from \$3.25 million in 2002, said Rick Boothman, chief risk officer for the Ann Arbor, Mich.-based university. In addition, it halved the number of pending lawsuits against it and reduced defense litigation costs

to an average of \$35,000 per case from \$65,000 per case, resulting in \$2 million annual savings, he said.

Some medical malpractice insurers also support the efforts.

Denver-based COPIC Insurance Cos., Colorado's largest doctor-owned mutual insurer, considers its "Recognize, Respond and Resolve" program successful because it saves money and preserves doctor/patient relationships.

The voluntary disclosure program, which excludes cases of obvious substandard care, has reduced the frequency of claims by about 50% and cut adjusted losses 25% to 30% since it began in October 2000, said Dr. Jerome Buckley, COPIC's former chairman and chief executive officer.

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As bicyclist Gary Earl passed through Philadelphia, a Ben Franklin look-alike proclaimed July 29 Health Awareness Day in the city.

Tour: Cyclists traverse nation to spread message

Continued from page 3

and I'm as strong as an ox," boasted Mr. Earl, who at 47 has the physique of a man perhaps half his age. "I went for my first ride yesterday since the end of the tour, and it was amazing. I did it 21 minutes faster than my best possible time before I left for the tour."

Mr. Earl's idea for a cross-country "Health Awareness Tour" came from a revelation he had about four years ago while he was in charge of managing employee benefits at Caesars in Las Vegas, a Fortune 500 company recently acquired by Harrah's Corp. of Memphis, Tenn. He said he found many Caesars employees were unin-

formed and confused about their own health specifically and about the health care system in general.

"What drove me to create Health Awareness Tour 2005 was the fact that most Americans are unable to connect to, understand, appreciate, access and embrace the current American health system. Be it barriers of cost, access, programs or pure consumer ignorance, the system is complicated, costly and difficult to navigate alone," Mr. Earl explained.

Recruiting help

Realizing it would take more than one man on a bike to get peo-

ple's attention, Mr. Earl persuaded several commercial sponsors to help finance and promote the tour.

In some cases, those sponsors provided more than just their financial support.

David Cordani, president of CIGNA HealthCare, and 11 other CIGNA employees rode with Mr. Earl on the last day of the journey from Philadelphia to Ocean City. They were among about 25 riders who covered the last 87 miles of road.

"Our business strategy really hovers around three major thrusts—consumerism, health advocacy and information—all with the notion of driving the best possible health results for our members. And to be successful in the vein of consumerism and health advocacy, you need a level of awareness on behalf of the members. The Health Awareness Tour was simply all about that. It was a very natural fit from our point of view," said Mr. Cordani.

"The more awareness we create around health issues and the ability to influence health outcomes on behalf of our members, and individuals more broadly, the more effective health care delivery is going to be. It really fits extremely nicely to our business strategy," he said.

Because part of the Health Awareness Tour ran concurrently with the Tour de France, Mr. Earl saw some similarities between the two bicycling events.

The Tour de France lasts 21 days and covers 2,100 miles. The Health Awareness Tour lasted 31 days and covered 3,100 miles. The biggest elevation gain in a single day during the Tour de France is 15,000 feet; the biggest such gain in the Health Awareness Tour was 14,100 feet.

In addition, like leaders on the Tour de France, Mr. Earl and his entourage wore bright yellow jerseys emblazoned with the names of corporate sponsors.

But that's about where the similarities ended.

The Health Awareness Tour members lived more of a spartan existence throughout their travels than the professional cyclists in the Tour de France enjoyed.

"We slept in an RV most of the nights," Mr. Earl said. But only rarely did the recreational vehicle park overnight at campgrounds with such amenities as showers and pools.

"For the most part, these were places where you drive in at night and it was just a dust field, and there was literally a hole in the ground to dump your water. And in the morning, you put 10 bucks in an envelope, left it in a mailbox and you left," Mr. Earl described. "It was brutal."

"The difference between what we did and the Tour de France or any competition is at the end of a 100-mile day at the Tour de France—not to take anything away from it—they get to go eat, rest and sleep. At the end of a 100-mile day of the Health Awareness Tour, we had to find our camp, get everything set up and then go out and find the people we were going to talk to."

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Frank Mancini
President & CEO
Massachusetts Association
of Insurance Agents
Boston, Mass.



With apologies to Longfellow, the voice that Massachusetts agents "will waken and listen to hear" is not that of Paul Revere but of Frank Mancini, the torchbearer of the MAIA — the leading trade association for 1,700 Massachusetts independent agencies and an affiliate of the Independent Insurance Agents and Brokers of America.

Much like the great patriot memorialized in bronze behind him, Mancini knows that a lot is riding on his word. And like the marathoner behind him, his decisions have to last for the long run. **"So it's vital that the partners we pick are ones with great integrity — that's why RLI."**

Mancini relies on the IIBA to recommend the best products for the MAIA to offer to its members' clients, and he calls RLI's personal umbrella policy "an excellent product, has underwriting that makes sense, a self-explained submission process, reasonable rates and excellent service."

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Members of the Health Awareness Tour team handed out fluorescent green wristbands bearing the message, "Shifting Gears to Better Health," and "commitment cards" on which people were instructed to write health-related promises along with the rewards they would treat themselves to upon achieving those goals.

"We ask that consumers commit to a few small lifestyle changes, including taking the stairs more often or replacing a chocolate bar with an apple. These simple activities will improve health and place them on the wellness path," Mr. Earl explained.

Some nights the Health Awareness Tour members worked past midnight and awakened at the crack of dawn the next day to trek another 100 miles or so before they could seek respite.

"Americans are clamoring for awareness and a solution," he said. "I could have spent the entire time speaking."

Attracting attention

While many of Mr. Earl's speaking engagements were scheduled in advance, others were impromptu, often generated by word-of-mouth advertising.

"I started getting phone calls (along the route) from people saying, 'I've checked out your Web site; I see you're coming to town,'" which were usually followed by a request that he make an appearance, he recounted.

"We spoke in parks and town squares and at jazz festivals," Mr. Earl said. "We did some of our best work in laundromats, in convenience stores, on the side of the road, in restaurants, in bars, in bowling alleys. Wherever we went, we had our bands, our commitment cards and our uniforms."

During one rest day in St. Louis, when the tour group got caught in a traffic jam on their way to a Cardinals game, Mr. Earl even went car to car, knocking on windows and handing out health information to whomever would take it.

"For an hour and a half, I probably spoke to 500 people," he estimated. "I've got pictures of an 80-year-old man who jumped out of his car and gave me a hug."

"He said, 'It's too late for us,'" referring to himself and his wife who was sitting in the passenger seat. "I said, 'It's never too late.' He said, 'Yeah it is, but it's not too late for my grandkids and my kids. So I'm going after my family. Do you have more of those bands? Do you have more of those brochures?'" This was on the interstate," Mr. Earl pointed out.

In the formal settings, such as the auditorium at Anheuser-Busch Cos. Inc.'s corporate headquarters in St. Louis, Mr. Earl delivered a speech he called "Navigating the Perfect Storm," which focused on health education and awareness.

"Gary hit home, or should I say, a home run!" said Maureen P. Murphy, manager of benefit planning and analysis at Anheuser-Busch. "I think management was pleasantly surprised by the employees' response of being hungry for a motivational wellness and consumer ed-

ucation presentation."

She said Anheuser-Busch's employees also seemed to understand and appreciate his message of shared responsibility.

"Employees commented that Gary caused them to think about their own family health situations and what they can do differently to modify their own behavior towards better health," Ms. Murphy said.

Making connections

And Mr. Earl captivated his audiences with his storytelling ability, drawing both from his personal experiences and from those of people he met along the way.

"Gary's presentation made that emotional connection," Ms. Mur-

phy said.

"I think Gary is one of the most passionate, driven, motivated people I've met," agreed Mr. Cordani of CIGNA. "When he commits himself to a cause, you're going to get a level of passion, dedication and commitment" that few others can match, he said.

Sometimes, Mr. Earl's message hit close to home, as was the case with the mother of the tour's support and gear, or "SAG," vehicle driver.

"She didn't necessarily buy into this," Mr. Earl said. "But less than 10 days into the tour, hearing him on the phone about what we were doing, she said, 'OK, I'm going to try.' And by the time we got to Ocean City, N.J., she had lost 18 pounds by changing her diet."

Mr. Earl also brought inspiration to those who had already converted to healthier lifestyles, such as a physical education director for a county in Ohio who had recently lost more than 80 pounds through healthier eating and exercise. In one of the state parks where the Health Awareness Tour set up camp, Mr. Earl spent several hours helping the physical education director design a fitness program for 780 students in the first through eighth grades.

"He took my bands and he took my health information cards, and he said, 'I am going to implement a program this September. We'll call it Health Awareness and do it in your honor.' He said he had been looking for ways to talk to his students, but, more importantly, to draw in the

parents. He may change tens and tens and tens of lives," Mr. Earl said.

"The message is pure and simple: To bring hope to people who so desperately are in need of a change in attitude, health condition, interest level and knowledge as it relates to health," Mr. Earl concluded after wrapping up his tour of America.

"The average American can easily blame the system, the government, the employer, the provider and a number of other easily identified targets. Yet, the average American rarely looks into their own mind, heart, heart, body and soul to explore how they can be a part of the solution," he said.

More information about the Health Awareness Tour is available at www.healthawarenesstour.com.

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PRODUCTS & SERVICES

Certus launches index of premium comparisons

TUNBRIDGE WELLS, England—Certus Ltd., a risk management consulting company, has launched a product for risk managers that will allow them to compare their premiums against relevant market averages.

The MarketCheck model provides a customized market index for property, business interruption and casualty premiums based on a company's gross assets per sector, limits and deductibles, premiums and historical losses. The market averages

are based on a statistical model of the data housed in the MarketCheck database, which consists of information companies' provide based on their premiums, limits and claims.

For more information, contact the company at marketcheck@certus.eu.com or visit www.certus.eu.com.

Brownyard expands security guard offering

BAY SHORE, N.Y.—Brownyard Group has increased the available limits for its security guard firm program, Brownguard.

The Brownguard program provides coverage such as general liability, excess/umbrella liability, workers compensation, property and auto liability, among others. The expanded program now offers limits up to \$5 million.

Bay Shore, N.Y.-based Brownyard's security guard firm offering is underwritten by New York-based Arch Insurance Group and is available in all



states, excluding Wyoming.

For more information, contact the company at 800-645-5820 or visit www.brownyard.com.

Media/Professional enhances cyber risk policy

KANSAS CITY, Mo.—Media/Professional Insurance, a subsidiary of Aon Corp., has enhanced its CyberLiability Plus policy.

The policy offers coverage for services provided and content created by organizations that are Web-based and doing business online.

The product's enhancements

include expanded coverage for unintentional and unauthorized tampering and intentional actions by rogue employees, as well as coverage for claims made by entities that own an interest in the insured, which excludes parent organizations, affiliates and joint venturers, among others. The policy is underwritten by AXIS U.S. Insurance based in Alpharetta, Ga.

For more information, contact Roxanne Westfall, vp-underwriting, at 816-471-6118 or visit the Kansas City, Mo.-based company's Web site at www.mediaprof.com.

Philadelphia Insurance offers library coverage

BALA CYNWYD, Pa.—Philadelphia Insurance Cos. has added a public library program to its public entity product line.

The public library policy covers general liability, property liability, auto liability, inland marine, crime, boiler and machinery and umbrella liability. It is available to public libraries serving a population of 50,000 or less and located more than 10 miles from a coastal body of water. The other classifications for the public entity program include individual municipalities and individual municipal water and sewer authorities.

The general liability and auto liability limits are available up to \$1 million. The umbrella liability limits are available up to \$10 million.

For more information, contact the company at 610-617-7900 or visit its Web site at www.phly.com.

Thomco adds senior living program

KENNESAW, Ga.—Thompson Insurance Enterprises Inc. is offering a senior living program, which provides coverage for independent living, assisted living, Alzheimer's facilities and continuing care retirement communities.

The program's coverages include property, auto, general and professional liability, as well as umbrella coverage. Property and auto liability is available on an admitted basis; general and professional liability are available on a nonadmitted basis.

Kennesaw, Ga.-based Thomco's senior living program is available in all states, excluding Massachusetts, Minnesota and New Hampshire. Limits for general liability are available up to \$1 million per occurrence and \$3 million aggregate. Auto liability limits are available up to \$1 million.

For more information, contact Monica Clark, senior living division manager, at 888-514-3167 or mdclark@thomcoins.com. More information can be obtained by visiting the company's Web site at www.thomcoins.com.

General Casualty enhances commercial offerings

SUN PRAIRIE, Wis.—General Casualty Insurance Cos. has expanded its commercial insurance offerings.

The company has expanded its commercial coverages and capacity

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Continued on next page

Continued from previous page and has also added a new manufacturing policy.

General Casualty can now write accounts with property values up to \$60 million. Limits may be increased up to \$75 million or more based on the class of business and an underwriting review. The company also has enhanced supporting property coverages and limits, including a new blanket coverage extension to its comprehensive insurance policy.

The company also has formed a partnership with Hartford, Conn.-based The Hartford Steam Boiler Inspection & Insurance Co. to offer enhanced systems breakdown coverage, which covers mechanical and electrical failure of equipment, machines, computers and heating and cooling systems.

In addition, Sun Prairie, Wis.-based General Casualty has become a market for plastics manufacturing coverage. The plastics manufacturing targeted classifications include injection molding, extrusion molding, blow molding and compression molding, among other classes.

For more information, visit the company's Web site at www.generalcasualty.com.

Lighthouse adds comp to elder care offering

ANNANDALE, Va.—Lighthouse Underwriters L.L.C. has expanded its ElderCare program by adding a workers compensation program.

The ElderCare program is targeted to assisted living, continuing care retirement communities and nursing homes. The workers comp offering can be written on a monoline basis or as a package with the program's other coverages. It is underwritten by The PMA Insurance Group, based in Blue Bell, Pa., and it will initially be offered in Maryland, Pennsylvania and Virginia.

In addition to the workers comp product, the ElderCare program offers general and professional liability on a combined form, property liability, commercial auto liability and excess coverages. It is available in all states, excluding California, Delaware, Florida and the District of Columbia.

For more information, contact Saye Gbalazeh, ElderCare program director, at 703-770-3700, ext. 308 or visit the company's Web site at www.lighthouseunderwriters.com.

Company designs anti-slip footwear

PENN YAN, N.Y.—Keuka Footwear Inc. is a newly formed company offering slip-resistant occupational footwear to protect employees from slip-and-fall accidents.

The occupational footwear styles, Keuka Café, are designed for the hospitality industry, such as restaurants, hotels and supermarkets. The shoes are slip resistant and have been tested for a variety of workplace conditions, including wet, greasy, oily and soapy surfaces. The footwear features SureGrip, the company's anti-slip sole.

For more information, contact Joseph Sebes, president, at 877-566-7547, or visit the company's Web site at www.keukafootwear.com.

Best updates underwriting guide

OLDWICK, N.J.—A.M. Best Co. has released its latest version of the "Best's Underwriting Guide" for risk managers and underwriters.

The latest release includes revised and updated risk classification on pharmacies, travel agencies, cosmetic manufacturing and asbestos abatement contractors, among others. It also includes several classifications that have been reviewed to reflect latest industry standards, including architectural preservationists, artificial insemination businesses, baby food manufacturing, dermatologists' offices and locksmiths. In addition, this release includes a new feature

providing a list of articles reviewed by the guide's editorial staff and industry experts.

"Best's Underwriting Guide" is available by subscription for a CD-ROM, which includes three updates, or through an online service, which is updated when new information becomes available.

To order the guide, contact Oldwick, N.J.-based Best's customer service department at 908-439-2200, ext. 5742. For more information, visit www.ambest.com/sales/bugcdrom.

International reinsurance report updated

DUBLIN, Ireland—Research & Markets, a provider of market research reports, has issued its

second edition of the "International Reinsurance Review 2005/06."

This latest report contains information on international and regional developments and country- and sector-specific analysis, including emerging markets, run-off and regulatory reforms, among other topics.

To learn more or order the report, visit www.researchandmarkets.com/reports/c22213.

SOCMA introduces P/C program for members

WASHINGTON—The Synthetic Organic Chemical Manufacturers Assn. has launched a property and casualty insurance program for its members.

The Member Select Insurance Program coverage options include general liability, property, auto, pollution, workers compensation and umbrella. The coverage is underwritten by American International Group Inc.

For more information, visit www.socmaselect.com.

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



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By Andrew Dopheide

Perspectives

September 12, 2005

SAFETY Act supplements terror cover

Tort protections offer businesses options in reducing attack-related lawsuits

With the Terrorism Risk Insurance Act set to expire at the end of 2005, the future of terrorism insurance is uncertain. The Bush administration opposes renewal of TRIA in its present form and wants to remove general liability coverage from TRIA's protection. If TRIA is not renewed, the insurance industry is promising less coverage and higher premiums. At the same time, the

July bombings in London demonstrate that terrorists continue to pose a serious threat.

Faced with the end of TRIA as we know it, what is a prudent risk manager to do? At least with respect to liability arising from acts of terrorism, businesses are well-advised to consider a recent federal law known as the Support Anti-terrorism by Fostering Effective Technologies Act of 2002, also known as the SAFETY Act. As discussed below,

the lawsuit protection afforded by the SAFETY Act can be a valuable risk management tool.

In addition to physical damage exposure, businesses face significant liability exposure in the event of a terrorist attack. In general, companies have a duty to take reasonable precautions against foreseeable harm. But what is "foreseeable" changed dramatically with the attacks of Sept. 11, 2001, and the ensuing war on terror. Indeed, courts

have refused to dismiss lawsuits alleging negligent security arising from the 1993 and 2001 attacks on the World Trade Center, on the grounds that such attacks may have been foreseeable. It is now generally accepted that terrorist groups are planning attacks against our nation's critical infrastructure, including transportation assets, chemical plants, utilities and office buildings. Venues where people gather, such as resorts, casinos, shopping malls and stadiums, are particularly vul-

ty services and products. But how does the SAFETY Act help other businesses manage their terrorism liability exposure? The answer lies in the administrative regulations issued by the Department of Homeland Security, which interpret and implement the act.

Safe harbor

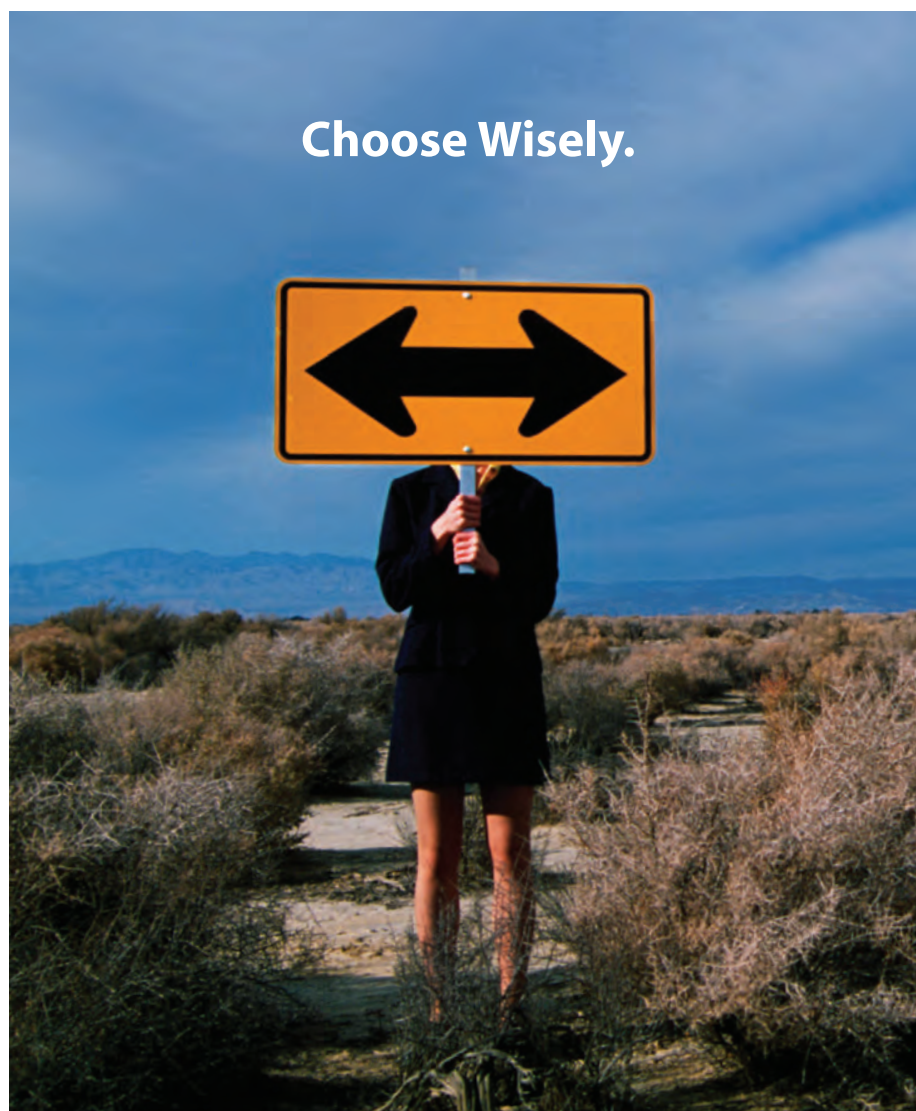
The SAFETY Act's implementing regulations provide that, in the event of a terrorist attack, only the seller of the anti-terrorism technology is an appropriate defendant in lawsuits predicated on the technology. Contractors, subcontractors, customers or others in the supply chain are not subject to such suits. Accordingly, the airport that deploys baggage screening machines approved under the SAFETY Act will not have liability if the machine fails to detect a bomb. Similarly, in the event of a terrorist attack, the building owner that deploys vulnerability assessment and security design services qualified under the SAFETY Act will not have liability arising from the services.

In the words of DHS, "Congress balanced the need to provide recovery to plaintiffs against the need to ensure adequate deployment of anti-terrorism technologies by providing a cause of action that provides a certain level of recovery against sellers, while at the same time protecting others in the supply chain." Put simply, the SAFETY Act is tort reform for the sake of homeland security. By providing lawsuit protection to companies that invest in qualified products and services, the Act provides a very attractive incentive to upgrade old equipment, assess vulnerability and implement security measures. This is in keeping with Congress' intent.

Companies can greatly reduce their terrorism liability exposure by deploying products and services qualified under the act. Unlike insurance under TRIA, SAFETY Act protections include domestic terrorism. Also, SAFETY Act protections contain no exclusion for CBRN attacks. If your company obtains security services and products that are qualified under the act, consider asking your terrorism liability insurer for a reduction in premium, since your liability exposure will be reduced. A listing of technologies approved under the SAFETY Act is available at www.safetyact.gov.

The SAFETY Act is not a substitute for terrorism liability insurance. However, with insurance costs set to rise upon the expiration of TRIA, companies should consider SAFETY Act-certified products and services whenever possible.

Andrew Dopheide is an attorney with HDR Inc., an engineering and architectural consulting firm in Omaha, Neb. Disclaimer: The information contained in this article is general in nature and does not constitute and is not intended to be legal advice.



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SAFETY Act protections

- Exclusive jurisdiction in federal court for suits against the sellers of "qualified anti-terrorism technologies."
- A prohibition on joint and several liability for noneconomic damages.
- A complete bar on punitive damages and prejudgment interest.
- A reduction of plaintiffs' recovery by amounts that plaintiffs received from "collateral sources", such as insurance benefits or other government benefits.
- A rebuttable presumption that the seller is entitled to the "government contractor defense."

Source: Department of Homeland Security

nerable. A nightmare scenario involving chemical, biological, radiological or nuclear—CBRN—terrorism is not difficult to imagine, and lawsuits stemming from such attacks could cost millions.

Enter the SAFETY Act. Congress was concerned that fear of legal liability would prevent anti-terrorism products and services from entering the U.S. market. To encourage the deployment of anti-terrorism products and services, Congress established a process by which providers of qualified anti-terrorism technology could apply for and obtain significant protections from lawsuits arising from technology in the event of a terrorist attack.

To be qualified under the SAFETY Act, the seller of a product or service must demonstrate its safety and efficacy in defending against terrorism. Once qualified, the Department of Homeland Security establishes minimum insurance requirements that must be met by the seller, and caps the seller's liability to the amount of required insurance. In addition, the seller is entitled to the "government contractor defense," which significantly limits its liability to third parties. Most importantly, the act establishes one federal cause of action, against the seller, for loss or property, personal injury, or death when the claim relates to the deployment of qualified anti-terrorism technology.

That's great, you might be thinking, for a company that sells securi-



By Les C. Meyer

Perspectives

It's time to focus on value in health care

The time has come for employers to focus on value instead of quality to achieve reasonable levels of spending and establish accountability, and unless this shift occurs, projected spending trends will render quality unaffordable.

Five years ago, the Institute of Medicine declared the average medical care of Americans dismal and urged the purchasers of health care services to cross the quality chasm en route to a new-and-improved system for the 21st century. Considerable variation in treatment patterns also was seen across geographic and medical disciplines. Three years later, a landmark RAND Corp. study concluded that adherence to "evidence-based" practices by physicians had not advanced in any significant way. Then, less than a year ago, progress on higher quality in Medicare's Quality Improvement Organizations was reported to be

To justify quality care spending or health improvement intervention, we should relate it to specific outcomes that purchasers value.

moving at a snail's pace.

Of course, part of the rationale for bridging the quality gap is that quality improvement and centers of excellence would directly or indirectly lead to fewer adverse events and therefore lower total costs over time. But after a few years of slow cost increases, health care spending has continued to increase faster than the general rate of inflation—a trajectory that is expected to continue.

The quality-at-any-cost philosophy seems to be the driving public policy. Harvard economist David Cutler asserted in a New York Times Magazine article that we must follow this mantra even if it costs a fifth or a quarter of the nation's resources. But blindly throwing more money at efforts to improve quality will not sustain a system spiraling out of control from both a cost-control and a global-competitiveness standpoint.

Many individual and corporate purchasers of health care have never fully understood how higher quality care could meet their ultimate needs for optimal health, functionality and productivity. The road less traveled in the market seeks to optimize health care delivery and costs, and produce the best functional outcomes that lead to productivity gains. Human capital must be viewed as a vital natural resource in communities worldwide and key asset of the new century,

with improved health maximizing that asset's value.

World Health Organization reformers were right when they suggested in 1978, "Health is a state of complete physical, mental and social well-being—not merely the absence of disease or infirmity." The current policy focus on quality alone discounts the outcomes that are important for purchasers and end-users: health, functionality and productivity. Quality care is not intrinsically valuable. It is a means to an end and only has value when it

leads to measurable improvements that are economically responsible within these outcome measures.

Realizing such value may best result from collaborative market-based activity defined by both buyers and sellers. The latter would focus not only on provider quality initiatives, but also on individual and population-level health improvement activities that may or may not be related exclusively to quality care. Such initiatives include self-care, decreased psychosocial stress at the workplace, proper

nutrition, wellness and health management programs encouraged through benefit plan design changes and public policy. Focusing on market-based programs rather than solely on health care treatment will provide a greater end-user value to purchasers than quality programs alone.

Outcomes matter

Identifying value begins with an acceptance that the outcomes we focus on are those of interest to the

ultimate buyer—employers, government agencies and individuals. High-quality delivery of health care is but one process that could improve these outcomes. Health, functionality and productivity are the outcomes of interest to purchasers and end users - not quality processes at any cost.

To justify quality care spending or health improvement intervention, we should relate it to specific outcomes that purchasers value.

See VALUE / next page



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Value: Shift the focus of health care cost control

Continued from previous page

Quality improvements (assuming they were measured without bias) could have been "caused" by factors that had nothing to do with quality (for example, improved self-care, decreased psychosocial stress, healthier food or water, wellness

programs and proactive interventions).

Our goal should be to measure and tie outcomes to "hypothesis testing" on specific interventions and their impact on outcomes—not the endless measuring of quality inputs and related processes. Quality gurus push evidence-based medicine, while buyer-side advocates similarly want money spent where the evidence for value creation is tangible and the measures are valid and credible. In other words, we want to know that money was well spent because desired outcomes were realized.

Equally important is the need to use assessment methods that demonstrate a relationship between an intervention and outcomes measured in a transparent way so that buyers can independently replicate the results. It is in the best interest

of service providers to enable such transparency, which brings something of even greater importance: allowing buyers to compare the costs and outcomes of different products and services so we can keep those that work and drop or modify those that are deemed not worth the investment.

The chasm that must be crossed in 21st century health care is not quality—it is value. And the value chasm can only be crossed by interventions that produce better outcomes that health care buyers will pay for: health, functionality and productivity.

Les C. Meyer, a Denver-based health care strategist, is chairman of the Institute for Health and Productivity Management's Health Management Strategic Advisory Council.

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COMMENTARY

Senior Editor Rodd Zolkos

Disaster spins tales of sorrow and hope

Trying to grasp the events of the past couple of weeks on the Gulf Coast, the mind tends to reel at the magnitude of the catastrophe.

Sitting off at a distance, experiencing the disaster through newspaper, television and radio accounts, the broad scope of it tends to become an awful, awful blur. Against that blur, maybe it's natural for occasional moments or bits of news to stand out in sharp focus, fitting into some personal context, unlike the more horrific details that lack such a framework unless you've been a victim of such tragedy.

At *BI*, the professional impulse is to put the events in an industry context—the extent of losses, impact on the industry, affected businesses, etc. But as we pursue our jobs, the personal impulse and the focus on the human toll is, of course, impossible to overcome, and folks in our newsroom, like people everywhere, reacted in shock and horror and sadness to the reports that continued to pour in.

And, as with many around the country, the event had a particular personal dimension for the *BI* staff, as we followed with concerned interest the tale of our own Mike Bradford, senior editor in our New Orleans Bureau, who works from his home in Abita Springs, north of Lake Pontchartrain.

Mike had evacuated before Katrina struck to his mother's place in Alabama near Birmingham, and last week sent a report of going back to check the damage at his house. Mike's a good reporter, and his account of just trying to keep gas in the tank as he made his way from Alabama to Abita Springs was gripping reading in itself.

As for his arrival home, immediately after the storm Mike had indicated that his biggest fear was of falling pine trees damaging his house. But while others in his neighborhood weren't as lucky—as pictures he sent demonstrated—Mike's house sustained relatively minor damage. At last report, he was working on setting up a temporary office and looking forward to being back in Abita permanently when power is restored in four to six weeks.

Amid the backdrop of human tragedy and the grim news that kept pouring in, we found a bright spot in Mike's news.

Every now and then, there were

other bits of good news. The contributions that were pouring into the relief effort from individuals and businesses across the country—not the least of which were the many by insurance industry companies—was a demonstration of America at its best.

Speaking of industry contributions, the rapid response by many insurance industry companies in terms of getting claims adjusters on the ground and working to speedily settle losses spoke to CPCU Society President Don Huzeler's claim of the industry: "We do our best work in the worst of times."

There were some other small bright spots. While most of the fish at New Orleans' once-magnificent Aquarium of the Americas were reported to have died due to the loss of power needed to oxygenate their water, the news was better at the city's Audubon Zoo, where almost all the animals survived, according to zoo officials. The zoo benefited not only from being on higher ground than much of New Orleans, but also from adopting hurricane risk management plans based on lessons learned from the experience of Miami's MetroZoo following Hurricane Andrew.

Obviously, the human tragedy is paramount. But as one who has rescued pets and values the role they play in home and family, another sad element has been the tales of those evacuating or rescued.

Here, the work of the Humane Society of the United States, the American Society for the Prevention of Cruelty to Animals and other animal welfare organizations is worth noting. They're working not only to rescue stranded animals, but also hoping to eventually reunite them with their families in an effort to return life to some semblance of normalcy.

Amid the tragedy and the rare bits of good news, every now and then in all this there's been a good old-fashioned head-scratcher. Not to play the "blame game," but one of these "Whaa?" moments came the other day as Homeland Security Secretary Michael Chertoff complimented embattled FEMA Director Michael D. Brown for doing "a tremendous job under pressure."

Correct me if I'm wrong, but the guy is head of the Federal Emergency Management Agency. Isn't working well under pressure a basic part of the job description?

Senior Editor Rodd Zolkos can be reached at rzolkos@businessinsurance.com.

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Benfield launches primary brokerage unit

By SARAH VEYSEY

LONDON—Benfield Group Ltd. last week formally launched its primary brokerage operation, Benfield Corporate Risk.

The new operation focuses largely on marine, energy and power business but also incorporates some corporate insurance and aviation/aerospace business, said John Lapsley, chief executive of Benfield Corporate Risk. Mr. Lapsley, formerly global chairman of Marsh Inc.'s marine and energy practice, joined Benfield in April to set up the primary brokerage operation.

Benfield Corporate Risk aims to

have a 5% market share of the worldwide marine, energy and power insurance business within the next three to five years, Mr. Lapsley said. The company will seek to perform complex, specialized transactions, he said, and business will be "low-volume, high-value but selective."

Mr. Lapsley said that some of the primary corporate and aviation business Benfield already conducts—such as the placing of aviation insurance for helicopter fleets used by oil and gas rigs—fits well with Benfield Corporate Risk's emphasis on the marine, energy and power market.

He said the company expects to have a staff of 40 in London by the end of the year, and should have a staff of about 160 worldwide in three to five years. The company currently has offices in Bermuda, Houston, London, New York and Singapore.

Meanwhile, Benfield Group last week said it recorded revenues of £196.2 million (\$351.8 million) for the first six months of 2005, down 4.2% compared with its restated result for the first half of 2004.

Benfield restated its 2004 figures for comparability under International Financial Reporting Standards.

The intermediary said the dip in revenues stemmed in part from disruption in the reinsurance brokerage industry during the first half of the year after regulatory investigations into the industry in the United States.

The London-based reinsurance broker posted a pretax profit of £72.3 million (\$129.6 million) for the first half of 2005, down 10.3%. Profits fell partly because of the weakness of the U.S. dollar, Benfield said. The broker earns more than 40% of its revenues in dollars, but most of its expenses are in pounds, said Chief Executive Officer Grahame Chilton.

Health care costs still worry many Canadian employers

Pension costs a lesser concern, survey finds

By GLORIA GONZALEZ

The number of Canadian employers concerned about pension and other employee benefit plan costs remains fairly steady, with some considering changes in an effort to curtail such expenses, according to a survey.

According to "2006 Compensation Trends and Projections," a survey conducted by pensions and benefits consulting firm Morneau Sobeco, 58% of employers are concerned about rising health care costs, down from 60% last year. The percentage of employers concerned about future pension costs remained at 21%, according to the survey.

While employers are still seeking solutions to the problem of rising pension costs, only a few are considering terminating their defined benefit plans or replacing the plans with defined contribution plans. The survey found that only 3% of employers moved to defined contribution plans during the last two years, while 7% are considering such a change.

"Not everyone that's looking at (a possible conversion) goes through with it," said André Sauv , a partner and actuary in the firm's Montreal office. And while most movement has been away from defined benefit plans, some employers are converting defined contribution

plans to defined benefit plans, he added. "In the background, you do have groups going in the other direction," he said.

The survey, based on the responses of 300 employers, found that 12% of employers were considering requiring employees to contribute to the pension plans as a way of dealing with costs.

With regard to health care benefits, 18% of surveyed employers said they were planning to review cost-sharing arrangements as a way of dealing with rising health care costs.

The cost of disability management plans has become a key concern for employers, with 35% of employers citing it as a top benefit issue and 27% saying they would review their disability management practices.

Most Canadian companies now have employee assistance programs, with 85% of surveyed employers indicating they have such a program, up from 72% in 2001. Wellness programs also are becoming more popular, as 33% of employers are offering such programs, up from 24% in 2001.

Meanwhile, the use of the Internet to communicate employee benefit programs has increased dramatically in recent years, with 58% of employers utilizing Web sites, up from 30% in 2001, and 46% of employers now offering retirement and financial planning pension tools online, up from 19%.

Copies of "2006 Compensation Trends and Projections" are available from Morneau Sobeco for \$475 Canadian (\$399) by calling Yves Robitaille at 866-222-0012.



Emergency workers sort through the wreckage of the Mandala Airlines jet that crashed in Medan, Indonesia, after takeoff. The jet slammed into a residential area, killing most of those on the plane and dozens on the ground.

Indonesian jet crash not likely to impact falling renewal rates

By SARAH VEYSEY

MEDAN, Indonesia—Insurance coverage for a Mandala Airlines jet that crashed shortly after takeoff last Monday in Medan, Indonesia, was led by Lloyd's of London syndicate 318, managed by Beaufort Underwriting Agency Ltd., sources said.

The plane, which was headed to Jakarta, crashed in a residential area of Medan shortly after takeoff, killing many of the 117 passengers and crew, as well as dozens of people on the ground. The cause of the crash is still being investigated.

The Boeing 737-200 jet was valued at about \$3.9 million and was almost 25 years old.

Syndicate 318 was also the lead insurer for a Colombian passenger plane that crashed in Venezuela in August, killing all 160 on board.

There were four fatal air crashes in August and another major hull loss (*BI*, Aug. 29), but rates are still expected to decline when many airlines renew their insurance coverage this fall.

It is unlikely the Mandala Airlines crash will be large enough to change the market, sources said, and wider market changes brought about by Hurricane Katrina may eventually have a larger impact on the aviation market, noted Nigel Weyman, head of the direct aviation unit at Jardine Lloyd Thompson Group P.L.C. in London.

As capital providers to the aviation market are affected by insurance losses from Hurricane Katrina, that may, in turn, have an impact on the aviation market, said Steven Doyle, aviation and aerospace practice manager at Aon Ltd. in London.

Updates

ZFS estimates losses from European flooding

Zurich Financial Services Group said it expects claims of about \$100 million pretax arising from the flooding that affected Austria, southern Germany and Switzerland last month. The losses will be recorded in the third quarter, Zurich, Switzerland-based ZFS said in a statement. Meanwhile, the insurer said it cannot yet accurately assess its losses from Hurricane Katrina.

AXA's six-month profits increase

French insurer AXA S.A. reported net income of 2.27 million euros (\$2.75 million) for the first half of 2005, a 31% increase over restated figures for the first six months of last year. AXA restated its 2004 results for comparability under International Financial Reporting Standards. The insurer said the improved profit was due in part to a focus on improved efficiency and organic growth, among other factors. AXA said it would publish more detailed first-half results on Sept. 22.

Guy Carpenter reorganizes in U.K.

Guy Carpenter & Co. Ltd. has reorganized its London-based casualty practice and announced several new executives. In a statement, the company said it had aligned its London-based casualty units into a multidisciplinary practice headed by Nick Frankland, who joined the company from R.K. Carvill & Co. Ltd. last year. The practice comprises four specialty areas: U.S. wholesale, U.K. retail, international, and accident and health, the statement said. In addition, the intermediary said its London-based casualty team had been boosted by the recent hiring of five senior vps, who came from other London-based brokers and underwriters.

Amlin profits rise in first half

Lloyd's of London-based Amlin P.L.C. announced a pretax profit of £134.1 million (\$240.4 million) for the first half of 2005, up from a restated £86.0 million (\$155.9 million) for the same period last year. Amlin restated 2004 figures for comparability under International Financial Reporting Standards. Amlin's gross written premium was £675.8 million (\$1.21 billion) in the first half of 2005, compared to £709.7 million (\$1.29 billion) in the comparable period last year. The company said the improved results were due in part to favorable market conditions and an improved investment result. Amlin said it would continue to pursue plans to set up an insurance vehicle outside of the Lloyd's market and may speed up these plans if rate hikes are seen as a result of Hurricane Katrina.

Targets: Terrorism preparedness urged

Continued from page 4

said. "Screening every person" entering a potential soft target is a "physical and economic impossibility," said Rep. Lungren.

Rep. Lungren noted that the panel had also intended to hear from representatives from the Department of Homeland Security, but the DHS officials would have to be heard later in the month because of their role in the Hurricane Katrina recovery efforts.

The ranking Democratic member of the full committee—Rep. Bennie G. Thompson, D-Miss.—cited Hurricane Katrina as an example of why preparedness must be improved. "If we can't handle a hurricane that we knew was coming" days in advance, "how can citizens believe that the nation would be ready to deal with an unanticipated terrorist attack?" he asked. He cited what he regarded as inadequate security funding for mass transit systems compared with that made available to the airlines as an example of misguided policy.

Bill Millar, president of the Washington-based American Public Transportation Assn., echoed Rep. Thompson's concerns. He noted that transit systems have invested more than \$2 billion in security since the Sept. 11, 2001, terrorist attacks. "We do not need more wake-up calls," he said, but more funding from Congress.

He said that more than 2,000 rail stations don't have security cameras. In addition, 53,000 buses, more than 5,000 commuter-rail cars and more than 10,000 heavy-rail cars lack security cameras, he said.

"Business often receives no indication of what threats we should be protecting against."

Peter Lowy
Westfield America Inc.

Peter Lowy, chief executive officer of Los Angeles-based Westfield America Inc. testified on behalf of the Washington-based Real Estate Roundtable by discussing his company's experiences in the wake of the Sept. 11 attacks.

Westfield held the leasehold on the retail mall at the World Trade Center, and had digitized building plans on its New York and other properties before the attack, creating a database for first responders and others.

"As you know, the Port Authority offices were destroyed on 9/11, and all of the paper building plans were destroyed with it—so the city and

first responders were lacking the blueprints of the structures," said Mr. Lowy. "We realized immediately after the attack that we had the plans digitized—however, we literally couldn't find anyone to give them to. Finally, 10 days after 9/11 and with the help of the mayor's office, we were able to get the plans to (the Federal Emergency Management Agency) and (the Office of Emergency Management) to assist rescue and recovery workers in their efforts.

"This experience caused us to place renewed emphasis on building solid lines of communication between ourselves and local police, fire and emergency departments," he said.

Mr. Lowy also said authorities need to clarify how businesses should respond when the terrorism threat level is raised.

"Our security plans assume that the new 'normal' is a yellow alert level," he said. "However, we don't know if our normal operating systems are consistent with what the government might consider appropriate for a yellow threat level," he said.

In addition, "business often receives no indication of what threats we should be protecting against. And if they are identified, there is no standard for us to look to that tells us how to protect against that

HSA: Proposed regulations prompt calls for clarification

Continued from page 4

would be allowed only if the employer gave the employee the option of receiving cash or other taxable benefits instead of the HSA contribution.

Such a "cash-out" design, benefit consultant Watson Wyatt Worldwide said in a statement, "is not a common practice."

The ruling "could have a chilling

The IRS regulations say that employers can continue to make HSA contributions to former employees, provided the contributions are made available on a consistent basis.

effect on creative plan design," said Jeff Munn, a consultant in the Falls Church, Va., office of Hewitt Associates Inc.

But some consultants—saying that additional IRS clarification is needed—say that employers with flexible benefit plans would not have to give the employees such a

choice. As long as employees were allowed to make pretax contributions to the HSA through salary reduction, the employer could condition its HSA contribution on employee participation in health promotion programs, they believe.

Other clarification

Other parts of the proposed regulations make clear that employers have considerable flexibility in the timing of contributions to employees' HSAs. For example, to ensure that employees have funds in the accounts to pay claims incurred at the beginning of the year, an employer could make its entire contribution at the start of the year. Alternatively, employers could make the contributions during each pay period.

The regulations also say that employers can continue to make HSA contributions to former employees provided the contributions are available on a consistent basis to all former employees.

An employer, for example, could not, on a case-by-case basis, decide whether to make HSA contributions to former employees, said Dorian Smith, a technical consultant/attorney with Towers Perrin in Valhalla, N.Y.

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September 12, 2005

DEVASTATION ON THE GULF

Commissioner to bar policy cancellations

By GLORIA GONZALEZ

Louisiana Insurance Commissioner J. Robert Wooley has prepared two draft orders that temporarily prohibit insurers from canceling policies for customers affected by Hurricane Katrina.

The draft orders, which apply to all insurers issuing policies in the state, suspend any policy provisions that impose time limits on an insured to perform any act or transmit information or premiums related to their insurance policies.

The draft order also voids any cancellation or nonrenewal notices issued as of Aug. 26, the date that a state of emergency was declared by the governor of Louisiana. No cancellations or nonrenewals may take place prior to the expiration of the state of emergency, currently scheduled for Sept. 25.

In addition, the order states "no policy shall be canceled or nonrenewed solely because of a claim resulting from Hurricane Katrina."

Earlier last week, many property/casualty insurers announced that policyholders in the affected area will have extra time to pay premiums and won't face cancellation for inability to pay premiums as a result of the storm.

Meanwhile, the renewal of all group or individual life, health, and disability insurance policies will be deferred until Jan. 1, 2006, and any rate increase that may be applicable to such policies is also deferred until Jan. 1, 2006, according to the draft order. All such policies will continue in full effect until Jan. 1, 2006, at the previously established premium, the draft order states.

With regard to health insurance products, the draft order directs all health insurers to waive any restrictions relative to out-of-network access to health care services and any requirements for precertification, referrals, medical necessity reviews and notification of hospital admissions. The draft order also suspends pharmacy restrictions on early refills or replacement of mail-order prescriptions.

Many health insurers with affected members in the region had already announced plans to take such steps prior to the release of the draft order (see related story).

The draft order also requires health insurers to reimburse costs for medical services at the highest rates possible under plan provisions to minimize the policyholder's out-of-pocket expenses.

The insurance industry has until Monday to examine the draft orders with the Louisiana Department of Insurance hoping to finalize the provisions next Wednesday, a spokeswoman said. Any insurer that violates the orders would be subject to prosecution and civil penalties.

Health insurers waive rules for Katrina victims

By GLORIA GONZALEZ

Health insurers are waiving normal requirements for employers and members located in states directly affected by Hurricane Katrina, offering uninterrupted medical and dental coverage, even if premiums are not paid on time, and temporarily suspending medical and pharmacy restrictions.

The insurance commissioners of Mississippi and Alabama have either encouraged or directed insurance companies in their states to offer grace periods to residents directly impacted by the storm so that their policies would not be canceled for nonpayment of premiums. And several major health insurers are heeding the call, revising normal premium payment policies in the wake of the disaster.

Minnetonka, Minn.-based UnitedHealth Group is establishing a multimillion-dollar pool of emergency resources and funds to address insurance premium concerns for affected employers and their employees. The company also is offering deferred payment options to customers and individuals affected by Hurricane Katrina.

Companies that want to apply for emergency health insurance funds or have questions about the deferred payment plans are asked to contact their local sales representative or call 866-615-8700.

Philadelphia-based CIGNA Corp., which has about 175,000 members in Louisiana, Mississippi and Alaba-



ma, has implemented a 61-day grace period on premiums for affected health care customers. The company also has offered premium grace periods to customers of its group life, accident and disability business.

Baton Rouge, La.-based Blue Cross & Blue Shield of Louisiana and Cypress, Calif.-based PacifiCare Health Systems will both offer grace periods on premiums to small-group business and individual customers located in specific areas affected by the storm.

Hartford, Conn.-based Aetna Inc. said it would continue to cover members in the affected region even if they are unable to make premium payments during this time. The company has between 280,000 and 290,000 members in Louisiana, Mississippi and Alabama.

Delta Dental Insurance Co., which serves both commercial and government employers in the area, said it will not cancel dental coverage for groups unable to pay premiums or update their eligibility. "These groups can focus on recovery and let us worry about paying claims and covering the dental needs of their employees and fami-

ly members," said Robert Elliott, president for the Atlanta-based dental health carrier.

Louisville, Ky.-based Humana Inc. also said it would provide a one-month grace period, beginning Aug. 28, for payment of premiums.

In an effort to remove barriers to accessing needed health care, many insurers also are suspending prior authorization, precertification, referral or notification of hospital admission requirements. Aetna, the Louisiana Blues, Bethesda, Md.-based Coventry Health Care Inc., Humana and Indianapolis-based WellPoint Inc. are among the insurers taking such steps.

Revised network rules

In addition, several insurers—including Aetna, Coventry, Humana and WellPoint—have announced plans to treat all physicians caring for affected members as in-network providers, paying all claims as in-network regardless of whether or not a provider is actually in a network. In other words, a person with coinsurance requirements of 20% for in-network physicians and 30% for out-of-network physicians would only pay the 20% coinsurance even if the physician is normally considered to be outside of the network.

"Our focus is on helping our members get the care they need, recognizing that many are cut off from their usual physicians, hospitals and pharmacies," said Aetna

Chairman and Chief Executive Officer Dr. Jack Rowe.

Insurers are also temporarily modifying their pharmacy requirements to help displaced residents get access to necessary medications. Aetna, the Louisiana Blues, CIGNA, Humana, UnitedHealth and WellPoint are allowing early refills of prescription medications, as well as revamping mail-order prescription procedures to allow quick and easy replacement of damaged or lost medications.

In addition, WellPoint will waive prescription copayments for members in the affected areas. The company has more than 100,000 enrollees in the region.

Most of the changes to medical, dental and pharmacy policies are in effect until at least Sept. 30, but insurers say they are constantly evaluating the situation and could extend the provisions if necessary.

"We don't know how realistic or not it is to expect people to get back to some semblance of normalcy," said George Renaudin, market president, south region, senior products, for Humana, which has 215,000 commercial and Medicare members in the affected states.

Meanwhile, CIGNA, PacifiCare and UnitedHealth all have units offering around-the-clock telephone counseling to anyone living in Louisiana, Alabama and Mississippi, regardless of their insurance provider. The companies will provide counseling on mental health issues, financial and legal concerns.

EAPs extend role to help employers recover too

By JOANNE WOJCIK

In the wake of Hurricane Katrina, many employers that provide employee assistance programs as a benefit to their workers are finding they are in need of assistance themselves.

And the EAPs are reaching out to their corporate clients, in most cases expanding the scope of their services to meet the unique needs stemming from this unprecedented catastrophe. In addition to the expected psychological and emotional counseling, EAPs are helping employers restore their business operations, teaching managers emergency response techniques, even tracking down missing employees.

It's almost as if the term should be changed to "employer assistance program."

"This is a very different disaster than 9/11. With 9/11, most of our activity was helping people deal with the psychological, emotional trauma, as well as the supervisors dealing with their respective employees in that regard," said Richard Chaifetz, chairman and chief executive officer of ComPsych Corp., a Chicago-based EAP.

"This situation is different be-

cause these people's basic needs have been obliterated—shelter, food, medical services, etc. So we have served as a logistics point for many employers...in the provision of information to the employees and interfacing with the employer...helping them find people or providing a resource for people to get in touch with us or others through our connections," he said.

In some cases, ComPsych is helping employers plan for working off-site and develop backup plans for daily operations, he added.

ComPsych also has helped employees of its corporate clients find alternative housing and other necessary services "beyond what has traditionally been the domain of an EAP company," Mr. Chaifetz said.

"We have also been heavily involved in training managers in understanding emergency response and trauma issues, especially recovery, which is atypical of most EAP companies," he said.

CIGNA Behavioral Health also is going above and beyond the usual EAP call of duty by helping some of its employer clients locate employees who were displaced as a result of the storm, said Nance Moeller-Roy, director of clinical operations for

the EAP in Eden Prairie, Minn.

"This is such a unique situation in that we have a number of employers who have missing employees. In fact, one of our larger customers is missing 1,200 employees," she said.

For that customer and about 10 other employers, "we're being asked to have any employee who calls in to call (a) hotline and report in to track people down and make sure that they're OK," she said.

CIGNA's EAP also has held several telephone "town hall meetings" for employers during which trained EAP counselors offer tips on responding to the disaster.

The calls serve as "a reminder that the EAP is here, and here are all the ways that we can help you and your employees," Ms. Moeller-Roy said.

But when employers listen in to the teleconferences, they often seek information outside of the usual scope of EAP services.

For example, employers participating in one of those telephone meetings sought information about changing employee mileage allowances in light of the recent spike in gas prices, as well as creating company identification badges for

employees who had lost all other forms of identification.

Norfolk, Va.-based ValueOptions also is preparing a briefing for its clients, which will probably be conducted next week by telephone, to discuss the long-term effects of the disaster.

Chuck Taylor, executive vp of ValueOptions' Employer Solutions Division in Norfolk, Va., likened the situation to preparing military personnel for combat. The EAPs are working with managers to help them stay focused on helping employees in the midst of chaos.

In addition to emotional and psychological counseling services, ValueOptions also is providing information on emergency housing resources, relocation and financial assistance.

"For example, people are asking questions like, 'Do I need to pay my mortgage if my home has been destroyed?'" Mr. Taylor said.

LifeEra, the Portland, Ore.-based EAP subsidiary of UnitedHealth Group Inc., has been serving as an extension of the human resources department for many of its affected employer-clients, including Har-

See EAP / next page

DEVASTATION ON THE GULF

BI senior editor, Katrina get up close and personal

Editor's note: Business Insurance Senior Editor Michael Bradford, who works out of Abita Springs, La., just north of New Orleans, offers a first-person account of the devastation left by Hurricane Katrina.

By MICHAEL BRADFORD

There will be plenty of risk management lessons learned as the weeks pass after Hurricane Katrina's devastation of New Orleans and the Gulf Coast.

Among them, it should be stressed that naïvete can be as dangerous as 145 mph winds.

Hurricanes are always a big story for *Business Insurance* and, over the past 20 years, I've reported on a lot of them. This one, I figured, would play out like most of the others, raking Florida and turning inland to cause a few billion dollars in insured damage.

Wishful thinking.

Like many New Orleans-area residents, I spent the sunny Saturday before the storm unhurried, running errands, an occasional ear to the radio to track the storm's path. By then, some had decided to evacuate. But there were always the early-bird evacuees, some taking advantage of the mere possibility of hit as an excuse for a long weekend. The mayor was issuing dire warnings,

like he always does.

At the local bike shop, one of the guys said Katrina had made a slight jog toward the Florida Panhandle. Great, we all agreed, looks like another miss.

Naïvete in spades.

As the day wore on, the colored lines of computer models began to merge on the TV weather map. New Orleans looked as though it were sprayed with Silly String as the models agreed on the track. Most disturbing was the projected path that took Katrina directly over my little community of Abita Springs on the north shore of Lake Pontchartrain.

I checked with a few neighbors. Most—including me—were going. One called me a chicken and made clucking noises. I pointed out that while we probably wouldn't flood on our high ground, we were surrounded by towering pines, each weighing thousands of pounds. Remember Tropical Storm Cindy a few weeks ago? She knocked one down right beside my kitchen window.

Right. Cluck, cluck.

I procrastinated. Hate to leave my property, I reasoned. They always miss. I'll be miles away and the traffic will be a mess coming back into the area. Into the

evening this went, until around 9:30 when I left every important item behind except my checkbook and passport and set out with a friend to take refuge with family near Birmingham, Ala.

As the horror unfolded over the next few days, I realized that not only would I miss out on the reporting of this storm, I was becoming a part of the story it was creating. And it didn't take long to realize that the naïvete that marked this hurricane was not just a last-minute reaction to the inconvenience of evacuating. It had become deeply ingrained in a city that is now paying an enormous price for it.

For decades, the doomsday hurricane scenario among insurance and weather experts has described a storm swamping New Orleans. Incredibly, the city designated the Superdome, New Orleans' largest structure, as an evacuation point but failed to stock it with water and food for tens of thousands of evacuees. There were no hurricane stockpiles in a city where the year-round admonition to residents is to always have goods on hand should a storm hit.

The levees broke. Pumping stations were knocked out of commission. Contingency plans were either overwhelmed or did not



Hurricane Katrina was not kind to Abita Springs, La.

PHOTO: MICHAEL BRADFORD

by fallen pines, cars crushed, transformers and power lines snarled in piles by the roads.

I made the turn onto my street and strained to see my house, still standing, the front blocked by the foliage of the pines that littered the yard. One had banged the side, slid toward the front and sheared off the edge of the metal roof. A few bricks were broken on the porch and some siding was buckled. I was one of the fortunate ones. Miraculously, there were no deaths in our town.

As Abita Springs cleans up, it will no doubt realize its own naïvete. The entire town is a historical district, and, as such, had an ordinance in place that severely restricts the cutting of trees. The city fathers want to preserve the beauty of the place. But it was that beauty that crushed us.

With so many homes gone, Abita won't be the same. New Orleans will likely never recover to be the city it was, and portions of the Gulf Coast have been obliterated. Hurricane warnings have new meaning for hundreds of thousands of people who debated whether to outrun Katrina.

And hurricane reporting is no longer about something that happens only to the folks in Florida.

exist. The city was swallowed by Katrina.

It was obvious that someone had not taken the worst-case scenario to heart. Naïvete such as this has no place in risk management.

The drive home was a two-day crawl through Alabama, Mississippi and Louisiana, keeping an eye out for gas lines that would indicate which stations had fuel. At stops along the way, other evacuees told of seeing their neighborhoods on the news and that's how they learned that everything they had was gone. The doomsday scenario had come to pass.

Back in Abita Springs, the town had been ripped to pieces. Homes and businesses were cut in half

EAP: Going beyond normal duty

Continued from page 51

Harrah's Entertainment Inc., which it helped connect with an organizational consulting firm to develop a business recovery plan, according to Gene Baker, chief clinical officer.

Harrah's employs 8,000 employees in three casinos that were hit by Hurricane Katrina. Its accounting and technology center in Gulfport, Miss., also was damaged, according to a company spokeswoman in Las Vegas.

A LifeEra account manager is manning a makeshift employee assistance center for Harrah's employees in Gulfport. The EAP also is providing 17 counselors onsite at five other locations.

"It really is tactically challenging," said Mr. Baker. "We have one counselor for another customer who went to the employer's site and stayed there for several days. There were no hotels to go to. She helped coordinate the disaster recovery," he said.

"We see employee assistance programs as fundamentally reflecting a dual role: A role in support of organizations as they operate their businesses and in support of individuals who need assistance of one sort or another," said a spokeswoman for Farmington, Conn.-based Magellan Health Services Inc. said. In addition to having clients of its own, Aetna subcontracts with Magellan

to provide its mental health and EAP services to its health plan members.

In some cases—especially the current situation—that may mean going beyond the typical "emotional first-aid" that EAPs are generally known for, she said. "Finding food and shelter is not traditionally an EAP function," she said.

Although Hurricane Katrina is prompting EAPs to go beyond the usual scope of their operations, they have not lost sight of their original purpose. In fact, many are anticipating that those services will be in high demand once recovery efforts have slowed and both employees and employers are left to pick up the remaining pieces of their lives and businesses.

"We anticipate that over the next couple of weeks, as phone service is restored and as people are beginning to focus less on their immediate needs and more on the emotional impact, that our call volume will just keep getting bigger," said CIGNA's Mr. Moeller-Roy. "So we have a lot of contingency plans in place, and we have implemented our disaster response protocols so that we are able to handle the huge influx."

When clients' "physical needs are satisfied, that's when we'll see the need for more emotional and psychological support," said Mr. Baker of LifeEra.

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DEVASTATION ON THE GULF

Impact: Insured damages from Hurricane Katrina may top \$60 billion**Continued from page 1**

Mr. Hubbard estimated the total insured loss would fall between \$25 billion and \$50 billion.

Hurricane Katrina is "clearly going to be the largest insured natural catastrophe (loss) ever," said Dane Douetil, group chief executive of London-based Brit Insurance Holdings P.L.C. The insured loss could exceed \$35 billion or even \$50 billion, he said, and is still evolving.

Pembroke, Bermuda-based reinsurer PartnerRe Ltd., however, predicted late last week that the total insured loss would be between \$30 billion and \$35 billion. But in its statement, PartnerRe noted that the "the loss adjustment process for this catastrophe will take several months due to the protracted recovery period and complex coverage issues."

Access restricted

Adjusters are ready to move into the disaster zone, once authorities allow them to do so, said Mr. Crawford.

"Our people are on the ground in Mobile and Baton Rouge," awaiting authorities' permission to begin work in the New Orleans area, he said.

"It's not going to be as long as we probably first thought. I think we'll probably have somebody there within 30 days," said Mr. Crawford, noting that authorities had allowed some residents of parishes near New Orleans to return briefly to their homes to assess damage.

**Estimated losses/claims from Katrina**

As of Sept. 9, 2005. Figures in millions.

Company	Estimate
Allianz A.G. Holding	\$584
Swiss Reinsurance Co.	\$500
Munich Reinsurance Co.	\$492
Hannover Re Group	\$311
Fairfax Holdings Ltd.	\$175 to \$220
White Mountains Insurance Group Ltd.	\$100 to \$200
Aspen Insurance Holdings Ltd.	\$150
Amlin P.L.C.	\$110
Odyssey Re Holdings Corp.	\$80 to \$100
Wellington Underwriting P.L.C.	\$75
Chaucer Holdings P.L.C.	\$65
Kiln P.L.C.	\$55 to \$64
Beazley Group P.L.C.	\$50
Heritage Underwriting Agency P.L.C.	\$50
SVB Holdings P.L.C.	\$47
Royal & SunAlliance Insurance Group P.L.C.	up to \$46
Cincinnati Financial Corp.	\$34
Goshawk Insurance Holdings P.L.C.	\$25 to \$30
Rosemont Re Ltd.	\$25 to \$30
W.R. Berkley Corp.	less than \$25
Northbridge Financial Corp.	\$20 to \$30
Converium Holding Ltd.	\$10 to \$20

"We finally got all of our offices open and we have power," said GAB Robins' Mr. Hubbard. These included offices in Baton Rouge, La.; Mobile and Montgomery, Ala.; and Hattiesburg and Jackson, Miss., he said. "We surround that area," he said.

But getting the job done has proven to be unusually difficult, he said. "Communication is down," sometimes requiring 20 or more attempts to place a cell phone call. There were shortages of gasoline, he said. Lodging also became an issue. Bringing the adjusters in from all over the country "made just having a roof over their head" a difficult task, he said.

Mr. Crawford said that he visited Biloxi, Miss., after having met with Crawford staffers in Mobile.

"It's as bad as I've ever seen—it's total destruction within a block and half or two blocks from the beach," he said. Driving from Mobile, it got increasingly worse as "you go west, to the point there's nothing there," he said.

Mr. Crawford said that the sheer geographic spread of Katrina's damage wasn't so much an issue as the fact that it could be months before business owners will be allowed to return, unlike many hurricanes where people are back on site within days. "People are scattered all over the country," he said, making communication difficult.

"There are a ton of losses in Mississippi from \$50,000 to a couple of million," said Franklin Horowitz, president of Voorhees, N.J.-based adjuster Claims International Inc. "The claims process right now should be just like any other major cat," he said. He called the idea that damage couldn't be estimated because adjusters couldn't physically enter a property "nonsense." He said that an adjuster can do much with existing inventory values, square footage information, and underwriting data to determine the probable extent of a loss for reserving purposes.

He also expressed concern about brokers and others indiscriminately using the term "total loss" to describe the state of a damaged property when an insurer may look at it differently, he said. "The insured's being completely misinformed by his broker," said Mr. Horowitz.

One case in which reports of damage turned out to be misleading involved the Superdome. A senior official of the company that manages the stadium disputed a televised report last week that the structure would have to be torn down.

"The Superdome is not condemned, the Superdome is not coming down," said Glenn Mon, a senior vp-stadiums and arenas for Philadelphia-based SMG, which manages the facility. "Nothing can be determined until an assessment team can gain access to the building. We know the building has sustained damage," but the extent and impact on operations won't be known until an assessment has been made. "One cannot put an assessment team in until one, access is permitted, and two, the environment is safe in which an access team can operate," he said.

Meanwhile, risk managers have begun calculating the costs their companies may sustain as a result of the hurricane.

After a deductible equal to 2% of the value of its damaged properties including business interruption and contents loss, Hilton Hotels Corp. is fully insured for the damage Hurricane Katrina caused to the Hilton Riverside and Hilton New Orleans Airport Hotel, said Dave Little, vp-risk management for Hilton in Beverly Hills, Calif.

Hilton has not estimated how much damage the facilities sustained, but Mr. Little characterized it as "pretty minor."

Hilton's policy limits also include contents



The Superdome in New Orleans, which served as a shelter for thousands of city residents during the hurricane, sustained damage from the storm's winds and rain. The facade of the Hyatt Regency, inset, in the city also was heavily damaged by Katrina.

"It's as bad as I've ever seen—it's total destruction within a block and half or two blocks from the beach."

Thomas Crawford
Crawford & Co.

and business interruption coverage, he said.

Two other Hilton-affiliated facilities in New Orleans, an Embassy Suites and a Doubletree Inn hotel, are not covered by Hilton's property insurance, Mr. Little said.

Verizon Communications Inc. is still assessing damage to its Gulf Coast operations, said Sheila Small, assistant vp-risk management and insurance for the New York-based company. She said most of the damage would involve Verizon Wireless operations.

Market impact uncertain

Despite the huge potential loss, Katrina's impact on the property insurance and reinsurance markets remains murky.

Grahame Chilton, CEO of London-based reinsurance broker Benfield Group Ltd., said it is still too early to assess the full impact of Hurricane Katrina on the market, and he said that the extent to which rates are affected will depend on how badly capital in the industry is eroded by the loss. Property catastrophe reinsurance rates are expected to rise, though, he said.

Demand for coverage will also likely increase, in a similar way following Hurricane Andrew in 1992, Mr. Chilton said.

If the loss from Hurricane Katrina reaches the upper estimates some are suggesting, it will likely have a profound market-changing effect, according to Tony Holt, underwriting director at Lloyd's of London-based insurer Amlin P.L.C.

All catastrophe reinsurance rates will likely harden—not just rates for loss-affected busi-

ness—if the loss reaches the highest current estimates, he said.

The retrocessional market will likely be hit hard by Hurricane Katrina losses, and rates in that market segment are expected to rise, Mr. Holt said.

It is difficult to predict the impact of Hurricane Katrina on reinsurance rates, according to Chris Waterman, an analyst at Fitch Ratings in London. Although the loss will almost certainly mean that the reinsurance industry will post the worst combined ratio since 2001, the loss will be manageable for the industry, and market softening is likely in the medium term, he said.

The hurricane is more likely to be "an earnings issue than a balance sheet issue" for most reinsurers, Mr. Waterman said.

Property catastrophe and marine rates are expected to increase as a result of the hurricane, he said, but it remains to be seen whether the loss will affect rates for other lines of business.

The impact of the loss on the market is also still evolving, said Brit Insurance's Mr. Douetil. He said that Brit believed that rates for catastrophe retrocessional business were already hardening before the hurricane and will continue to rise. Rates for property catastrophe reinsurance and direct property catastrophe business will likely also increase as a result of the hurricane, he said, and marine rates will also likely rise.

Other lines of business could also see rate hardening, and the loss will probably "mitigate any softening," Mr. Douetil said. Though rates for most lines are already at a fairly high level—unlike before the Sept. 11, 2001, terrorist attacks in the United States, when rates were low in some lines.

London-based Beazley P.L.C. and Wellington Underwriting P.L.C., both said in statements last week that they were reassessing their business plans to take advantage of an expected upturn in rates in some lines. In a statement, Andrew Beazley, CEO of Beazley, said the company expected Hurricane Katrina to be "a market-changing event."

Senior Editor Dave Lenckus contributed to this report.

DEVASTATION ON THE GULF

Energy insurance rates rising after Gulf facilities battered

SARAH VEYSEY

Energy insurance rates are already increasing following the devastation caused by Hurricane Katrina in the Gulf of Mexico energy sector, even though the extent of insured losses from the storm, while expected to be significant, remains unclear.

Renewals for non-Gulf of Mexico energy risks are increasing by up to 25% as a result of the expected losses to the market, and rate increases for risks hit by Katrina are sure to be hefty, sources say.

As rates increase, energy production companies in the region have begun tallying their losses and restarting production operations after being hit by one of the harshest storms to tear through the region.

While loss estimates are still

hazy, the energy market loss will likely eclipse the \$2.7 billion energy market loss caused by Hurricane Ivan last year, sources say.

Hurricane Katrina, which battered offshore and onshore facilities in the Gulf when it struck Aug. 29, caused huge disruptions in the region's energy sector.

According to sources, 18 fixed platforms in the Gulf of Mexico were destroyed by the storm and a further 13 have "significant" damage. Hurricane Ivan destroyed seven platforms in 2004.

Katrina destroyed one oil rig, a further six are expected to be declared constructive total losses, and another nine are believed to be badly damaged, sources said.

Nine onshore refineries were shut down as the hurricane approached, sources said, and while some have

now restarted production, three are believed likely to be shut for months.

And while some oil companies with operations in the affected region have resumed output—albeit

at reduced levels—the potential damage to pipelines, as well as damage to refineries and transport links, may result in large contingent business interruption losses, market sources say.

Rates rising

Already, insurers are increasing rates for energy risks as a result of the expected losses.

See ENERGY / next page



Murphy Oil USA Inc.'s oil refinery in Meraux, La., comes back on line after Hurricane Katrina.

Interruption: Nature of losses from Katrina expected to raise coverage questions

Continued from page 1

as well as the devastation in Biloxi, Miss., not only impacts the indefinitely sidelined local businesses—such as energy companies, agricultural businesses, hotels, casinos and retailers. Many businesses elsewhere in the country also are sustaining contingent business interruption losses as a result of losing key suppliers or customers on the Gulf Coast.

"It's the whole economy, basically," that will be hurt, said policyholder attorney Finley T. Harckham, a partner with Anderson Kill & Olick P.C. in New York.

An official with the New York-based Insurance Information Institute has said business interruption losses could account for 40% of the \$40 billion to \$60 billion of insured losses that catastrophe modelers estimate Katrina has caused.

That percentage would be higher than normal for a natural catastrophe.

But there is nothing normal about this disaster, business interruption experts say.

"It's certainly a monumental disaster, and it will set a lot of precedent in a lot of areas," said Don Griffin, vp-personal lines with additional responsibilities for property-related losses at the Property Casualty Insurers Assn. of America in Des Plaines, Ill.

Mr. Harckham agreed. "There's not a whole lot of case law to provide guidance on these situations and how they should be resolved," he said.

Because a policyholder's ability to recover business interruption losses largely hinges on having coverage for the peril that caused the loss, one early dispute could center on whether the water that inundated New Orleans after two levees failed is a flood as defined in policy language, some policy experts said. The levees failed a day after Katrina swept through the city.

Commercial risks commonly obtain flood coverage, though that protection typically is purchased in policies providing difference-in-conditions or excess coverage.

But not all insurer and policyholder representatives argued the positions that the two sides likely would take in a coverage dispute.

Because flood coverage typically is individually crafted, the event could be a covered loss in some policies and excluded in others, said Eric Goldberg, assistant general counsel at the American Insurance Assn. in Washington.

A broker, meanwhile, said policyholders likely would not prevail in that dispute.

"At some point, a flood is a flood," said Gail Norstrom, managing director in the property syndication group at Aon Risk Services Inc. in Avon, Conn. "I think you'd be hard-pressed to look at all of the buildings under water and think of it as something other than a flood."

Coverage problems

Policyholders that base their business interruption claims on the evacuation orders issued in New Orleans and Biloxi before—and in New Orleans' case, after—Katrina made landfall also could run into coverage problems, policyholder advocates said.

Business interruption policies cover losses that can be tied directly to orders from civil authorities, but policyholder and insurer representatives disagree over whether the provision applies to only covered perils.

Except for some contingent business interruption policies, that coverage should not depend on whether the policyholder has flood or windstorm coverage, Mr. Harckham said. "The question is, was there an order barring access?"



Underwriters that wrote property coverage on standard policies, which do not cover flood damage, would not respond to direct and contingent business interruption claims based on the civil authority provision, the PCI and AIA officials said.

Policyholders would have to turn to their difference-in-conditions or excess policies if those policies covered flood losses, the officials said.

Even policyholders that have both wind and flood coverage could face problems recovering their business interruption losses because New Orleans likely will be evacuated for months, policyholder advocates said.

An exclusion in many business interruption policies bars coverage when a policyholder loses its market. Some policyholder advocates say they fear that insurers will deny business interruption claims because New Orleans' population is largely gone indefinitely.

But public loss adjuster Marvin Milton said the exclusion applies only when a product becomes obsolete. It does not apply "because of the disappearance of a market because of a covered peril," said Mr. Milton, a partner with Swerling Milton Winnick Public Insurance Adjusters Inc. and president of Anderson Kill Loss Advisors L.L.C., both of Wellesley, Mass.

If that is how the exclusion works, "you'd never have a business interruption claim," because every claim involves the loss of a segment of the policyholder's mar-

ket, said policyholder attorney Barry Fleishman, a partner at Dickstein Shapiro Morin & Oshinsky L.L.P. in Washington.

Mr. Fleishman said he would not be surprised if insurers also invoked that exclusion against shrimpers and agricultural companies with goods warehoused in New Orleans if buyers refused to purchase those products because of contamination fears.

But "that's really a loss of market value," not the loss of a market, he asserted. Federal and state courts have ruled in favor of policyholders that faced similar losses and were denied business interruption coverage when insurers invoked the loss-of-market exclusion, Mr. Fleishman said.

Similarly, insurers could raise the argument that a direct or contingent business interruption loss is not covered because a policyholder's facility or business partner would have been idled anyway in New Orleans because of the evacuation, said Paul McVey, a managing director in New York with Marsh Risk Consulting, a Marsh Inc. practice.

But that exclusion applies only when a loss coincides with a planned shutdown of a policyholder's facility for maintenance or because of a labor stoppage, he said.

The PCI's Mr. Griffin said invoking those provisions to deny coverage would be "a bit of a reach" by insurers. "That may be a concern, but I don't know how realistic that would be," he said.

Those provisions, however, are not part of standard policy language, Mr. Griffin said. So commenting on how insurers would apply them would be "dicey," he said.

Question of peril

Another business interruption coverage problem could develop if

losses resulted from both a covered peril, such as wind, and an excluded peril, such as flooding, policy experts said.

If both perils could have caused a total loss, policyholders "would have a strong argument for total coverage," Mr. Harckham said.

Policyholder attorney Jerry Oshinsky, another partner with Dickstein Shapiro, said that situation "would work to the policyholder's advantage." Courts typically have ruled that policies must respond when covered perils combine with uninsured events to cause losses, he said.

Aon's Mr. Norstrom said the coverage decision likely would be based on which peril damaged the property first.

The PCI's Mr. Griffin said adjusters could ascertain which peril caused a loss. "There's probably going to be an allocation based on the percentage of damage done by each peril," he said.

When adjusters cannot make that determination, they "probably will err on the side of the policyholder," though that still may not mean the loss would be fully covered, he said.

With potentially thorny storm-related coverage questions already being raised, several policyholder advocates criticized the insurance industry for not issuing a statement to clarify its coverage position as it did shortly after the Sept. 11, 2001, terrorist attacks. Four years ago, allaying risk managers' fears, the insurance industry announced that it would not invoke the war risk exclusion to avoid paying losses caused by the attack.

With Hurricane Katrina losses, though, the industry cannot similarly answer risk managers' questions, an AIA spokeswoman said. "It's much more difficult for the industry to come up with a statement now because of the fact pattern from building to building."

Energy: Market reacts, raising rates after Katrina

Continued from previous page

"All the signals are that it is going to be a significant loss, and the market is already reacting," said Julian Taylor, a board director and head of the energy/global asset and consulting business units at London-based broker Miller Insurance Services Ltd.

The market "is taking a much tougher line in all areas of the energy business, both onshore and offshore," he said. And the rate increases are not restricted to loss-hit areas, he said.

"Right now, we are seeing some significant increases on non-Gulf of Mexico renewals—increases of between 10% and 25%," he said.

Insurers are expecting increased reinsurance costs as a result of the hurricane, and some are having to buy reinstatements at considerable cost, sources said.

There likely will be an increase in premiums across the entire energy insurance market to compensate for expected reinsurance rate hikes when cedents renew their programs, according to one source who asked not to be named.

The marine energy insurance market took a "battering" after the losses caused by Hurricane Ivan, and it will have to charge higher rates in the wake of Hurricane Katrina, said Tony Holt, underwriting director at Amlin P.L.C. in London. Underwriters on the direct side "will have to put up rates to compensate for how much they are being charged for reinsurance," he said.

Most sources believe that insured losses caused by Hurricane Katrina will exceed those stemming from Hurricane Ivan last year—which caused total market losses estimated at about \$2.7 billion—and could even top \$5 billion.

Restoring operations

After the hurricane, several oil companies published updates on the condition of their facilities.

For example, Houston-based Apache Corp. reported that it had lost the use of eight of its oil and gas platforms in the Gulf of Mexico (*BI*, Sept. 5).

A spokesman for Apache said the company is still assessing the extent of damage to its facilities, and said that it could take a year to get those platforms that have been damaged by the hurricane up and running again at full capacity.

Other companies said they were beginning to resume production.

"Although Hurricane Katrina moved through a core area of offshore operations and damaged many production and exploration facilities, early reports indicate that the vast majority of facilities could be ready to come back on line in days and weeks, rather than months," Rebecca Watson, assistant secretary for Land and Minerals Management, said in testimony to the Senate Energy and Natural Resources Committee last week.

It is still too early to assess how large insured losses stemming from

the hurricane will be, said John Keely, senior vp at Aon Natural Resources in Houston, because it is still difficult for operators and loss adjusters to survey damage to pipelines at the seabed.

If pipelines are severely damaged, operators will not be able to move the oil and gas they have produced. The lost profits will likely be covered by contingent business interruption insurance, Mr. Keely said.

There is no consensus yet as to how large the total insured loss to the energy market will be, said Guy Ellis, treaty marine underwriter at Hiscox P.L.C.'s multiline Lloyd's of London syndicate 33.

But the loss is likely to be bigger than Hurricane Ivan, and it will have an effect on the market, he said.

The energy insurance market is reacting to the hurricane, said one source who asked not to be named, and some underwriters are considering whether to change coverage terms for business interruption risks for the Gulf of Mexico. Underwriters are asking whether this sort of loss is part of a new trend—caused perhaps by global warming—and whether the insurance market for energy risks will have to fundamentally change as a result, he said.

Until the market has some idea of the size of business interruption losses and the contingent business interruption losses, it will not be possible to assess just how large the market impact will be, said Mr. Taylor of Miller.

Late News

Continued from page 1

considering "strategic alternatives," including a possible sale.

Caremark Rx settles kickback litigation

Caremark Rx Inc. has agreed to pay \$137.5 million to settle with the federal government a lawsuit that alleged its AdvancePCS unit knowingly solicited and received kickbacks from pharmaceutical manufacturers in exchange for favorable treatment of the manufacturers' products under its formulary. In a statement, Caremark said the settlement was not an admission of liability or wrongdoing and expressly denied all allegations made against it. The company still faces similar claims on behalf of nine states and the District of Columbia.

Indictments expected in probe of Marsh

Criminal indictments of former Marsh Inc. employees are on the horizon as part of New York Attorney General Eliot Spitzer's bid-rigging probe, Marsh & McLennan Cos. Inc.'s top executive indicated last week. "We do expect in the next week, (and) weeks, to have a number of our former employees be indicted by the New York AG," Michael G. Cherkasky, president and chief executive officer of MMC, said last week at the Keefe, Bruyette & Woods Inc. 2005 Insurance Industry Conference in New York. Representatives of Marsh and Mr. Spitzer's office declined to comment. So far, the investigation has not produced any criminal indictments, though it has led to 16 guilty pleas, including seven from Marsh officials.

Sedgwick Claims up for sale

Sedgwick Claims Management Services Inc. is up for sale, as parent company Sedgwick CMS Holdings Inc. said that it has retained Banc of America Securities L.L.C. to review strategic options for the company. The principal shareholders for Sedgwick CMS Holdings are Marsh & McLennan Cos. Inc. and Trident II L.P., a private equity fund managed by Stone Point Capital L.L.C. Sedgwick Claims Management ranked as the nation's second-largest claims administrator in 2005, based on \$290.5 million in 2004 claims revenues for self-insured clients.

Willis, Gras Savoye form reinsurance unit

Willis Group Holdings Ltd. and Gras Savoye S.A. are combining their French and Belgian reinsurance businesses to form Willis Gras Savoye Re. The combined brokerage, to be based in Paris, will be headed by Gras Savoye's Luc Malâtre. Terms were not disclosed. London-based Willis acquired a minority interest in Paris-based Gras Savoye in 1997.

Schwarzenegger to veto same-sex marriage bill

California Gov. Arnold Schwarzenegger said he plans to veto a measure to approve same-sex marriage that was passed by the state Assembly last week. The California Legislature is the first state legislative body to approve same-sex marriage. The measure, A.B. 849, amends the state's family code to define marriage as a civil contract between two persons instead of a civil contract between a man and a woman.

Former RIMS chief to lead graduate program

St. Peter's College has named Jack Hampton as its KPMG Professor of Business and director of graduate business programs. Mr. Hampton, former executive director of the Risk & Insurance Management Society Inc., will specialize in teaching and research on enterprise risk management. Before joining RIMS, Mr. Hampton served as dean of Seton Hall University's Business School and provost of The College of Insurance, now the School of Risk Management at St. John's University. He also has authored several books on insurance and risk management.




August storm losses set record for Ontario

Canadian insurers have raised their estimate of insured losses caused by a series of thunderstorms and tornadoes in Ontario on Aug. 19 to more than \$400 million Canadian (\$336.7 million), making it the highest insured loss in the history of the province. More than 15,000 claims have been filed related to the Aug. 19 storms, according to the Insurance Bureau of Canada, the national trade association of nongovernment property and casualty insurers in Canada. The storms hit a large area in southern Ontario, including Toronto and the Kitchener-Waterloo region, the IBC said.

BI Stock Index [9/6 - 9/9]

Up-to-the-minute data for all 85 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	
2647.62	1.93
Dow Jones	
10678.56	2.21
S&P 500	
1241.48	1.93

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

Largest gains

SCPIE Holdings Inc.	21.80%
Aetna Inc.	5.81%
USI Holdings Corp.	5.44%
Humana Inc.	4.60%
Aspen Insurance Holdings	4.49%

Largest losses

PXRE Corp.	-12.19%
RenaissanceRe	-3.40%
Fairfax Financial Holdings	-3.36%
Allstate Corp.	-2.29%
Axis Capital Holdings	-1.85%

Weekly change by market segment

Brokers	2.72%
Insurers/Reinsurers	1.34%
Managed Care Organizations	2.15%



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New Online Poll: Does a retail brokerage's ownership of a wholesaler constitute a conflict of interest?

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Crump: Private equity firm buys wholesaler from Marsh

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another Marsh wholesale unit, though the remaining operations of London-based Price Forbes are not included in the deal and remain on the block.

Crump management moved for conclusion of its sale to J.C. Flowers so that the deal could be announced before this week's National Assn. of Professional Surplus Lines Offices Ltd. meeting in San Francisco, Mr. Hargrove said. That way, Crump could spend its time at the meeting discussing its new arrangements with clients.

Analysts say that one possible concern for Crump may be the amount of business that will continue to flow from Marsh once the sale is completed. However, terms of the deal may have addressed that issue, and Crump could now pick up even more business from independent retailers that previously shied away from Crump because of its Marsh affiliation, they say.

For Crump, the purchase by J.C.

Flowers represents an opportunity to expand while joining the growing trend toward independently owned wholesalers, Mr. Hargrove said.

Several wholesale broker sources

Private equity firms often acquire companies that, like wholesalers, have strong cash flow potential.

John Wicher
John Wicher & Associates

and investment bank sources said competition was stiff as several private equity firms bid to purchase Crump.

Marsh first announced in May that it was exploring options for selling Crump. Earlier in the year, Willis Group Holdings Ltd. sold its wholesaler, Stewart Smith Group, to Amer-

ican Wholesale Insurance Group Inc.; and Aon Corp. said it was putting its wholesale operation, Swett & Crawford Group, on the block.

The moves were widely believed to have been prompted by New York Attorney General Eliot Spitzer's investigations of the insurance brokerage industry. The sales are intended to remove any suggestion of a conflict of interest stemming from a retailer owning a wholesaler.

Private equity pluses

The Crump deal is an example of how new private equity firm investment in the insurance distribution businesses is beginning to provide wholesalers with new growth capital and an opportunity to cement an identity apart from retail brokers, said James Inglis, managing director at Philo Smith & Co., a Stamford, Conn.-based investment bank (see story, page 11).

With private equity firm backing, surplus lines brokers "are going to be

a lot bigger relatively speaking than wholesalers were previously," Mr. Inglis said. "They are going to have much more substantial backing than they had. That will give them opportunities."

Private equity company interest in insurance distribution first took off about 18 months ago, said Robert J. Lieblein, a managing principal at WFG Capital Advisors in Harrisburg, Pa. They typically obtain funding from large institutional investors, retirement funds, or banks looking to diversify and on average hold an acquisition for three to seven years.

Private equity firms often acquire companies that, like wholesalers, have strong cash flow potential, said John Wicher, principal at San Francisco-based John Wicher & Associates. They can use the cash flow to fund other acquisitions.

Their influence will help finance independently-owned wholesalers who will emerge as a new driving force in the acquisition of smaller wholesale operations, he said.

Pensions: Committee passes funding reform measure

Continued from page 4

Judd Gregg, R-N.H., referring to provisions dealing with cash balance plans.

"I support (the bill), with a lot of questions and concerns," said Sen. Hillary Clinton, D-N.Y.

Additionally, the Bush administration has its own concerns regarding the length of time employers would have to fund liabilities and the way those liabilities would be calculated.

Sen. Enzi, seeking to allay those concerns, said: "This isn't the final step before the bill goes to the floor," pledging to listen to suggestions for changes.

The legislation approved by the committee, like those cleared by the other congressional panels, is in-

tended to shore up pension plan funding and reduce the exposure of the PBGC, which has a record \$23 billion deficit, from future big losses when financially troubled companies fold their pension plans. The HELP committee bill would do that by:

- Requiring employers to amortize plan liabilities over 10 years, with a special-interest provision giving commercial airlines 14 years to amortize liabilities. Under current law, employers can have up to 30 years to fund liabilities.

- Requiring employers to value liabilities using interest rates on corporate bonds of varying maturities to reflect the demographics of their pension plans. For example, yields on shorter-term bonds would be

used to value liabilities of older workers and retirees, while yields on longer-term bonds would be used to measure liabilities of younger employees. The mechanics of this so-called "yield curve" would be developed by the Treasury Department.

In addition, the rates to be used would be based on bond yields averaged over a three-year period.

By contrast, under current law all employers—regardless of the demographics of the pension plan participants—use the same interest rate to value liabilities, which is based on long-term corporate bond yields averaged over four years.

- Barring pension plans that were less than 80% funded from boosting benefits, while plans less than 60% funded would be frozen—meaning no new benefits would be earned until the plan was again 60% funded.

- Raising the base annual premium employers pay to the PBGC to \$30 per plan participant from the current \$19. In addition, companies that file for bankruptcy and terminate their pension plans would have to pay—after they emerged from bankruptcy—a special \$1,000 per participant premium to the PBGC annually for three years.

Brandon: Charges possible

Continued from page 3

respond to the SEC before the commission's staff makes a recommendation on whether to pursue charges.

Mr. Brandon's office referred questions to Berkshire Hathaway, where a spokeswoman declined to comment on any of the three notices. Mr. Graham and Mr. Garand—who retired last month—could not be reached.

The SEC originally subpoenaed Berkshire in January for information about its accounting for its insurance units' assumed and ceded finite transactions, Berkshire has reported.

One focus of the inquiry has been a \$500 million retrocessional loss portfolio deal between Gen Re and American International Group Inc. in 2000. Two former Gen Re executives—John Houldsworth, former CEO of the reinsurer's Cologne Re Dublin unit, and Richard Napier, a former senior vp—pleaded guilty in June to criminal conspiracy

charges related to the deal.

In a separate civil complaint against Messrs. Houldsworth and Napier, the SEC has charged that the deal—launched after former AIG CEO Maurice R. Greenberg contacted former Gen Re CEO Ronald E. Ferguson—transferred no risk and was designed only to achieve "a specific, and false, accounting effect" on AIG's books.

The deal bolstered AIG's reported loss reserves, something Mr. Greenberg wanted to do to counter Wall Street criticism of AIG's reserve levels, the SEC complaint alleges. AIG has since restated its results to account for the deal as a deposit rather than as reinsurance.

The SEC in July was reportedly examining whether Mr. Brandon—then an executive vp in charge of Gen Re's North American business unit—knew of the AIG deal and AIG's reasons for entering into it.

Mr. Brandon joined Gen Re in 1999 and succeeded Mr. Ferguson as CEO in 2001.

Gallagher prepares offers of restitution to clients

NEW YORK—Policyholders eligible for restitution under Arthur J. Gallagher & Co.'s \$27 million agreement with Illinois insurance regulators over contingent compensation practices will receive their settlement offers no later than early October, according to the brokerage's top executive.

"We have about 85,000 letters going out to clients," J. Patrick Gallagher Jr., president and chief executive officer, said while speaking in New York at Keefe, Bruyette & Woods Inc.'s 2005 Insurance Conference.

Of that figure, 63,000 clients will receive offers of less than \$100 each. Around 200 policyholders will receive offers above \$10,000, Mr. Gallagher said.

"We expect this to be a global settlement," he added.

Itasca, Ill.-based Gallagher, the world's fourth-largest insurance broker, in May reached an agreement with Illinois Attorney General Lisa Madigan and Illinois Insurance

Director Michael McRaith to settle probes into its insurance placement practices by creating a \$27 million fund to pay certain retail clients and by undertaking business reforms (BI, May 23).

Policyholders eligible for restitution include those that retained Gallagher's services to place, renew or consult on insurance services resulting in contingent commission overrides for the period from Jan. 1, 2002, through Dec. 31, 2004. Settlement offers were calculated using a formula agreed upon by Ms. Madigan and Mr. McRaith, and policyholders have until Dec. 31, 2005, to request a distribution from the fund.

Other large brokerages—including New York-based Marsh & McLennan Cos. Inc., Chicago-based Aon Corp. and London-based Willis Group Holdings Ltd.—have agreed to similar settlements with regulators over compensation practices.

—By Rupal Parekh

Crump history

A timeline of key events

- 1920:** Crump & Trezevant founded by E.H. Crump.
- 1936:** Bought out partner and formed E.H. Crump Co.
- 1954:** Crump Underwriters formed as the wholesale insurance arm to place business with Lloyd's of London.
- 1958:** Name change to Crump London Underwriters.
- 1986:** Sold to Sedgwick Ltd. Retail offices were merged, and the excess and surplus offices were spun off as separate company.
- 1987:** New company named Crump E&S.
- 1998:** Entire Sedgwick organization sold to Marsh & McLennan Cos. Inc.
- 2005:** Crump sold to J.C. Flowers.

Source: Crump Group

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