

**Hard reinsurance market
may soften in 2003 / 2**

**More cost-shifting ahead
on retiree benefits / 3**

Business Insurance

www.businessinsurance.com

September 16, 2002

Entire contents copyright © 2002 by Crain Communications Inc. All rights reserved.

\$4

Underwriters looking closer at compensation, corporate boards

CEO pay draws D&O scrutiny

By SALLY ROBERTS

The recent accounting scandals that have plagued a number of high-profile companies as well as the directors and officers liability market also have thrust into the limelight what many observers consider a catalyst of the scandals—excessive executive compensation.

D&O underwriters, who have increased their scrutiny on new and renewal business as a result of the scandals and ensuing shareholder lawsuits, are now beginning to dig deeper into the rationale behind the executive pay packages set by boards of directors.

As a result, that means D&O policyholders can expect to disclose more information about their boards and pay packages.

Although chief executive pay was scrutinized long before companies

such as Enron Corp., Tyco International Ltd. and WorldCom Inc. became household names, a new study that looked at 23 companies under investigation for their accounting practices found a wide discrepancy between these top executives' compensation compared with the performance of the companies.

According to the study, top executives at those 23 companies pocketed \$1.4 billion in compensation in the past three years, while the value of shares at these firms plunged \$530 billion or about 73% of their total value from Jan. 1, 2001, through July 31, 2002.

The study, published last month, was conducted by The Institute for Policy Studies, a Washington-based research and education organization, and United for a Fair Econo-

See D&O/page 24



PHOTO: AP

D&O insurers are looking closer at CEO compensation after cases like the one involving L. Dennis Kozlowski, center, the highly paid former CEO of Tyco International. Mr. Kozlowski is facing a raft of charges, including corporate corruption and falsifying records.

Medicare HMOs plan more pullouts, benefit reductions

By JERRY GEISEL

WASHINGTON—More health maintenance organizations are leaving the Medicare system, and other plans are cutting benefits and raising premiums, further eroding the efficacy of one way employers have tried to control retiree health care costs.

The new round of pullouts will affect more than 200,000 beneficiaries, according to the American Assn. of Health Plans, a Washington-based managed care trade group. The latest exodus, which will take effect Jan. 1, comes on top of even bigger market withdrawals during the last two years.

This year, for example, pullouts

affected 536,000 beneficiaries in what are known as Medicare+Choice plans. In 2000, the withdrawals hit more than 934,000 enrollees. Many affected by the moves will have access to other Medicare HMOs, though they likely will have to pay more for coverage and may have to use different medical providers.

The latest round of pullouts from the Medicare market include:

- PacifiCare Health Systems Inc. in Cypress, Calif., which is withdrawing from four counties in Texas and three in California. Those withdrawals will affect 48,000 of PacifiCare's nearly 800,000 enrollees in its Medicare

See MEDICARE/page 25

City barred from shifting obligations

Court blocks liability shield

By DAVE LENCKUS

SAN FRANCISCO—A rewritten federal appellate court ruling further restricts a city's attempt to statutorily shield itself against pollution liabilities and shift those obligations to other entities and their insurers.

A 9th U.S. Circuit Court of Appeals panel has ruled that federal and state laws bar the City of Lodi, Calif., from statutorily shifting its pollution liabilities and certain attorney costs to other polluters.

The appellate panel, in its Aug. 6 ruling, also reinstated claims that a plaintiff insurer had lodged against three Lodi officials over the city's pollution ordinance. A lower court

earlier had dismissed those officials from the litigation.

The decision replaces the appellate panel's own Oct. 30, 2001, ruling, which first weakened the city's pollution liability protections under its 1997 ordinance (*BI*, Nov. 5, 2001).

Despite the victory for insurers in the latest decision in the case, one plaintiff insurer and the city have filed motions for a rehearing.

In its Aug. 20 rehearing motion, the insurer, Fireman's Fund Insurance Co. of Novato, Calif., objects that the court did not rule that Lodi's pollution abatement agreement with a state environmental department automatically makes

See POLLUTION/page 26

Late News

Lloyd's members vote to implement reforms

Members of Lloyd's of London have voted to proceed with a package of reforms designed to modernize the market. The proposals include a move to annual accounting from Lloyd's three-year system, the closing of the market to new unlimited-liability names and regulatory changes. The vote returned a result of 79.9% in favor of the resolution and 20.1% against, with votes weighted according to capacity underwritten at Lloyd's. The Electoral Reform Ballot Service, which counted the votes, said that on a one-member, one-vote basis, 3,356 voted against the resolution while 1,393 voted in favor. Lloyd's reform plans face opposition from groups representing individual investors, who fear that aspects of the proposals would undermine names' rights.

'Protective' suits filed against WTC owner

Hundreds of Sept. 11-related suits were filed against the Port Authority of New York & New Jersey last week after a judge ruled earlier that the suits could remain dormant while plaintiffs decide whether to seek compensation from the federal victims fund instead. Potential plaintiffs faced a one-year statute of limitations for suits against the Port Authority. Many suits charge that the Port Authority, the trade center's owner, did not operate the complex in a safe and proper manner and failed to provide for proper fire protection, emergency response and evacuation. The Port Authority also faces a \$314.5 million suit from Consolidated Edison Co. of New York Inc. and its property insurers over destruction of an electrical substation in the collapse of 7 World Trade Center. The Port Authority insisted it has met or exceeded building code requirements.

NAIC certifies 35 states meeting reciprocity rule

The National Assn. of Insurance Commissioners last week certified that 35 states have met the reciprocity requirements for nonresident agents and brokers. That is six more states than required by the Gramm-Leach-

See LATE NEWS/next page

Special Report

TRANSPORTATION RISKS

Begins on page 10



Inside

PEOs struggle with comp woes

Professional employer organizations are facing a workers compensation crisis that has forced many of them to close or merge with competitors. **Page 4**

Charting a course in rough waters

Reinsurers are working to right their course as they weather a "perfect storm" of massive losses, new risks and economic struggles, Editor Paul Winston writes in Commentary. **Page 6**

New rule needed for pension funding

It's time for Congress to change an outmoded pension funding rule that is needlessly draining the resources of some companies, one of this week's editorials says. **Page 8**

U.K. professionals face capacity crunch

Insurance capacity for professional liability coverage is shrinking as underwriters withdraw from the market or reduce limits. **Page 21**

Departments

Advertiser Index	26
Classifieds	22
For the Record	27
Insurance Services Guide	20
International	21
Opinions	8
Products & Services	25
Ticker	27
World Updates	21

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

Business Insurance (ISSN 0007-6864) Vol. 36, No. 37, is published weekly by Crain Communications Inc., 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to Business Insurance Circulation Department, 1155 Gratiot Ave. Detroit, Mich. 48207-2912. \$4 a copy and \$97 a year in the U.S. \$130 in Canada and Mexico (includes GST). All other countries, \$230 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 0293512, GST No. 136760444, Printed in U.S.A. Copyright © 2002 by Crain Communications Inc.

CONTINUED FROM PAGE ONE

Bliley Financial Services Modernization Act to prevent the creation of a National Assn. of Registered Agents & Brokers. The Council of Insurance Agents & Brokers praised the development but called for further reform, noting that states such as New York and Pennsylvania are not among those in compliance with the reciprocity requirements.

Mendelsohn resigns as chief of RSA

Bob Mendelsohn has resigned as chief executive officer of Royal & SunAlliance Insurance Group P.L.C., effective immediately. Bob Gunn, chief operating officer of the London-based multiline insurer, will take over the CEO role temporarily while a replacement for Mr. Mendelsohn is found, RSA said in a statement. Mr. Mendelsohn, who became CEO of RSA in 1997, has been under fire recently as RSA has suffered poor results and ratings downgrades and as its share price has fallen. In addition, RSA said it is looking at various ways to boost its capital, including a private share issue.



PHOTO: GETTY

PBGC takes over Polaroid pension plan

The Pension Benefit Guaranty Corp. has taken over and terminated a severely underfunded pension plan

Late News

covering about 11,000 former employees and retirees of bankrupt Polaroid Corp., the Cambridge, Mass.-based instant film and camera maker. The termination of the Polaroid plan, which is underfunded by \$342 million, is the second largest this year by the PBGC, eclipsed only by the agency's takeover at the end of March of failed steelmaker LTV Corp.'s pension plans. Those plans were underfunded by about \$2 billion, the biggest pension failure in the PBGC's history.

Bernheim replaces Guty as Generali chairman

Gianfranco Guty has resigned as chairman of Assicurazioni Generali S.p.A. and will be replaced by current Vice Chairman Antoine Bernheim, Generali announced. Trieste, Italy-based Generali in May had removed Mr. Guty's executive powers. Generali also announced profits of 51 million euros (\$50.5 million) for the

first half of 2002, down almost 93% from the prior-year period. The insurer attributed the drop chiefly to write-downs of 1.55 billion euros (\$1.53 billion) on its equity portfolio. Gross premiums rose 2.4% to 28.83 billion euros (\$28.5 billion).

OSHA expands alliances for workplace safety

The Occupational Safety and Health Administration plans to expand its alliances with outside organizations to promote workplace safety. Assistant Secretary of Labor for Occupational Safety and Health John L. Henshaw said during a teleconference last week that OSHA and six groups have entered into the alliances, and four more will be announced soon. The Risk & Insurance Management Society Inc. was one of the first organizations to enter an alliance with OSHA. Nearly 100 additional alliances are being discussed, he added.

Check out Businessinsurance.com

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

Online this week:

- *Business Insurance's* online **searchable directories**, including the recent directory of reinsurers.
- **New Commentary** from Paul Winston joins other regular columnists, including Dr. George Head.
- Check the **Datebook** calendar for upcoming industry meetings and events or add your own.
- **Online forum** allows readers to exchange ideas and information.

Moody's projects negative outlook for reinsurers' results

Hard reinsurance market may end in 2003

By DOUGLAS McLEOD

NEW YORK—Reinsurers' operating results may be improving, but their prospects aren't, according to an analysis by Moody's Investors Service.

Rising prices and tighter underwriting standards will improve reinsurers' results in virtually all lines of business in the near term, Moody's says. However, a variety of problems will continue to be a drag on the companies' performance and will result in more rating downgrades than upgrades over the next

12 to 18 months, the New York-based rating agency predicts.

Reinsurers are still facing the af-

Beyond Jan. 1, 2003, 'it is difficult to see an impetus for continued large price increases.'

*Ted Collins
Moody's Investors Service*

tereffects of the 1990s soft market cycle, including potential adverse

reserve development on prior years' business, emerging asbestos claims and possible increases in World Trade Center loss estimates, Moody's noted. Low investment returns will also contribute to the pressure on reinsurers' earnings.

Although the hard market is helping reinsurers, it may last only through the Jan. 1, 2003, renewal season, the report projects.

"Beyond that point, it is difficult to see an impetus for continued large price increases, barring a substantial catastrophe, although price stability should persist for at least

Equitas aims to limit asbestos claims exposure

Although Equitas Ltd. says asbestos-related claims continue to be its "most critical issue," the reinsurer says its asbestos reserves are



adequate and that it is seeking to limit

its exposure to claims from unimpaired asbestosis claimants. The runoff reinsurer of Lloyd's of London's pre-1993 long-tail liabilities discussed its most recent results at a meeting Friday. Finance Director Jane Barker said Equitas' reserves for asbestos claims remained steady at £8.0 billion (\$12.49 billion) during the fiscal year ending March 31, 2002. Gross claims outstanding stood at £7.76 billion (\$12.11 billion), compared with £8.93 billion (\$13.94 billion) a year previously.

D&O policies should not cover entities: AIG

American International Group Inc. is pushing for the removal of entity coverage from directors and officers liability policies, arguing that the change will reduce settlements in shareholder litigation and speed claim payments in cases where a corporation has entered bankruptcy. Entity coverage—insuring a corporation as opposed to its directors and officers—was added to D&O policies in the 1990s to resolve problems allocating D&O limits between executives and companies. Since Enron Corp.'s collapse, boards have grown concerned that bankruptcy courts may treat D&O limits that include entity coverage as an asset of the estate, holding up payment of defense costs to directors and officers.

another renewal season or two," Ted Collins, Moody's managing director for property/casualty reinsurance, said in a statement.

Moody's also noted that reinsurers will have a tougher time maintaining their ratings over the long term as ceding insurers manage and retain more risk, limiting reinsurers' growth opportunities.

Mergers and acquisitions among reinsurers are likely to increase as growth slows and returns on the capital that has flowed into the reinsurance market diminish, Moody's predicts.

truth consequences

Business Interruption • Property Damage • Employee Dishonesty • BI Values • Litigation Support

Infidelity.

Is there an employee dishonesty claim in your company's future? Our specialized forensic accounting and investigative services help major corporations around the world achieve full loss recovery. Score one for the good guys. **Because we know what's on the line.**

Dempsey, Myers & Company LLP
THE PEOPLE YOU TRUST.

www.dempseymyers.com or call us at 800.762.5052

dm

Retirees to face higher costs for employer health care plans

By JERRY GEISEL

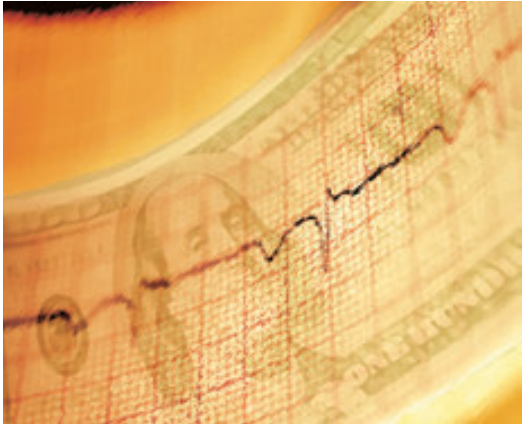
Future retirees with employer-provided health care plans will have to pick up a much larger share of costs as companies continue to cut back benefits, a study reveals.

Faced with skyrocketing costs, employers are adopting a wide range of retiree health plan designs, such as linking the percentage of health insurance premiums paid by the company to employee service and capping premium contributions at fixed amounts. Although employers now typically pay more than 50% of retiree health care costs, including premiums, that percentage could be as low as 10% by the year 2031, consultant Watson Wyatt Worldwide reports in a new study.

And many employers, according to Watson Wyatt, are taking the ul-

timate cost reduction step and eliminating the plans.

Among 56 large employers examined by Watson Wyatt, 20% have eliminated retiree health care plan coverage for new hires, and another 17% will require new hires to pay the full premium.



In addition, employers increasingly are tying the portion of the premium dollar they will pay to employees' length of service at retirement, as well as lengthening the

minimum service requirements employees must meet to qualify for retiree health care coverage.

For example, during the early 1980s, it was common for employees to qualify for retiree health care after working as few as five years. Today, only a small minority—14%—of employers have such a low eligibility threshold for their future retirees.

But steps can be taken now to preserve retiree health care coverage. For example, employers would be more likely to maintain plans if they could prefund future benefit obligations in a tax-effective way, Watson Wyatt notes.

"Employers could budget the costs rather than have to pay the costs at once," said Eric Lofgren, global director of benefits consulting in Watson Wyatt's Philadelphia office.

Copies of "Retiree Health Benefits: Time to Resuscitate?" are available at www.watsonwyatt.com/research/reports.asp. The cost is \$20.

Oxley adamant insurers should repay terror funds

By MARK A. HOFMANN

WASHINGTON—The chairman of the House Financial Services Committee says that he "cannot in good conscience approve" any terrorism insurance legislation that does not require insurers to repay any money they receive from the government to help pay future terrorism-related claims.

Rep. Michael Oxley, R-Ohio, offered that assessment during an address last Tuesday to the Center for Strategic & International Studies—a nonpartisan Washington think tank headed by former Sen. Sam Nunn.

Rep. Oxley drafted and the House approved a measure that would allow the government to lend money to insurers after a catastrophic attack, provided that they agree to repay the funds. A Senate-passed bill, however, would have the federal government share losses with insurers after an attack that caused at least \$10 billion in insured prop-

erty damage, with a lower trigger for individual insurers that sustained disproportionate losses. A conference committee has been named to craft a compromise measure, but the House and Senate conferees have yet to meet.



Rep. Oxley

Rep. Oxley also said that although he approaches tort issues related to terrorism insurance legislation in a "spirit of compromise," he "will not sign off on a bill that opens U.S. business owners and building owners" to liability suits after they've endured terrorist attacks.

"If we want to open up taxpayers' wallets after terrorist attacks, I want to make sure that the money goes to victims of terrorism, not the trial lawyers," he said. The House bill contains provisions limiting suits; the Senate's does not.

American International Group Inc. Chairman and Chief Executive Officer Maurice Greenberg was among the other speakers at last Tuesday's discussion of the impact of last year's terrorist attacks on the insurance industry.

Judge OKs studio's pursuit of punitive damages

'James Bond' bad-faith suit allowed to proceed against AIG

By JOANNE WOJCIK

LOS ANGELES—A film studio and production company can seek bad-faith and punitive damages from American International Group Inc. and a subsidiary in a long-running dispute over ownership of the James Bond film rights, a judge ruled last Tuesday.

Los Angeles Superior Court Judge

the time MGM applied for coverage from AISLIC, the studio failed to disclose knowledge of a possible claim in a copyright battle over the Bond film rights.

The judge said that MGM was not required to disclose potential claims under a verbal agreement that had been reached with the underwriter. Furthermore, the issue became moot when AISLIC issued a \$50 million blanket entertainment errors and omissions liability policy to MGM, Judge Lichtman found. Danjaq is an additional insured on the policy.

PHOTO: KRT



A dispute arising from the James Bond film "Thunderball" triggered a coverage suit by film studio Metro-Goldwyn-Mayer against AIG and one of its subsidiaries.

Peter Lichtman will allow Metro-Goldwyn-Mayer Inc. and Danjaq L.L.C., the production company on the Bond films, to seek damages from AIG and its American International Specialty Lines Insurance Co. subsidiary. AISLIC had filed a motion trying to protect its parent company from being sued directly.

The judge also said he will not permit witnesses to testify that, at

As a result of last Tuesday's ruling, MGM and Danjaq will have a deeper pocket from which to seek both bad-faith and punitive damages, said William M. Shernoff, a partner in Claremont, Calif.-based law firm Shernoff Bidart & Darras, who represents the policyholder.

AIG declined to comment on the ruling or the pending litigation.

Meanwhile, all parties to the bad-faith suit were in negotiations late last week in Los Angeles to try to

reach a pretrial settlement.

The bad-faith suit was filed after AISLIC attempted to rescind a \$50 million blanket entertainment E&O liability policy it issued to MGM in 1997 because the studio failed to disclose the "potential" of litigation over Agent 007 ownership rights. Danjaq, the production company on the Bond films, is an additional insured under MGM's policy.

Although the dispute over the Bond ownership rights dates back to 1961, when Kevin McClory collaborated with Ian Fleming on the development and plot lines and a film treatment for what would have been the first 007 film, MGM and Danjaq did not enter the fray until 1997. That year, Mr. McClory sold his ownership rights to Sony Corp., which announced publicly that it was planning on making rival Bond films.

MGM sued Sony, and Sony countersued MGM, triggering coverage under MGM's entertainment E&O policy. When the studio presented the claim to AISLIC, however, coverage was denied.

After settling with Sony in 1998, MGM went on to win its copyright battle with Mr. McClory in the 9th U.S. Circuit Court of Appeals.

American International Specialty Lines Insurance Co. vs. Metro-Goldwyn-Mayer et al., Los Angeles Superior Court; Case No. BC223707.

Terror coverage difficult to find, RIMS survey says

By MICHAEL BRADFORD

NEW YORK—Risk managers are bolstering their push for federal terrorism insurance with a survey that shows most insurance buyers can't obtain adequate coverage for the risk.

Responses from 454 member companies of the Risk & Insurance Management Society Inc. show that 65% have no terrorism coverage. In addition, 84% of the respondents said they are not confident that they are sufficiently covered in the event of another terrorist attack.

The survey was done at the request of congressional staff with whom RIMS' leadership met in July, according to Michael D. Phillipus, vp-communications and external affairs for New York-based RIMS. "There was still an issue," he said, with some

members of Congress who said they "weren't hearing a hue and cry" from businesses about coverage problems. "They said that whatever we could do to help them quantify this would be helpful."

RIMS supports a terrorism insurance bill passed by the Senate earlier this year that calls for the federal government to share the costs of a future catastrophic terrorist attack with insurers.

Mr. Phillipus, who is also manager-risk management with Pennzoil-Quaker State Co. in Houston, said the survey results "point out a continuing need for Congress to act."

The results, released last week, also showed that of the 80% of respondents who had renewed their insurance programs during 2002 more than half were un-

See RIMS/page 27



Mr. Phillipus



Shrinking workers comp capacity squeezing PEOs

By MICHAEL BRADFORD

Professional employer organizations are struggling through a workers compensation insurance crisis that has caused many of them to close or merge with competitors.

The situation is particularly acute in Florida, where a well-developed PEO market has shrunk as workers comp insurers have cut back on the amount of coverage they will pro-

vide for the organizations. PEOs in other states have been forced to merge or close as well, as evidenced by a drop in membership of the National Assn. for Professional Employer Organizations.

The association's membership has fallen from around 700 a year ago to approximately 550 today, according to Milan P. Yager, executive vp of the Alexandria, Va.-based group. Mr. Yager maintains, howev-

er, that even with the decline in membership, existing PEOs continue to grow at a significant pace, and the industry remains a viable resource for employers that need help with such products and services as insurance, risk management, payroll and human resources functions.

PEOs operate by establishing contractual relationships in which they become co-employers with their clients. As such, they are able to offer workers comp coverage and other insurance products such as health and benefit offerings and retirement plans to employees, relieving the employer of those responsibilities.

The workers comp component of the PEO service has become a troublesome ingredient for the organizations.

"It's a very, very difficult market for the PEO industry," said Andy Atsaves, vp with Cedar Hill Insurance Agency in Scottsdale, Ariz., one of the few workers comp insurance markets left for PEOs. "Without question, there is very little capacity available to the sector. That is no doubt creating a challenge for the industry. It's driving consolidation and causing certain companies that can't get coverage to go out of business."

Cedar Hill, a managing underwriter that provides PEOs with workers comp coverage written by Zurich North America, writes the coverage for more PEOs than any other single underwriter, according to Mr. Atsaves.

"The number of primary carriers that have participated in the PEO industry over past years has retrenched dramatically for a variety of reasons, including (losses), the administrative burdens required to handle a PEO and others," Mr. Atsaves said.

Industry sources point to the withdrawal of CNA Financial Corp. from the PEO workers comp market as one reason for the organizations' problems.

"What started this was CNA made an announcement in March that they were not going to cover any more PEOs and would not renew coverage," said Virginia Dorris, chief executive officer of The NELCO Cos., a Bradenton, Fla., PEO that has survived the insurance crisis. At the time, CNA had a large share of the market, she said, and the move set off a scramble for coverage in a tight market.

A spokeswoman for Chicago-based CNA Financial Corp. said last week that executives were unavailable to comment on the insurer's participation in the PEO market.

Ms. Dorris said other Florida insurers left the market or cut back on the amount of business they will write after state regulators decided to grant only a 2.7% increase in workers comp rates this year. Insurers had asked for an 8% increase.

As PEOs have struggled to obtain
See PEOs/page 6

LORD OF THE DEAL

Consolidate. Strengthen. Expand.

Lord, Bissell & Brook has been representing insurance companies for more than 90 years. With 30 lawyers dedicated to insurance-industry transactions, we're helping leading market players with innovative deals—such as **Hartford Life's** acquisition of Fortis Financial Group's individual annuity, life and mutual fund businesses; **Unitrin, Inc.'s** purchase of Kemper's personal lines business, representing \$700 million in annual written premiums, and **Hannover Re's** offshore placement of \$400 million of guaranteed subordinated step-up floating rate notes to finance its purchase of a U.S. insurance group.

www.lordbissell.com

LORD BISSELL  BROOK
BUSINESS NEEDS CHAMPIONS

PEOs: Comp cover hard to get

Continued from page 4

the coverage, Ms. Dorris said, their numbers in Florida have fallen through closures and mergers to 149 from 360 at the beginning of this year.

Mr. Atsaves said that "inadequacy of rate should not be the only reason an insurer would not participate in Florida." The state's consent-to-rate provision allows an insurer to charge more than statutory rates if the buyer agrees to the price. "It's more a function of limited capacity to underwrite these types of companies and restraints on the reinsurance market," he said, noting those factors are behind restrictions in other classes of business.

The PEO industry grew quickly in the 1990s and is "going through a significant shakeout today," Mr. Atsaves noted. Such a thinning of the ranks was inevitable, he said. "Any industry that goes through such a rapid growth phase as PEOs have gone through, and is now in a maturation phase, is going to go through a shakeout. We continue

to believe as underwriters to the industry that the shakeout will produce a healthier PEO industry in the long run."

Some believe PEOs have in many cases brought their troubles on themselves.

In Louisiana, stiff opposition from agents and some workers comp insurers eventually led to passage of legislation that put some controls on how the organizations operate in the state, according to David Bondy, chief executive officer of the Louisiana United Business Self Insurers Fund, a workers comp fund run by the Louisiana United Business Assn. in Baton Rouge.

Mr. Bondy said some PEOs in Louisiana and other parts of the country "had begun to play games" with how they calculated experience modifiers and classified employees, which meant that rates that were charged were artificially low. Insurers that wrote traditional workers comp market "saw something that would give way to problems down the road," he said.

Insurers writing coverage for PEOs in the soft market weren't too concerned with some PEOs' allegedly loose practices, Mr. Bondy said, as underwriters collected premiums and grew market share. "They would form a relationship with a PEO and not look very deeply into their operations."

When the market hardened, insurers returned to fundamental underwriting principles that called for taking a closer look at their risks, Mr. Bondy pointed out. When that happened, many PEOs didn't meet underwriting standards due to poor experience, and the pullback by insurers began.

Mr. Yager said allegations that PEOs played loose with the rules regarding experience modifiers and employee classes is "absolutely a mischaracterization" and had nothing to do with the industry's problems. While there have been isolated incidents of such practices, "those charges have never been substantiated in any market in any substantial way," he declared.

Paul Winston

Why the market is rough sailing

I have just returned from the annual Rendez-Vous de Septembre, at which the world's reinsurers gather to determine which way the wind is blowing.

After years of doldrums created by soft pricing, even the barest puff in their sails would make most reinsurers ecstatic. And this year, the winds of the hard market continue to howl. This kind of wind, however, is so strong only the most skilled sailors in the most seaworthy boats will be able to ride it out. Others may lose their course, sink, have to jettison cargo or be rescued. Already this is happening.

For insurance buyers, who are passengers on the reinsurance ships, hardening rates and shrinking coverage is not as cheering. They have little to do with their course and speed. They also suffer from seasickness, and this shift from the 1990s' placid waters has given them nausea and dread.

The rough seas in which buyers find themselves have less to do with mistakes by reinsurers' captains

and crew than by an unexpected shift in the environment. The sooner buyers appreciate the underpinnings of the marketplace, the better they will be able to deal with the rough seas.

Insurers and reinsurers, and by extension their customers, face what Insurance Information Institute economist Robert Hartwig has aptly termed "The Perfect Storm." This occurs when events combine to create a far more powerful and devastating storm than any single factor would cause. So it is with the current market.

One of the most recognized factors behind the hard market is last year's terrorist attacks. Those unprecedented losses alone would suffice to harden the market, but reinsurers and insurers are reeling from other calamities, as well:

- More routine but significant catastrophes in 2001, such as Tropical Storm Allison, Midwest hailstorms, the Toulouse petrochemical fires and the Petrobras oil rig loss. Sept. 11 made an already bad year much worse.

- Equity market turmoil. Although stocks began to decline in 2000, it was in 2001 that insurers and reinsurers realized the impact on their investments was akin to plunging down a steep road with no brakes. And European reinsurers were more exposed to equity downturns than U.S. companies.

- Economic recession. The dismal economy, paired with Federal Reserve actions, have sent interest rates down. A falling tide lowers all

ships. The same economy that hampers underwriters also weakens companies' ability to create and capitalize alternative risk financing mechanisms, such as captives.

- Immoral corporate and accounting behavior. The scandals since late last year have spawned shareholder suits and made us question what else companies might be hiding. This not only created a worsening D&O environment but also eroded the value of insurers' and reinsurers' bond holdings. It also means that some financial insurance products are less attractive because of accounting scrutiny at a time when such alternatives might be needed.

- Reserve inadequacies. For years, we knew reserves were not all they were supposed to be, as insurers and reinsurers used them to buoy weak earnings instead of match anticipated claims, but the problem is worse. That's because return assumptions have gone out the window and because of:

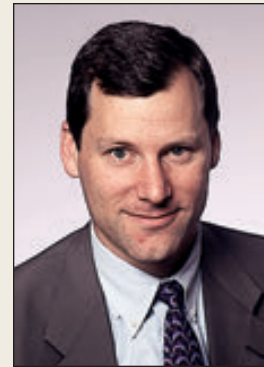
- New and expanded risks. In addition to worsening asbestos exposures and emerging mold-related losses, the industry faces a new tide of D&O claims, E&O for accountants and others and the medical malpractice environment that is driving insurers away. Consider, too, that terrorism is really a new risk.

Terrorism losses incurred to date are being picked up under policies that never really contemplated and certainly did not charge for them. Now that buyers and sellers realize the enormity of the risk, it means investment in new models for pricing the risk and allocation of capital to support such underwriting. That will take time, during which companies are left bare or with hefty bills.

- Last but not least, years of soft pricing and loose underwriting. In recent years, underwriters cut corners to win business. Buyers benefited from low pricing and more expansive coverage, but it has put insurers in a weaker position today.

For all concerned, these factors mean it will take time to get the ship back on course. It will be painful for many and some will not make it, and some will reach safety more quickly than others. Some passengers may decide they are better off going it alone, but for those that remain I hope it will help to understand which way the wind is blowing.

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



Truly Web-Based!

iVOS – A Springboard to the Future.

Introducing iVOS™, Valley Oak Systems' new, web-based claims administration software

Much more than "web-enabled" iVOS is truly web-based, which means:

- Java™-based (J2EE™ compliant)
- Ease of access through the Internet
- Stand-alone or ASP solutions
- No need for middle-ware (e.g. Citrix®)
- No need to distribute software to individual computers – only a browser is needed
- Upgrades are managed at the server level

With a superior level of flexibility, customer responsiveness and support, we can proudly boast, we've never lost a client. The iVOS web-based system is here to assure we maintain that record.

Contact us today for a demonstration.

925-552-1650

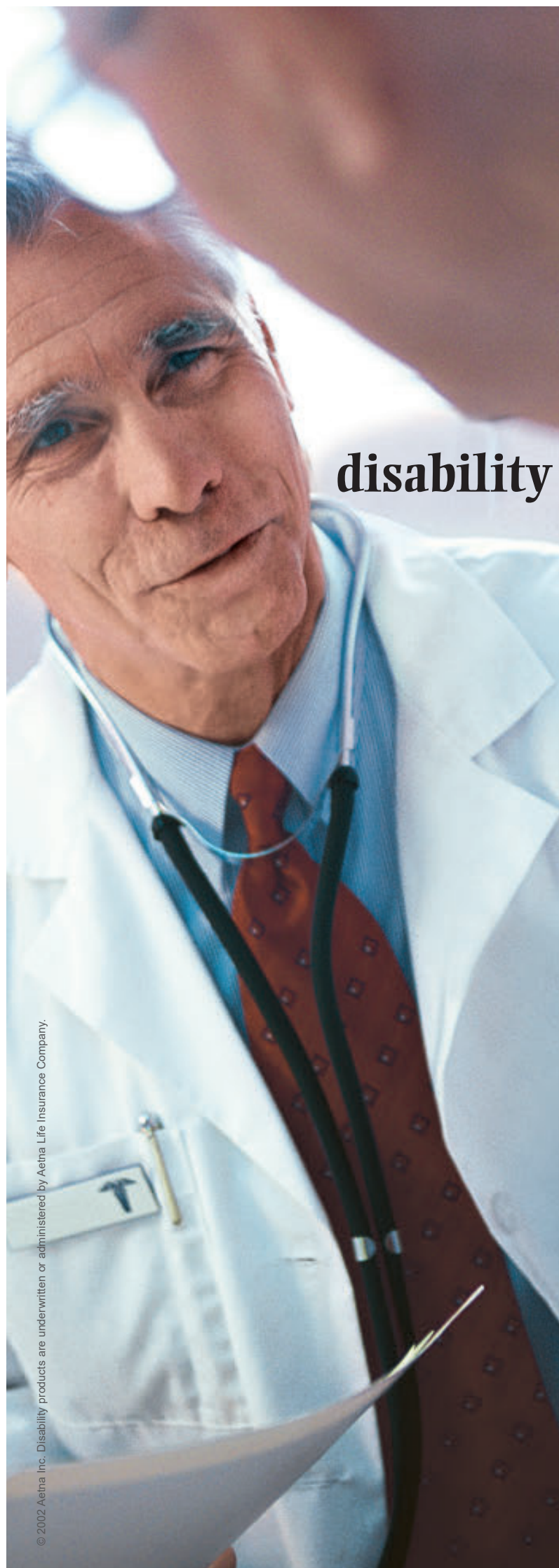
www.valleyoak.com

See us at ASHRM



Because our outstanding software is more than just a claim





© 2002 Aetna Inc. Disability products are underwritten or administered by Aetna Life Insurance Company.

Anyone can handle a

Any disability can be troublesome for both the employee and the employer. Aetna Disability Services understands, offering a more efficient way to help them return to “business as usual.” Aetna

disability claim. Only a

employs hundreds of staff physicians and disability experts to team up with doctors and your employer clients. Together, we have a proven track record at getting employees back to work faster, which translates

health expert

into greater satisfaction, not to mention savings. To learn more about Aetna’s disability plans, contact your broker. Brokers, please contact your local Aetna representative.

can handle the disability.



Turning Promise into Practice™

Health • Dental • Disability • Life • Long-Term Care

www.aetna.com

Business Insurance

Vice President/Publisher: Martin J. Ross III (New York)

Editor: Paul D. Winston (Chicago)

Editor-at-Large: Jerry Geisel (Washington)

Managing Editor: Regis J. Coccia (Chicago)

Assistant Managing Editor - Graphics: Kathy L. Barnes (Chicago)

Assistant Managing Editor - News: Gavin Souter (New York)

Senior Editors: Meg Fletcher, A.R.M. (Chicago);

Judy Greenwald (San Jose); Mark A. Hofmann

(Washington); Dave Lenckus (Tucson); Douglas

McLeod (New York); Edwin Unsworth (France);

Joanne Wojcik (Denver); Rodd Zolkos (Chicago)

Bureau Chief: Roberto Cenicerio (Los Angeles)

Associate Editors: Michael Bradford (New

Orleans); Michael Prince (New York); Sally

Roberts (Denver); Sarah Veysey (London)

Correspondents: Carolyn Aldred (England);

Gerard O'Dwyer (Finland) and Kate Tilley

(Australia)

Copy Desk Chief: Matt Scroggins (Chicago)

Copy Editors: Mary B. Nick (Chicago); Joe Walker

(Chicago)

Directory Editor: Kevin P. Edison (Chicago)

Assistant Directory Editor: Carrie A. Brittain

(Chicago)

Assistant Graphics/Online Editor:

Amy R. Kepka (Overland Park)

Executive Assistant / Reprint Manager:

Karen Brown Tucker (Chicago)

Editorial Cartoonist: Roger Schillerstrom

(Chicago)

Advertising Director: Kenneth F. Luker Jr.

(New York)

Midwest Advertising Manager: Robert L. Niesse

(Chicago)

District Managers: Chris Crain (New York); Lori

Lieberman (Los Angeles); Robert B. Murray (New

York); John L. Phillips (Chicago); Ron Kolgraf

(Boston)

Classified Advertising Manager: Irais Amleshi

(Chicago)

Assistant to the Publisher: Pat Ghazvini (New

York)

Advertising Traffic: Stephanie Cress (New York)

Production Manager: J. Thomas Janka (Chicago)

Director of Communications: Ronnie I. Drachman

(New York)

Promotion Coordinator: Barbara O'Brien (New

York)

Promotion Manager: Michael Ambrosio (New

York)

EDITORIAL: Chicago: 312-649-5200; Denver:

303-698-7601; London: 207-457-1400;

Los Angeles: 323-370-2455; New Orleans:

504-364-1908; New York: 212-210-0100;

San Jose: 408-774-1500; Tucson: 520-579-1937;

Washington: 202-662-7200

ADVERTISING: Boston: 617-292-4856;

Chicago: 312-649-5276; New York: 212-210-0133;

Los Angeles: 323-370-2456

COMMUNICATIONS: New York: 212-210-0132

SUBSCRIPTIONS: Detroit: 888-446-1422

Business Insurance is published by

Crain Communications Inc.

Chairman: Keith E. Crain

President: Rance Crain

Secretary: Merrilee Crain

Treasurer: Mary Kay Crain

Executive Vice President/Operations:

William A. Morrow

Senior Vice President/Group Publisher:

Gloria Scoby

Group Vice President/Technology, Circulation,

Manufacturing: Robert C. Adams

Corporate Director/Production & Manufacturing:

Dave Kamis

G.D. Crain Jr. Founder (1885-1973)

Mrs. G.D. Crain Jr. Chairman (1911-1996)

S.R. Bernstein Chairman-executive committee

(1907-1993)

Published weekly at 360 N. Michigan Ave., Chicago, Ill.

60601-3806; Fax: 312-280-3174; biweb@crain.com.

Offices: 711 Third Ave., New York, N.Y. 10017-5806;

Fax: 212-210-0704; 473 Fairfield Ave., Gretna, La.

70056; Fax: 504-364-1337; Suite 814, National Press

Building, Washington, D.C. 20045-1801; Fax: 202-638-

3155; 6500 Wilshire Blvd., Suite 2300, Los Angeles,

Calif. 90048-4947; Fax: 323-655-8157; 967 Bermuda

Court, Sunnyvale, Calif. 94086-6750; Fax: 408-774-

1155; New Garden House, 78 Hatton Garden, London

EC1N 8LD England; Fax: 207-457-1440; 10 Grande Rue,

Jarze 49140, France; 8157 N. Torrey Place, Tucson,

Ariz. 85743; Fax: 520-579-3476; 777 E. Speer Blvd.,

Denver, Colo. 80203-4214; Fax: 303-733-2244; 11133

W. 108th St., Overland Park, Kan. 66210; Fax: 312-280-

3174. 77 Franklin St., Suite 809, Boston, Mass. 02110-

1510; Fax: 212-210-0704 \$4 a copy and \$97 a year in

the U.S., \$130 in Canada and Mexico (includes GST). All

other countries, \$230 a year (includes expedited air

delivery). Don Mierendorf, circulation manager. Four

weeks' notice required for change of address. Send

subscription correspondence to Circulation De-

partment, *Business Insurance*, 1155 Gratiot Ave.,

Detroit, Mich. 48207-2912; Phone: 888-446-1422 or

313-446-0450; Fax: 313-446-6777. Microfilm copies

available: University Microfilms, 300 Zeeb Road, Ann

Arbor, Mich. 48103. Microfiche copies: Bell & Howell,

Micro Photo Division, Old Mansfield Road, Wooster,

Ohio 44691. Portions of the editorial content of this

issue are available for reprint or reproduction in other

media. For reprints or reprint permission: Karen

Brown Tucker, *Business Insurance*, 360 N. Michigan

Ave., Chicago, Ill. 60601-3806, 312-649-5319, Fax: 312-

Editorial

New pension funding rule needed

FOR LAWMAKERS, setting pension funding rules is a difficult balancing act.

If the requirements are too stringent, companies contribute more than is necessary, which takes away financial resources that could be used elsewhere in their organizations, such as for hiring more employees and improving their technology.

But if the requirements are too liberal, leading to significantly underfunded plans, the results can be disastrous. If an employer sponsoring an underfunded plan fails and the government terminates its pension plan, retirees may not receive all their promised benefits.

At the same time, the Pension Benefit Guaranty Corp.—the federal government's pension insurer that guarantees some but not all benefits promised to plan partici-

pants—could be overwhelmed with the financial burden of plans taken over from failed companies. And that, in turn, means the PBGC would have to seek increases in the insurance premiums it charges employers with pension plans.

Given those ramifications, Congress acted eight years ago to tighten funding rules by requiring employers to value pension liabilities using a conservative interest rate based on the yield on 30-year Treasury bonds. Such action was appropriate, given the conditions of the time—most noticeably, the worsening financial status of the PBGC.

But now, Congress has to take another look at funding rules. The chief component used to value liabilities on which contributions are based is essentially obsolete, because the government has suspend-

ed the sale of 30-year Treasury bonds, probably permanently.

But with the supply on those bonds dwindling and demand still high, yields, not surprisingly, are falling. While historically there has been a roughly one percentage point—or 100 basis point—difference in interest rates on Treasury bonds and high-quality corporate bonds, the difference recently has been about 200 basis points.

And those falling yields are forcing employers to kick in more money to their plans than they would if a different debt instrument were used to value liabilities.

Indeed, for every one percentage point decline in an interest rate assumption, pension plan liabilities, for reporting purposes, rise by 12% to 15%. That can turn an overfunded plan into an underfunded plan and require employers to accelerate

contributions to their plans.

Clearly, with the demise of the 30-year Treasury bond, a new way to value pension liabilities is needed. One new method, recommended by the ERISA Industry Committee, would use the average yield on long-term, high-quality corporate bonds (*BI*, Sept. 2).

Certainly, this proposal deserves attention from lawmakers, who need to be reminded of the necessity of action. Employers that believe they are being forced to contribute more than is needed to their pension plans for no reason other than congressional reliance on an obsolete financial instrument will have a new incentive to shed those plans. And that can hardly be in the national interest.

For that reason, Congress needs to act. And the sooner it does, the better.

Reciprocity efforts are not enough

THE NATIONAL ASSN. of Insurance Commissioners' recent certification of 35 states as being in compliance with federally mandated producer licensing reciprocity requirements comes as a welcome step toward a more efficient insurance regulatory system.

But that's all it is—a step, and a step that took far too long to accomplish. Despite calls from some farsighted commissioners for reciprocity as early as the 1870s—that's no typo, either; the calls came more than 130 years ago—it wasn't until enactment of the Gramm-Leach-Bliley Act in 1999

that a serious effort began to push for reciprocity. The act, which modernized the financial services industry, took a blunt approach—either 29 states enacted reciprocity by November 2002, or a new federally created National Assn. of Registered Agents and Brokers would come into being.

Faced with the possibility of federal control, the states scurried to act, and now six more than necessary have complied. But the victory is far from complete. Some of the largest states, including New York and Pennsylvania, aren't among those that have agreed to imple-

ment reciprocity.

To its credit, the NAIC leadership realizes that much work remains to be done, recognizing that reciprocity isn't a substitute for uniformity. Regulators have promised to push for uniform licensing requirements.

But the regulatory patchwork remains, and for buyers, that means higher costs. Incremental reforms, welcome as they are, can't change that fact. We've got a regulatory system that's had to wait until the 21st century to implement reforms—and implement them incompletely, at that—first advocated in the 19th century. How long will

it take to create a regulatory system that meets the needs of the 21st century—sometime in the 2300s?

Members of Congress of both parties have expressed impatience with the pace of state regulatory reform. It's no secret that there's considerable support for a system of optional federal chartering for insurers, a sentiment that we make no secret of sharing.

The reciprocity certification is a step in the right direction. But it must be seen simply as a step on a road to true reform. We believe that road ultimately leads to some form of federal regulation.

Schillerstrom



BI's Online Forum

Visit BI's Online Forum, which offers unmoderated discussion areas for readers to exchange ideas or information on risk management, employee benefits, insurance and other topics. The forum is located at www.businessinsurance.com/cgi-bin/boardView.pl

Letters to the editor

Business Insurance welcomes letters to the editor. The section is intended to be a forum for readers' opinions and comments.

We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Please send your letters to: Letters to the Editor, *Business Insurance*, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; fax: 312-280-3174; e-mail: pwinston@crain.com

Online Commentary

Visit the Commentary section of www.businessinsurance.com to read the latest commentaries by *Business Insurance* editorial staff members as well as contributors Dr. George L. Head and Myron Picoult.

To subscribe, call 888-446-1422, or 313-446-0450 outside the United States.
www.businessinsurance.com

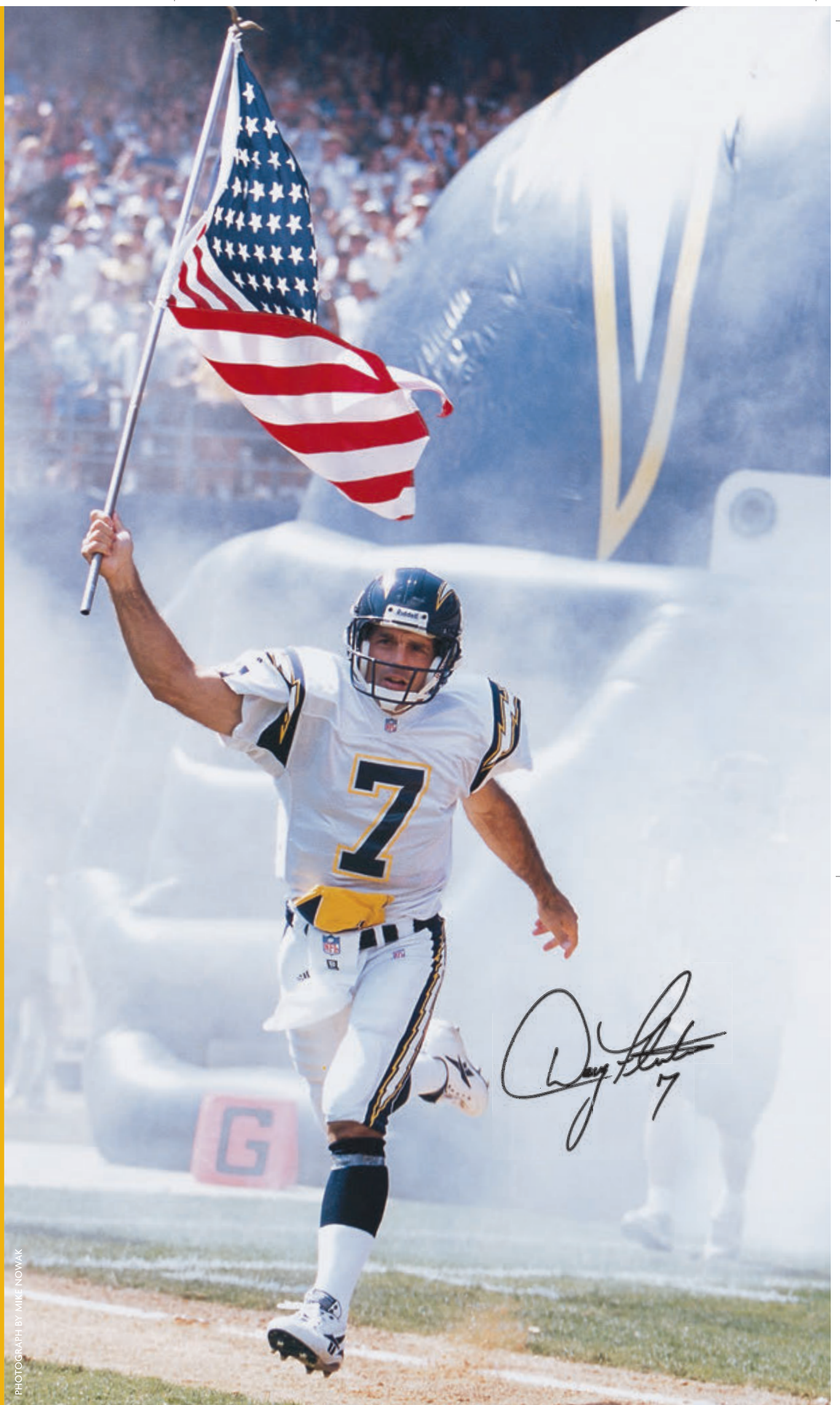
“Every challenge is an opportunity. Tackle it with courage and confidence and you can triumph over anything.”

Throughout his professional football career, Heisman Trophy winner Doug Flutie has always been an exceptional leader.

At Sun Life Financial, we share Doug's pursuit of excellence. For more than 100 years, we've been providing innovative wealth accumulation and protection products for groups and individuals. And, by going beyond the expected, we have grown into one of the largest financial services organizations in the world.

Use our strength and experience to help your clients reach their goals. Call us at 1-800-SUN-LIFE. Or, visit www.sunlife-usa.com.

Sun Life Financial is a proud supporter of The Doug Flutie, Jr. Foundation for Autism, Inc. www.dougflutiejrfoundation.org



PHOTOGRAPH BY MIKE NOWAK

Sun  Life FinancialSM

©2002 Sun Life Assurance Company of Canada, Wellesley Hills, MA 02481. All rights reserved. Sun Life Financial and the globe symbol are service marks of Sun Life Assurance Company of Canada.

Spotlight

Transportation Risks

Spotlight Editors: Roberto Cenicerros and Michael Bradford

Ports work to shore up security

But efforts need more federal help, some say

By MICHAEL BRADFORD

A year after terrorists attacked from the skies, U.S. ports are still finding their way in the effort to secure their own vast and vulnerable territory.

Most have made some improvements with help from federal funds, albeit in amounts that some in the maritime industry have called inadequate. But even as security measures have tightened, there remains a daunting challenge in protecting the nation's ports against ships that can be used as floating weapons, cargo containers packed with explosives and stowaways that ride into the United States and jump ship.

'The agencies in charge of (port) security don't have the funding or personnel to protect the maritime industry.'

*Channing Hayden
Steamship Assn. of Louisiana*

Some critics of port security are blunt: "The agencies in charge of security don't have the funding or personnel to protect the maritime industry," said Channing Hayden, president of the Steamship Assn. of Louisiana. He called the \$92.3 million that the federal government granted earlier this year to improve port security "a drop in the bucket. That has to be spread around 360 ports. You do the math."

Those in charge of port security agree that the funding is far from adequate.

"There's a \$2.2 billion need just to do the minimum" at the nation's ports, said Beth Rooney, manager of port security at the Port Authority of New York & New Jersey. She said member ports of the American Assn. of Port Authorities applied for \$700 million when the government made the \$92.3 million available, and the ports actually need at least another \$2.1 billion for security improvements.

The Port Authority of New York & New Jersey and related agencies got \$9 million of the government funds—well below what it needs, Ms. Rooney said.

In New Orleans, the \$3.6 million provided to the Port of New Orleans was "far short of what we requested," said Robert Hecker, police chief for the port's New Orleans Harbor Police.

Ms. Rooney pointed out that Congress has approved another \$105 million that U.S. ports hope to be able to apply for soon. In addition, pending federal legislation would make more funding available, she noted.

The funds that have been awarded, while well short of what is needed, are at least "a step in the right direction," said Mr. Hecker. In New Orleans, the funds are being used to erect security fences and to install mechanical gate arms at entrances to a terminal complex

See SECURITY/page 16



Marine rates increasing, but capacity is available

Hikes less severe than in most other lines

By RODD ZOLKOS

Although capacity is generally available in the marine market, prices continue to rise as underwriters work to bring them back to profitable levels.

By most accounts, the marine market isn't hard, at least in comparison with other insurance markets. And capacity is readily available for most exposures, though assembling that capacity is becoming more challenging for larger and more complex risks as some players leave the marine market or limit the amount of coverage they're willing to write.

"It's a good time to be in the market. It's better than it has been for a long, long time," said Richard DeSimone, president of Global Marine at St. Paul Fire & Marine Insurance Co. in New York.

"Rates have been going up last year and this year," said Mr. DeSimone, though he added, "I don't think they're anywhere near where they need to be in terms of overall market results."

"We've had steady increases for the past six years, but we're still not anywhere near where we need to be," Mr. DeSimone said, noting that insurer combined ratios across the marine market remain over 100%.

The hull and machinery segment of the marine market, "is currently recovering from a period of four to five years where losses were soaring," said Tore Forsmo, managing director of CEFOR, the Central Union of Marine Underwriters, in Oslo, Norway. "Not so much because of the claims situation, which has been fairly stable throughout most of the past five or six years, but because of too much capacity being offered and driving the rates down."

"Last year, we saw signs of the market hardening, even before 9/11," Mr. Forsmo said. "With reinsurance (companies) tightening their renewal conditions and, in general, leaving direct underwriters with higher retentions and exposures, this further accelerated the increase in premiums across the board."

According to Mr. Forsmo, global marine in-

See MARINE/page 12

Checking employee driving records presents challenges

page 20

Cargo theft, hijacking are driving large losses

By ROBERTO CENICERROS

Cargo thieves and truck hijackers cause billions of dollars in losses, and the problem is growing, say police, trucking-industry representatives and insurers.

The biggest concern, they say, is criminal activity around cities and ports, especially in areas such as Los Angeles, Miami, New York and New Jersey.

Hijackers in those areas frequently use inside collaborators—such as truck drivers, dockworkers and private security guards—to point out trucks carrying preferred cargo. High on their list are electronic goods, designer clothes and tobacco products.

But other crooks will steal any truck, regardless of the cargo's value, noted Mike Lopeman, vp for Itasca, Ill.-based Arthur J. Gallagher & Co.'s captive division. Then the thieves will call the company that owns the truck, demanding money, Mr. Lopeman explained. If the company doesn't quickly pay, they'll torch the rig.

"It's a shakedown," said Mr. Lopeman, a member of the insurance and risk management committee for the Alexandria, Va.-based American Trucking Assn.

Thieves often work truck stops, striking when truck drivers step away from their rigs. Others will use their cars to box in a truck stopped in traffic, then take the truck at gunpoint.

"It's a huge problem," said Joe Baker, executive director of the National Cargo Security Council. Members of the Annapolis, Md.-based association include the nation's largest retailers, commercial insurers, trucking company security directors and law enforcement agencies.

"We get reports every day of trucks being hijacked," Mr. Baker said. "It goes on all the time."

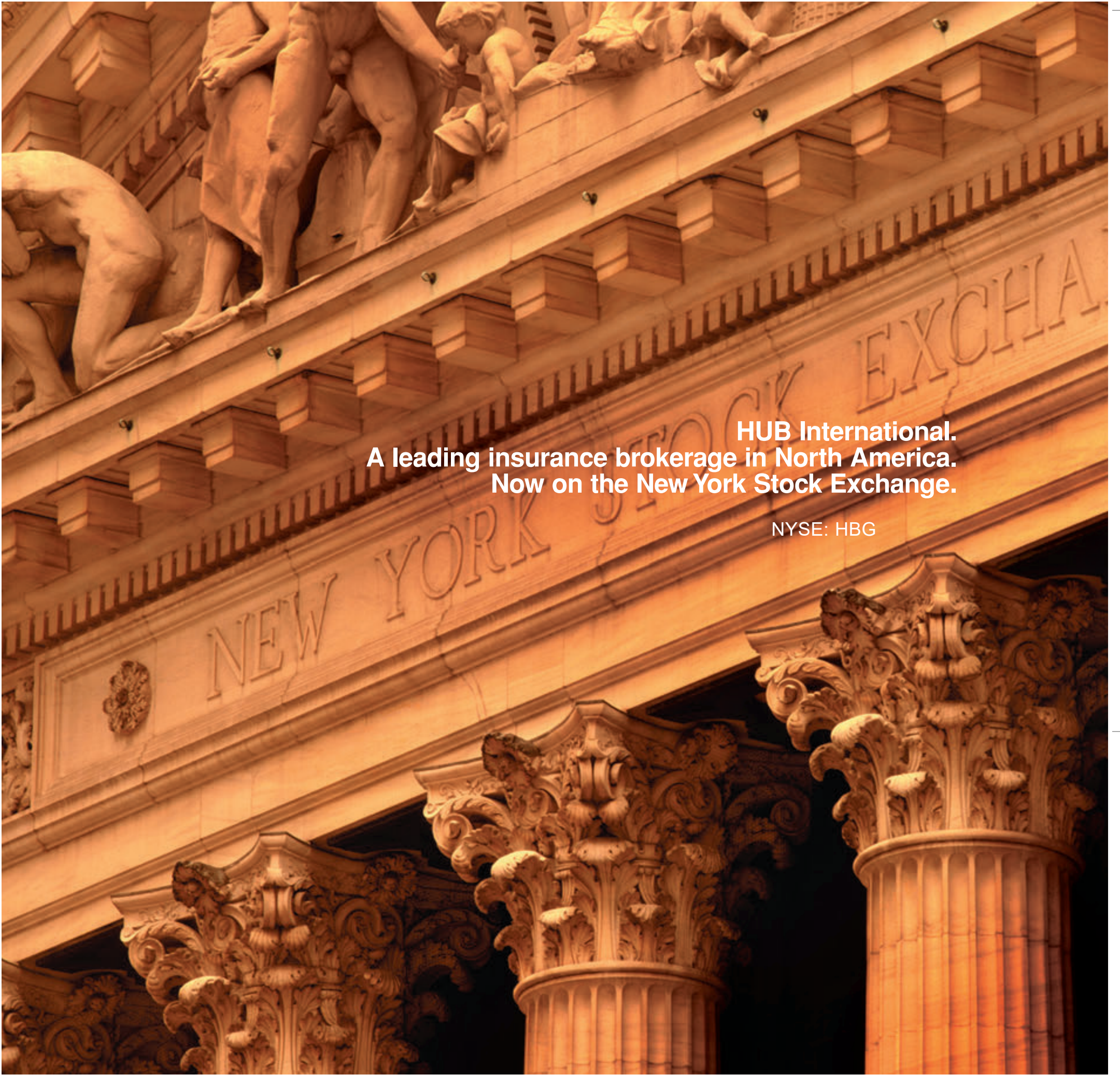
Police, insurers and trucking industry sources say the problem is growing. They believe that losses nationwide range from \$3.5 billion to \$12 billion annually. But it is impossible to determine the exact amount, they say, because losses frequently go unreported. Trucking companies fear losing business if their problems become widely known, sources explain.

The thefts and hijackings have helped make it impossible for many small trucking operations to find coverage for cargo theft in the high-crime areas.

Few insurers will write the coverage for them, and those that do typically provide little or nothing in terms of risk management or prevention services, Mr. Lopeman said.

"They look at the risk and determine there is a potential for hijacking or it is in a bad part of town, and they say, 'We won't offer them a quotation,'" Mr. Lopeman said. "They are controlling their own risk management internally by making decisions on who they want

See CARGO/page 18



HUB International.
A leading insurance brokerage in North America.
Now on the New York Stock Exchange.

NYSE: HBG

HUB International is bringing together the expertise and experience of some of the most well regarded professionals in the industry to create one of the largest and strongest insurance brokerages in North America. Focused on arranging innovative insurance solutions for middle market businesses, HUB International is now in over 90 cities in the U.S. and Canada, with more to come.

Corporate Headquarters: Chicago, IL
(312) 279-4895
www.hubinternational.com

HBG
LISTED
NYSE



Marine: Rates increasing but capacity still available

Continued from page 10

insurance premium figures to be released at this week's International Union of Marine Insurance conference in New York will show that, for hull and machinery insurance, the total premium volume dropped slightly in 2001 from 2000's level. "This is not due to rating quality but moreover as a consequence of reduced activity in many major markets, with a number of key players pulling out of marine insurance," he said.

"In general terms, the market is firming," said Guy P. Claveloux, managing director for Marsh Inc. in

New York. "The marine market is not hard. We are trending that way, sort of following the property market."

"But on the smaller to medium-sized accounts, there is still some level of competition," said Mr. Claveloux, who is in charge of the marine market in New York and the Northeast for Marsh. "It's not until you reach the more complex, larger accounts that might have some aspect of inventory in there or some aspect of complexity that they become more difficult to do."

Capacity in London, where larger and more complex marine risks

tend to be placed, "has definitely been cut back," the Marsh broker said. "And what capacity remains, prices are higher. In some cases it's warranted, and in others it's largely not."

For large marine accounts, "capacity's clearly an issue," said Richard Haverlin Jr., senior vp in the marine division of Willis North America Inc. in New York.

"We've seen it more and more in the last six to nine months, on the U.S. side at least," Mr. Haverlin said. "Their working limit, most underwriters are reluctant to offer the maximum that they could....You

really have to have a very good story to get that limit from one underwriter," the Willis marine broker said. "As a consequence, I see the possibility of more subscription policies, the U.S. market emulating the London market."

In general, though, "there seems to be enough capacity," said Robert Schauer, marine manager in the New York office of CNA Financial Corp. "Some fringe players keep falling by the wayside, but people who weren't in the marine business are getting in now and don't have to pay for past sins that others of us who have been in the business have

to pay for."

Price increases in the marine market vary by account, but in the United States, rate hikes probably average 15% to 20%, said St. Paul's Mr. DeSimone, who is the current president of IUMI. Meanwhile, reinsurance rates are probably increasing by 20% to 40%, he said, and can be "more if you have problems. It's whatever they need."

"CEFOR has estimated a rate increase for 2002 and 2003 in the order of 30% for both years," Mr. Forsmo said. "Many will argue that 30% is still too little and that larger increases are needed sooner in order to restore equilibrium in the markets."

'Some fringe players keep falling by the wayside, but people who weren't in the marine business are getting in now and don't have to pay for past sins that others of us who have been in the business have to pay for.'

Robert Schauer
CNA Financial Corp.

By the end of July, CEFOR had seen a general increase among its member hull and machinery underwriters in Norway of approximately 20%, "and we thus have good hopes that our prognosis for the year will remain unchanged," Mr. Forsmo said.

"We believe the market is recovering in a mature manner but still too slow to save the underreserved operators and poor performers globally," he said. "The capacity available is getting increasingly selective, which is high time."

Rich Decker, senior vp in ACE USA's commercial marine unit in Philadelphia, said rate increases have to be considered in terms of the Sept. 11 attacks. While Sept. 11 wasn't a specifically marine event, its effect on insurers and reinsurers has had an impact on the marine market.

Before Sept. 11, marine prices were increasing, on average, by 15%, Mr. Decker said, while after the attacks, they jumped to 20% to 25%. The acceleration was driven primarily by increased costs for coverage for storage exposures and for war, strike, riot and civil commotion coverage, and by insurers' need to pass along higher reinsurance costs to insurance buyers, he said.

"My guess is that we will settle back down to something around 10% to 15% next year," Mr. Decker said.

He emphasized, though, that "as a market, we underwrite each account individually.... Each one of our accounts merits its own price. That's absolutely true in marine insurance."

Mr. Haverlin said that the current market also is putting pressure on

See MARINE/page 14



Find the road to success *by turning risk into opportunity*

A successful insurance and risk management program is critical to your trucking company. Aon delivers specialized expertise to help trucking clients by bringing together our long-standing industry experience and innovative solutions for a vast network of risk management resources. Aon helps you maneuver through the risks that impact your business.

As the worldwide leader in integrating risk management and human resource consulting, we spot barriers, minimize them and help you capitalize on the resulting opportunities.

For more information, please contact:

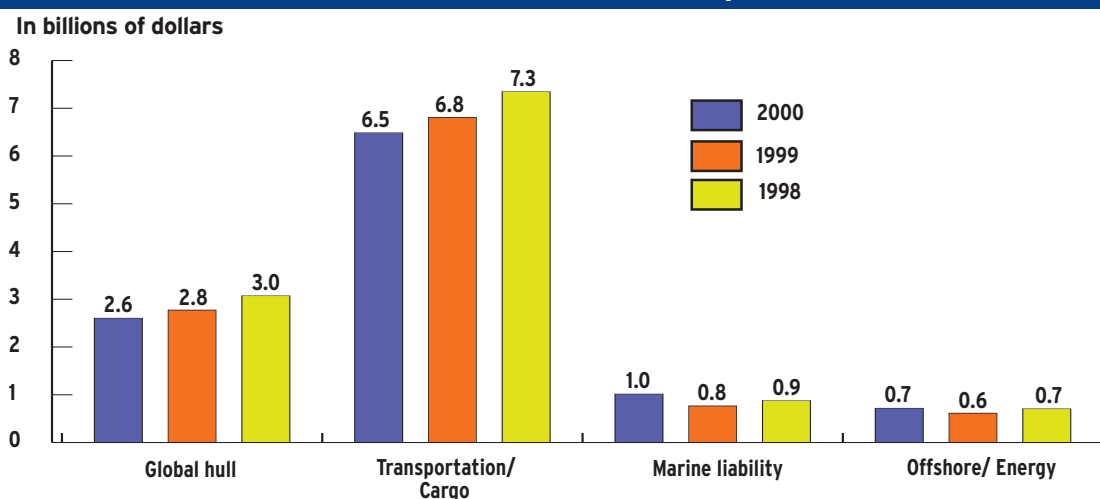
mark_brockinton@ars.aon.com
phone: 800.541.8605

bill_prester@ars.aon.com
phone: 847.330.5000

www.aon.com/trucking

Aon
Insure your vision

GLOBAL PREMIUMS REPORTED, 1998-2000



Marine: Capacity remains available

Continued from page 12

some form language. "There are certain clauses that were given in the past that really aren't anymore," he said. "You really have to negotiate why a client needs a particular clause."

In the marine reinsurance market, "first off, we're seeing a contraction of domestic capacity," said Vincent D. Liotta, managing director at intermediary Guy Carpenter & Co. Inc. in New York. Companies are writing less or are pulling out of

the market entirely, he said, due to Sept. 11 losses as well as those from other events, such as European storms.

Meanwhile, "we're seeing a more opportunistic view from the London market," Mr. Liotta said. "They've been out of the game for the past year, and now they're coming back in."

"The London market contracted about two years ago," he said. The United States "tends to follow about a year or 18 months later, so we're not surprised by what we're seeing."

As in other markets, marine insurers are focusing more on the "fundamentals of underwriting," according to Mr. DeSimone, with marine insurers also demanding increased information from policyholders.

"I believe this is one of the effects we are seeing now in a hardening market," said CEFOR's Mr. Forsmo. "A much stronger focus on risk selection and risk assessment, with deeper and more thorough analysis of individual risks and risk portfolios, with rating more according to technical, rather than commercial, considerations."

Marine insurers have several reasons for seeking added information from their buyers.

"I've heard from some of the markets that their reinsurer's price can be contingent on the information coming to them from the retail clients," Marsh's Mr. Claveloux said. "But there's no doubt that there's more focus on exposure, as opposed to just loss rating. There's no doubt that there's more emphasis now on information that, in prior years, they never would have asked for."

ACE's Mr. Decker offered a similar view. "It's my impression reinsurers have become more selective in providing their capacity to the insurers that can show that they have a sound underwriting process," he said.

CNA's Mr. Schauer said he's seeing federal anti-terrorism measures, including controls issued by the U.S. Office of Foreign Assets Control, driving some of the demand for added information.

"It's happening for us more in the cargo side," he said. "With everything that's going on in the world and OFAC sanctions, we really want to know what we're insuring."

Another impact of Sept. 11 on the marine market was an increase in the cost of war, strikes, riots and civil commotion coverage in most markets. Generally excluded in policies but available as a "buy-back," according to Mr. DeSimone, rates for that coverage went up "significantly" after Sept. 11, he said. Mr. DeSimone suggested, though, that the price increases weren't a knee-jerk reaction.

Instead, he said, "I think the fact is that we had become complacent as underwriters, and Sept. 11 reminded us that the world is a dangerous place."

CRAWFORD & COMPANY'S RISK MANAGEMENT SERVICES

STEERING

YOU

TOWARDS

LOWER

CLAIMS

COSTS

There are countless routes your company can take in finding effective ways to cut workers' comp costs. But only one route leads to the most savings. Crawford's industry vertical experts are the best trained in the industry at leading the way to significant savings. We help our transportation industry clients develop tailor-made programs aimed at reducing waste and keeping employees safe and healthy on the job.

Time and time again, our clients have consistently seen their workers' compensation claims costs reduced across the board by implementing Crawford's cost-effective programs.

For example, Crawford's superior claims services has helped one of our longtime trucking clients bring their workers' compensation claims cost to **13** percent below the industry average and reduce their number of employees on temporary and total disability by **95** percent. And, our average claims costs for our transit authority clients are five percent below the industry average, and they closed **28** percent faster.

No matter the transportation segment, Crawford's Risk Management Services will steer you in the right direction. From trucking to aviation to shipping, we know how to deliver results. For more information on Crawford's industry vertical specialists, call Michael Ramser at 800-241-2541 Ext. 23171.



AN EQUAL OPPORTUNITY EMPLOYER

September 16, 2002

INSURER TOPICS

A MONTHLY EDITORIAL SECTION SENT EXCLUSIVELY TO INSURERS AND REINSURERS

Predictive modeling assesses scam risks

By SALLY ROBERTS

Advances in technology are going a long way toward detecting the estimated \$80 billion in fraudulent insurance claims that are submitted every year.

Today's front-end fraud detection technology not only can assess the fraud risk of individual claims—so called predictive modeling—but it also enables the Insurance Services Office Inc. to provide the industry with a huge database with which to cross-reference potential bogus claims. Identification of such claims can lead to further investigation by insurers or law enforcement.

But while the technology is there, its success relies on individual insurers and their representatives. Although companies are spending more money and resources on fraud detection, including technology, they have yet to make full use of the technology available today, observers say.

"I don't see any company that has nailed the front-end fraud detection piece yet," said Patrick Ramsden, vp-insurance solutions for Magnify Inc., a Chicago-based fraud technology vendor. "As people begin to utilize predictive modeling more, it will help to improve the accuracy of fraud detection."

"The industry is still trying to determine how the technology fits in with their business models and work flow processes," said Dan Abbott, vp-information support group for the National Insurance Crime Bureau in Palos Hills, Ill.

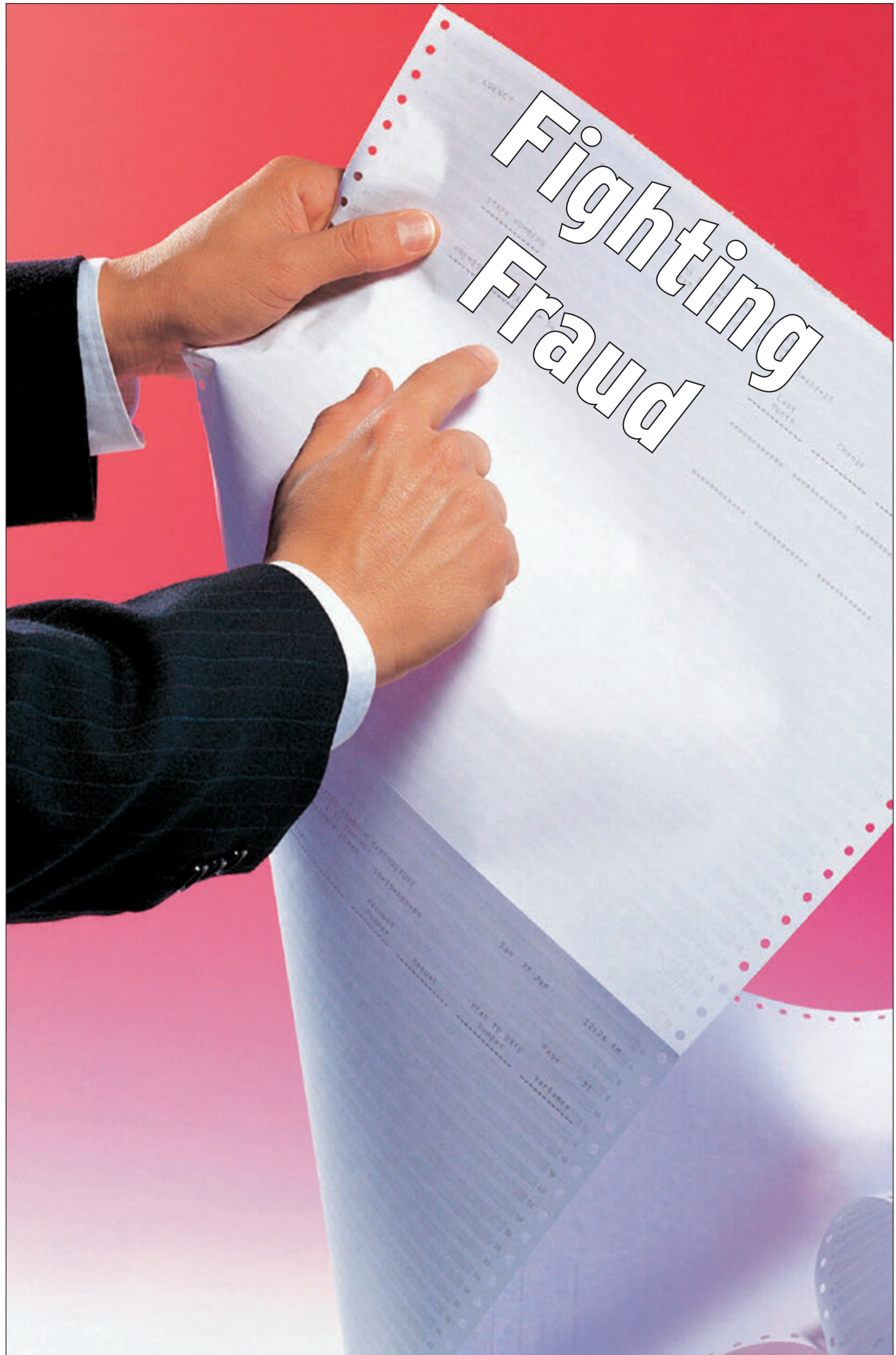
Nevertheless, insurers of all sizes consider fraud "a serious problem," and more than one-third believe that the amount of fraud has increased over the past three years, according to a survey conducted by the Insurance Research Council and ISO that was released earlier this year.

Experts point out that, although it is widely believed that fraud is on the rise, better detection systems might simply be uncovering more abuse.

"I'm seeing more cases of fraudulent claims, but I don't know if it's an indication of an overall increase or whether it's just being discovered more because of advances in technology," said Randall H. Wilson, a partner and national director of fidelity services at RGL Forensic Accountants & Consultants in St. Louis.

Technology advances every year give "insurers a bigger and more powerful database to capture more information to be able to correlate, sort through and track trends, which allows them to see what the

See DATA/next page



**Florida publicizes
Top 10 fraud cases / 14D**

**Internet program trains
fraud investigators / 14F**

**Finding first responders
in complex mold cases / 14H**

INSURER TOPICS

Data: Predictive modeling aids in assessing claim scam risks

Continued from previous page

trends are and when things don't look right," Mr. Wilson said.

Much of today's technological development is replacing the old "rules-based" system of fraud detection used within the insurance industry, experts say. Under this approach, certain patterns of fraud or schemes were identified, and if a claim followed one of the patterns, a red flag was raised. For example, if a workers compensation claim was filed on a Monday, a red flag might be raised to indicate the possibility that the injury occurred at home over the

weekend rather than at work.

The problem, experts say, is that the rules-based system is insufficient in today's more sophisticated world of insurance fraud.

The rules-based approach looks for only a certain number of the schemes that can be perpetrated, said Steve Biafore, vp-predictive health care group at technology vendor Fair, Isaac & Co. Inc. in San Diego. "There's always another way, and the people using those other ways are not being found," he said. "Until you know what those ways are—and they aren't

always self-revealing—you can't stop the problem. You need some of these breakthrough technologies."

"A bad guy, in order to perpetrate fraud, has to make up a story—a story that is going to back up a claim to be paid," Mr. Biafore continued. "That story, if it's built well and hidden well, can fly through a payment system and generate a payment that the bad guy is looking to get. That story can never be created with all the data available to the good guys today," he said.

"The good guys know everything

that everyone is doing. They look at all the injury claims, they look at all the bills submitted by providers, they look at all of the indemnity payments; they have a very complete picture of what's going on," he said. "The problem is, most insurers don't use that complete picture to their full advantage."

"It's very difficult to access all the available data, because there's a lot of it and it can be very complicated," Mr. Biafore said. "And we need to make a decision about who's risky and who's not for fraud."

This is where predictive

modeling technology can help.

Magnify, for example, began focusing on predictive modeling technology a few years ago, Mr. Ramsden said. It's really a mathematical equation, he said, with a historical sample of data run against various fraud data to find patterns. A claim is then ranked on a scale of zero to 1,000, indicating the level of fraud potential, he said.

Mr. Biafore likens predictive modeling technology to a funnel, with data put in at the large end and a good assessment of the fraud risk coming out at the smaller end.

In general, predictive modeling software can be used through an application service provider on a company's system, or vendors can take the data from individual companies and run it through their own systems.

'A bad guy, in order to perpetrate fraud, has to make up a story...that is going to back up a claim to be paid....That story can never be created with all the data available to the good guys today.'

*Steve Biafore
Fair, Isaac & Co. Inc.*

Once a fraud assessment is made, high-scoring claims can be set aside for further investigation. These claims also can be run through ISO's ClaimSearch comprehensive database.

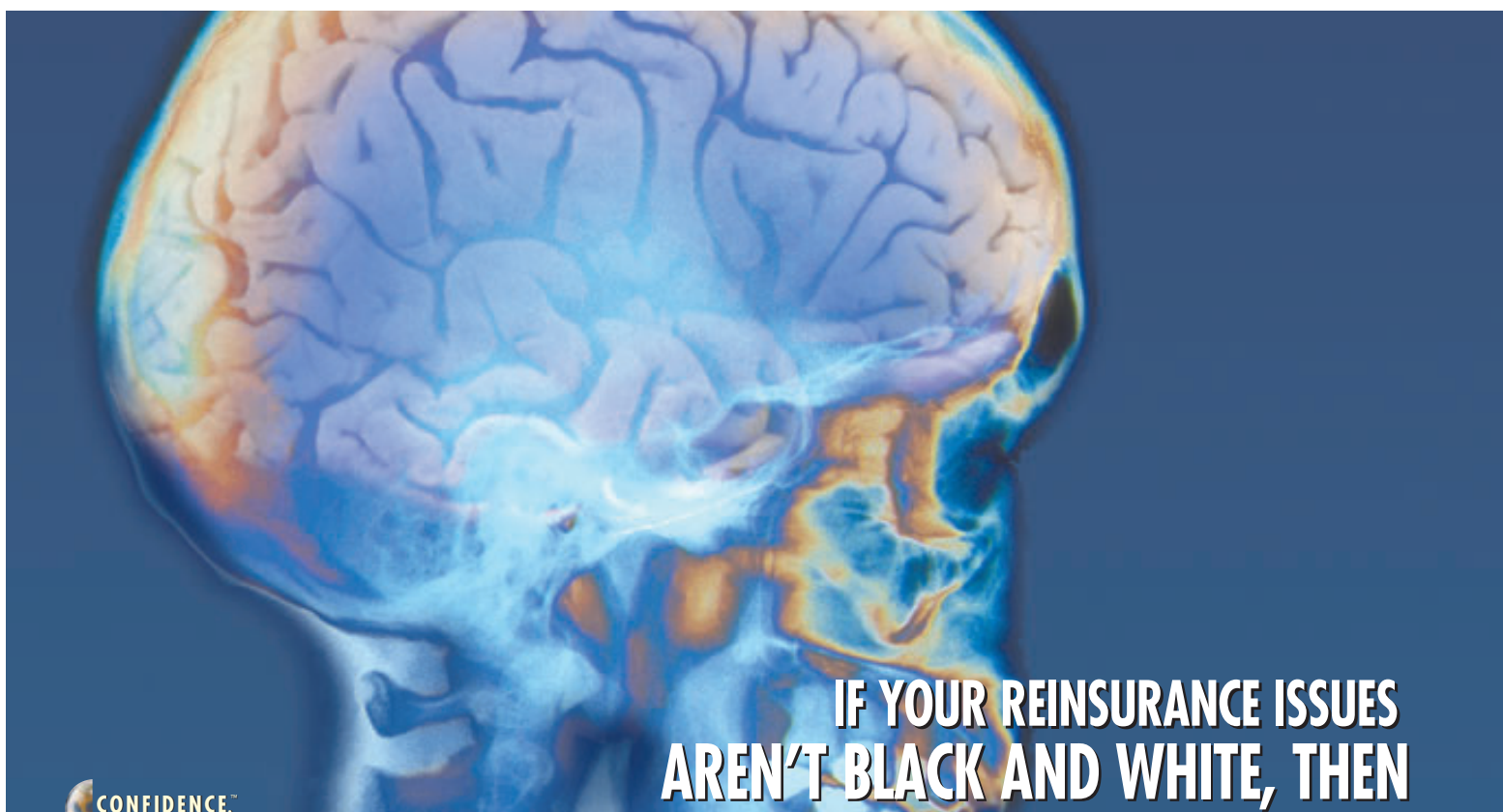
ISO's ClaimSearch system was developed three years ago from the merging of industry's leading claims databases for property, casualty and auto insurance, explained Richard Boehning, senior vp of ISO in Jersey City, N.J.

Insurers and others submit claims through their own systems or through the ISO ClaimSearch system's personal computer software. The system automatically enters the claims into the database and searches for other claims filed by the same individuals or businesses. The system searches for matches in identifying information fields, such as name, address, Social Security number, vehicle identification number, driver's license number and tax identification number. The system returns reports on any matches to the submitting insurers.

"The more information we get from companies, the better the search and data that we give back," Mr. Boehning said.

"We've seen a dramatic increase in the number of claims being sent to us," he said. Three and a half years ago, ISO ClaimSearch had received about 90 million claims; as of today, the database has 290 million claims.

The database will have 400 million to 450 million claims within two years, making it "very powerful," Mr. Boehning predicted. "I know it's going to have a dramatic effect."



**IF YOUR REINSURANCE ISSUES
AREN'T BLACK AND WHITE, THEN
GRAY MATTERS.**

Thinking without limits. Turn to ING Re when the answers to your questions are not clear. Turn to ING Re when it's time to think beyond the obvious. We have built our business on our ability to think and to do it in ways that uniquely benefit our clients. From product development and consulting to traditional and international reinsurance, we develop innovative ways to increase your business competitiveness.

Delivering the power of ING and the breadth of individual life and group life, accident and health reinsurance products, services and expertise, we'll help you develop the difference between you and your competitors. You won't find a better single source for customized and comprehensive risk management products and services – and we have the minds to prove it.

THE CONFIDENCE TO THINK WITHOUT LIMITS.

ING  Re

800.203.2559 Denver • 800.378.6965 Minneapolis • www.ing-re.com

© 2002 ING America Insurance Holdings. ING Re (USA), a core business of ING America Insurance Holdings, operates through Security Life of Denver Insurance Co. and ReliaStar Life Insurance Co., Minneapolis.



*Imagine having this kind of
security in a reinsurance company.*

As one of the leading reinsurers, we provide strength and stability in the ever-changing business environment. Combine this with our consistent A+ rating from A.M. Best, and it's no wonder our customers feel so protected.

INSURER TOPICS

Florida Insurance Department publicizes fraud cases

Annual top 10 list intended to increase consumer awareness

By **RODD ZOLKOS**

Auto insurance scams, evasion of workers compensation premiums and an illegal billing scheme were among the fraudulent activities that made the Florida Department of Insurance's 2001-2002 Top 10 Fraud List.

The department uses the annual list to draw consumers' attention to the issue of insurance fraud and to demonstrate that Florida officials are serious about fighting it.

'It's an attempt, in an interesting way, to convey to consumers the variety of schemes that are attempted against them.'

Florida Department of Insurance spokeswoman

"It's a lighthearted way to bring attention to the serious issue of fraud and its costs on society," said a spokeswoman for the Florida department.

"Clearly, it's a play off the top 10 list that David Letterman has made famous," the spokeswoman said. "It's an attempt, in an interesting way, to convey to consumers the variety of schemes that are attempted against them every year, hoping that a little bit of humor—but also the facts—will prompt people to read it."

According to the spokeswoman, the Department of Insurance has been releasing the annual list for about 10 years. The list gets good attention in the state's news media, she said.

The result, Insurance Commissioner Tom Gallagher and other Florida officials hope, is that those reading about the scams will become more aware of fraud and more inclined to report their suspicions.

The top 10 list is part of an aggressive anti-fraud effort in Florida, which also includes rewards of up to \$25,000 for information leading to convictions in complex fraud schemes.

The size of the reward is based on how crucial the information is to the case and how much money is recovered or saved by pursuing the case.

"We haven't been able to give away that jackpot yet, but we have given away several \$5,000 rewards," the spokeswoman said.

This year's top 10 list includes:

- The head of a Pennsylvania organization that is alleged to have sold phony health insurance to thousands of Floridians is facing two felony counts of communications fraud based on transactions in Palm Beach, Broward and Dade counties. The state shut down the organization last year for operating without a license, and the defunct company is now in receivership in Florida.

- Two Miami title insurance agents were arrested on charges of conspiracy to commit racketeering and grand theft related to the alleged diversion of nearly \$6 million in escrow funds. The two, both licensed title agents, face revocation of their licenses. Because some escrow funds received by the title agency from mortgage lenders were never disbursed on behalf of the borrowers, warranty deeds prepared by the title agency and

publicly recorded contained the allegedly false claim that the properties were free of all encumbrances.

- A South Florida insurance agent was charged with organized fraud for allegedly stealing retirement funds that clients intended to invest in annuities. Investigators said that the agent, instead of purchasing legitimate annuities from life insurance companies, put more than

\$100,000 of the investors' funds into a defunct Vero Beach company.

- An owner of a Miami-Dade auto insurance agency and several of his agents were charged with racketeering and conspiracy to commit racketeering for allegedly "sliding" undisclosed coverages and hidden costs to thousands of customers. Sliding occurs when an agent sells an applicant a coverage or product without the applicant's

knowledge or consent.

Investigators said agency employees were instructed to charge as many hidden costs as they could get away with, ranging from \$40 to \$200, with commissions of up to 90% paid on the hidden charges.

- A Hialeah man was sentenced to 13 years in prison for his part in a scheme that fraudulently billed more than 40 insurance companies

Continued on next page

GET ON **ISOnet**SM: THE SUPER HIGH



INSURER TOPICS

Continued from previous page

for more than \$400,000, using a network of shell corporations and rented drop boxes located throughout Dade and Broward counties. The man was found guilty of 39 counts of grand theft, 39 counts of insurance fraud, one count of organized scheme to defraud and one count of violation of probation.

Investigators said the shell corporations were used to rent drop boxes for the collection of insurance checks sent to pay bogus medical claims.

• Seven doctors, three clinic owners and six clinic workers were arrested earlier this year in a sweep of arrests stemming from

investigations of complaints from dozens of auto accident victims that their insurance companies were billed nearly \$1 million for clinic visits they did not make. The ongoing investigation has since led to the arrests of five more doctors and other clinic workers.

• The owner of a Palm Beach County roofing company was charged with fraud for allegedly classifying roofers as supply dealers on his payroll to avoid more than \$1 million in workers compensation premiums. The company's owner is accused of misclassifying his employees' duties with three different insurance companies from 1997 until this year.

• An Aventura insurance agent voluntarily surrendered his state license based on allegations that he was involved in a scheme that misled elderly customers living in central and south Florida into buying life insurance when they thought they were buying or renewing health insurance policies.

The agent agreed to permanently withdraw from Florida's insurance industry. Investigators suspect the scheme also involved former agents, whose licenses were previously revoked by the department, who allegedly paid to use the credentials of licensed agents.

• An Orlando man known to law enforcement as "The Torch" was

arrested in a sting operation after allegedly agreeing to burn a sport-utility vehicle so the owner could collect the insurance settlement. An accomplice also was arrested.

"The Torch" came under suspicion in January, after the owner of a car—reported stolen in Orlando and found partially burned in Volusia County—confessed that he had paid to dispose of the vehicle for insurance recovery purposes. Investigators then recorded "The Torch" agreeing by telephone to meet with an undercover officer posing as a vehicle owner seeking to have the vehicle destroyed for insurance purposes.

• A Pinellas Park man was

charged with fraud and grand theft for allegedly cashing his wife's disability checks for six months after her death in June 2001.

The man's wife began receiving disability checks in 1992, after she was injured while working for a fast-food chain in New York. The couple moved to Pinellas Park later that same year; biweekly checks were sent to the couple's post office box there through the end of 2001 and continued to be cashed.

In December 2001, Social Security notified the disability insurance company that the woman had died in June. A week later, the man called to ask why he hadn't received a check.

WAY FOR ISO INFORMATION

Today,
business
moves at the
speed of the Internet.
And yours should, too.
As an insurance professional,
you can now access critical
ISO information — instantly. With ISOSMnet —
ISO's Internet information source for insurance
professionals — you can enjoy improved productivity,
reduced costs, and the latest ISO information
available 24 hours a day, 7 days a week. With a personal
computer and Internet access, underwriters, claims adjusters,
agents, brokers, premium auditors, loss control representatives, and
other insurance professionals can benefit from immediate access to ISO's unparalleled
on-line resources — our Personal and Commercial Lines
Manual information, more than 9,000 personal and commercial policy
forms and endorsements, ISO circulars, address-specific
underwriting information, claims control data, and more.
And ISOSMnet offers advanced Internet technology
with user-friendly search tools, easy site navigation,
and built-in hyperlinks to help you find
related information fast. So, try ISO
on-line and start accessing a
world of valuable insurance
information. ISOSMnet —
for the way you
work.

Information. Insight. The right decision.

**Visit our newly designed website at www.iso.com
or call us at 1-800-888-4476.**



© ISO Properties, Inc., 2002. ISO is a registered trademark and ISOSMnet is a service mark of ISO Properties, Inc.



Do you like to
order in lunch?

Like the
newspaper left
at your door?



Like your dry
cleaning
dropped-off?

Like to shop by
catalog or online?



Then you're going to
love ...

BI's DAILY NEWS
delivered
straight
to your
desktop
daily!

Now the magazine that
you go to for
up-to-the-minute news
will send the news
directly to you.

BI's DAILY NEWS
is a free e-mail service
providing the latest
headlines and links to
the full articles
online at
businessinsurance.com

It's the best way to stay
informed of breaking
news in our industry.

Sign up today for
BI's DAILY NEWS!
Log on to
businessinsurance.com/
or write us at
BIweb@crain.com

It's free, it's easy, and
it's the next big thing
to come your way
from...

Business Insurance
www.businessinsurance.com



A capable partner really helps you take care of business.

THAT'S REINSURANCE.

Taking care of business gets harder and harder every day. That's why so many insurance companies depend on the protection reinsurance provides. But while reinsurance may be one of the most critical aspects of the entire commercial insurance industry – it also is one of the least understood.

To help our readers traverse the complex issues of reinsurance, *Business Insurance* is preparing a series of special reports this fall on reinsurance. The next, publishing on October 28, will feature our exclusive

and in-depth look at **Benefits Reinsurance**, covering the markets for life and health reinsurance, focusing on how pricing and terms will affect corporate benefit programs.

In addition, this issue will also extend your reach to the world's top reinsurers and reinsurance brokers with distribution to attendees of the National Association of Independent Insurers meeting in Los Angeles.

Don't work without a net. Reserve your ad space today. Contact Ken Luker at 212-210-0133 or email kluker@crain.com.

Benefits Reinsurance

Issue Date: October 28 • Ad Close: October 16

Business Insurance
www.businessinsurance.com

NEW YORK: 212.210.0133
CHICAGO: 312.649.5276

LOS ANGELES: 323.370.2456
BOSTON: 617.292.4856

Reinsurance Guru

35 Rising Stars

A Business Insurance Special Report

They're the people to watch. The best and the brightest. The leaders of tomorrow. And on October 7th, as we celebrate our 35th anniversary, *Business Insurance* will honor 35 Rising Stars in the insurance industry – the vanguard of the next generation.

BI will introduce you to up-and-coming executives – insurers, reinsurers, brokers, risk management & benefit consultants, and claims administrators – who represent some of the best brains behind the business. Meet the men and women who are making an impact and will continue to help shape the market for years to come.

Position your company as forward-thinking and schedule your ad in the only resource our industry relies on for a glimpse of the future ... *Business Insurance*. Call Ken Luker at 212.210.0133 or email at kluker@crain.com for advertising opportunities.

Issue: October 7 • Closing Date: September 25

Business Insurance www.businessinsurance

NEW YORK: 212.210.0133
CHICAGO: 312.649.5276

LOS ANGELES: 323.370.2456
BOSTON: 617.292.4856

Save this date:
October 16, 2002.
35 Rising Stars Luncheon.
The Plaza Hotel, New York City.
Watch *BI* for more details.

INSURER TOPICS

Mold claims create complex coverage questions

By Katherine E. Tammaro

When presented with complicated claims such as the wave of recent mold actions, policyholders and insurers want to know: Who's on first?

Which, if any, of the insurance policies at issue provide coverage, and in what order do they respond? Comprehending a sophisticated insurance program is a challenge in and of itself.

Many general contractors, through risk managers or brokers, establish elaborate systems of insurance: general liability policies

for each year of a given construction project, pollution liability policies, professional liability policies and builders risk policies. Where appropriate, a surety bond is in place. In addition, the general contractor ensures that he or she has been listed as an additional insured on policies issued to each subcontractor and supplier for the length of that subcontractor or supplier's

involvement with the project.

Businesses in many fields maintain similarly complicated insurance programs, including various kinds of business interruption and first-party property policies. Although each policy would not provide coverage for all possible losses, it is possible that more than one type of policy might provide coverage for a single loss.

IT Perspective

Mold claims

Suppose that, at some point during or after the construction of a home, school, hospital or office building, various defects in the construction of the building are identified and the development of mold is discovered. The owner cannot use the building for its intended purpose and claims to be losing money every day.

The owner then demands an investigation into and remediation of the mold and the repair of the various construction defects. Perhaps a lawsuit is filed by the owner against the general contractor. Is the claim covered?

Such questions, like any other insurance interpretation question, would be governed by individual state law. Thus, there is no one definitive answer.

The first question is, which of the various insurance policies are triggered to respond? If more than one policy or one type of policy is triggered, in which order do they respond?

CGL policies: First source?

If the project is complete, the first place to look is the general contractor's own commercial general liability policies. The policies generally provide coverage for bodily injury, property damage, personal injury and advertising injury—as those terms are defined in the policy—during the policy period. Such policies, though, contain a variety of exclusions for builder's risk and pollution.

To date, no state court or federal court applying state law has addressed the issue of whether mold constitutes a pollutant as defined in CGL policies. In more than half of the states, though, a strong argument can be made that CGL pollution exclusions preclude coverage for mold damage. In those cases, the CGL policies would not be available to respond.

If the CGL policies are available, the general contractor and its CGL insurers can tap into the policies of the general contractor's suppliers and subcontractors to which the general contractor has been added as an additional insured. The scope of coverage under these policies would be governed by the additional-insured language contained in the policies. Generally, CGL policies provide that they apply on a primary basis, unless certain specific circumstances exist.

Quite often, a general contractor's own CGL policies will contain an "other insurance" clause providing that these policies apply in an *excess* capacity over any CGL policy to which the general contractor has been added as an additional insured.

In such a case, the suppliers' and subcontractors' insurance policies provide primary coverage—including the defense—while the general contractor's own CGL insurance policies respond as excess and are not activated until the additional-insured policies have

paid out their limits.

In the absence of such excess insurance language, all of the CGL policies would respond equally, on a primary basis, to the claim.

Pollution liability and "other insurance"

Many general contractors are also obtaining pollution legal liability policies. Not limited to standard ISO forms, the coverage provisions and the definitions of terms such as "pollution" and "pollution conditions" vary from policy to policy. Most of such policies include coverage for mold exposures, investigations and cleanup, though.

In those states where the pollution exclusions of the CGL policies do not apply and there is the potential for coverage for mold claims under each policy, which responds first? Again, that determination depends on the "other insurance" clauses in the policies.

While CGL policies generally provide that they apply on a primary basis, pollution legal liability policies usually apply in an excess capacity when other insurance is available. On the basis of the language alone, the CGL policies would apply first, and the pollution policy would apply only after the exhaustion of the limits of all applicable CGL policies.

Each state's law differs, though, on its interpretation and application of "other insurance" clauses. Some states follow a policy-intent rule, which calls for making a determination as to which of the triggered policies is closest to the risk, and then holding that policy primarily responsible.

Some states frown upon excess clauses and do not give them effect. In such a case, all CGL policies and the pollution policy would respond equally on a primary basis, sharing the defense and indemnity of the claim.

Likewise, professional liability policies—which provide coverage for damages arising from errors, acts or omissions of the general contractor's professional services, such as design, supervision and investigation—might come into effect. To the extent that these policies potentially cover the same losses as the other policies, the "other insurance" clauses and applicable state law control the order and extent of the response required. The same is true for any first-party, builders risk or business risk policies implicated.

Knowing "who's on first" streamlines the response to these time-sensitive matters. Both insurers and their policyholders need to know that they are not necessarily alone in the face of mold claims.

Katherine E. Tammaro is a partner in the Chicago office of the law firm of Tressler, Soderstrom, Maloney & Priess, specializing in complex insurance coverage litigation.

JOIN US FOR THE 12th

November 18-20, 2002 ~ Registry Resort, Naples, Florida

WORLD CAPTIVE FORUM

Produced by: Business Insurance, Tillinghast-Towers Perrin, Quest Insurance Solutions Limited

Conference Agenda

MONDAY, NOVEMBER 18, 2002

- 8 AM - 1:30 PM \$10K Golf Tournament and Box Lunch
3:00 PM - 5:00 PM Opening Workshops
Track 1: *Captive Basics: The Latest Developments*
Track 2: *Employee Benefits in Captives: The Opportunities and the Realities*
Track 3: *Investments for Captives - the Lows and the Highs, from the Ground up to the Stratosphere*
5 PM - 5:45 PM Interactive Special Topics Workshop
Featuring a discussion on the extension of the Federal Risk Retention Act
6 PM - 8 PM Welcome Reception with Exhibitors

TUESDAY, NOVEMBER 19, 2002

- 8 AM - 9 AM Breakfast in the Exhibit Hall
9 AM - 10:30 AM Keynote Address
David Mair, Immediate Past President of RIMS
and **Susan Rivera**, President, ACE INA Holdings, Inc.
Cyber Café Beverage Break in the Exhibit Hall
10:30 AM - 11 AM Breakout Sessions
Track 1: *Cell Captives and Rent-a-Captives*
Track 2: *Reinsurance Networks and Strategies: The Latest Developments*
12:15 PM - 1:45 PM Buffet Luncheon featuring speaker **Kathryn Westover**
1:45 PM - 3:00 PM Breakout Sessions:
Track 1: *Cell Financing Strategies*
Track 2: *Fronting*
3 PM - 6 PM Networking Poolside Break
7 PM - 10 PM Cocktail Reception, Dinner and Entertainment

WEDNESDAY, NOVEMBER 20, 2002

- 7:30 AM - 9 AM Domicile InfoBreakfast
Network with domicile representatives at informational breakout sessions scheduled during breakfast
9 AM - 10:30 AM Captive Case Studies
This year features a representative from a large international energy company, an association executive from a consumer-based captive in California, and a small association captive representative.
10:30 AM - 11 AM Beverage Break in Exhibit Hall
11 AM - 12:30 PM Tax Developments
12:30 PM - 1:30 PM Prize Drawing, Box Lunch and Conference Round Up

To register, call the World Captive Forum Office at (952) 928-4659 or register on-line at www.captive.com/CaptiveForum

Contact the Registry Resort Directly to make your hotel reservations at (941) 597-3232 or Toll Free at (800) 247-9810 www.registryhotels.com

12th World Captive Forum Sponsors

A.M. Best Company
Barbados Investment & Development Corp.
Brown Brothers Harriman & Co.
Captive.com
Old Republic Risk Management, Inc.
Riordan, Dashiell & Donnelly, Ltd.
Risk Enterprise Management Limited
State of Vermont
Watson Wyatt Insurance & Financial Services, Inc.

Put yourself right where your customers will find you.

Think about it. If you want to move your products or services in the marketplace, they have to be where your customers can find them.

And for the commercial insurance industry, that place is *Business Insurance's* **2002/2003 Market SourceBook**.

In convenient magazine-size format, *BI's* new Market SourceBook has eight tabbed sections containing a total of 24 directories – covering the categories of Agents & Brokers, Alternative Risk Financing, Benefit & Claims Services, Insurers & Reinsurers, Risk Management Services, Technology Providers and Work/Life Services. And our compilation of exclusive charts and rankings makes this the ultimate resource your prospects will turn to, again and again, when they are ready to make a purchase.

So think about the marketplace. Think about your brand. And don't get lost in the crowd.

Call today to place your ad in *BI's* 2002/2003 Market SourceBook. Contact Ken Luker at 212-210-0133 or email kluker@crain.com to reserve space.

Issue Date: December 30
Ad Close: November 11



Business Insurance www.businessinsurance.com

NEW YORK: 212.210.0133

CHICAGO: 312.649.5276

LOS ANGELES: 323.370.2456

BOSTON: 617.292.4856

DO YOUR EMPLOYEES POSSESS BODIES, TEETH AND BRAINS?

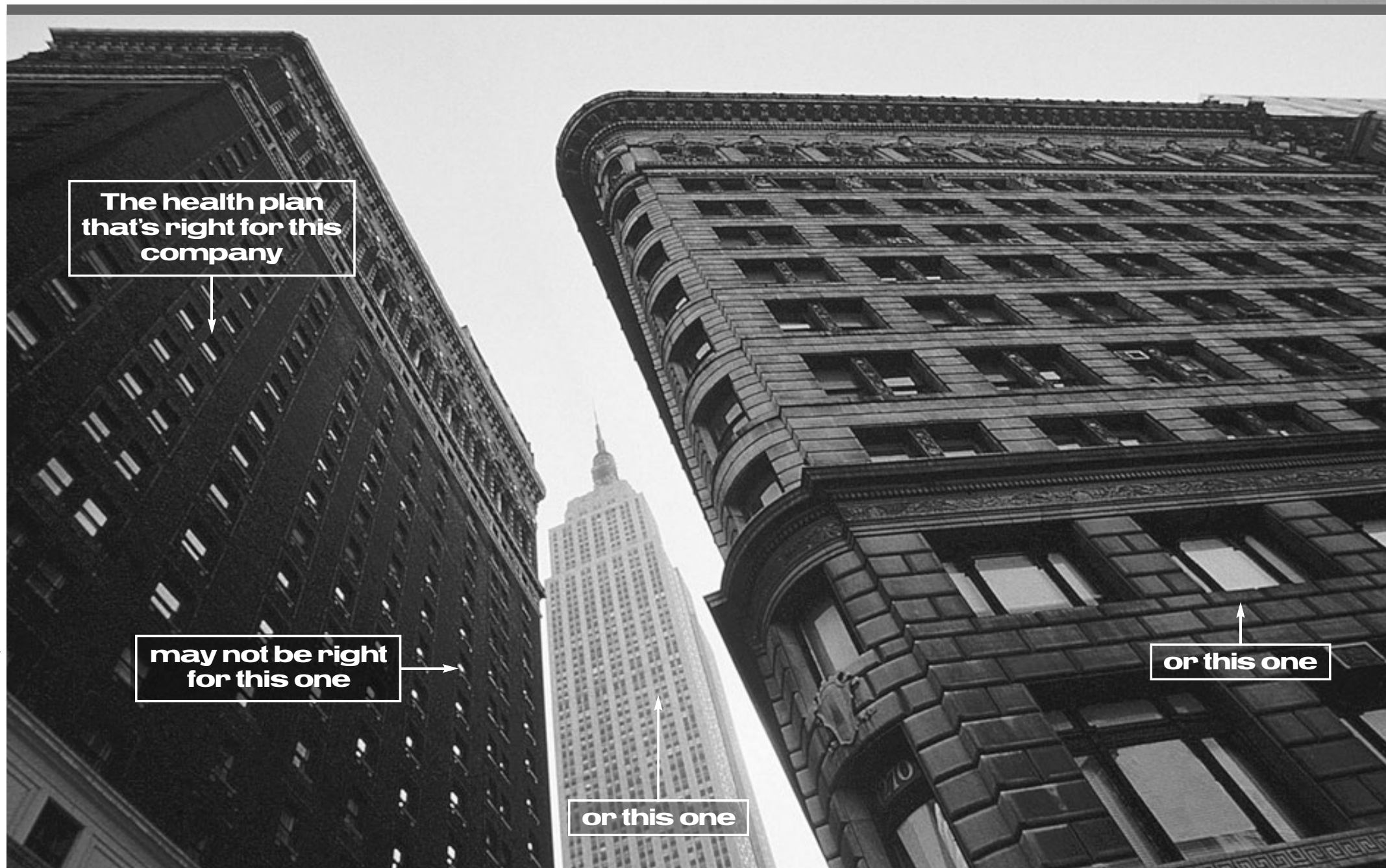
IF SO, PLEASE CONSIDER OUR LINE OF FINE PRODUCTS.

Health · Dental · Behavioral Health · EAP · Pharmacy · Life

Quite literally, Blue Cross of California can help you protect your employees from head to toe. More than just health care coverage, Blue Cross extends its strength and 65 years of experience to a host of other human needs as well. Our specialty products cover everything from Dental, Pharmacy and Behavioral Health, to EAPs and FSAs. Even Life Insurance. To learn more about our full line of products, use your fingers, eyes and brain and visit www.bluecrossca.com.



The Power of Blue.™



**Businesses come in all shapes and sizes.
Fortunately, so do our health plans.**

Oxford has developed a wide range of solutions for your business. These new products are affordable, flexible, and continue to offer access to top physicians and top hospitals, as well as to innovative programs and benefits. Call your broker to find out how these new plans will meet your company's needs, or call Oxford directly at 1-888-201-4237.



Security: Ports boost protection efforts after attacks

Continued from page 10
where cargo is offloaded at the Mississippi River. Access cards are being issued to everyone with authority to enter the complex.

Mr. Hecker said the New Orleans port “has a distinct advantage over many others in that we have a designated police force assigned to the port. All we needed to do after Sept. 11 was tweak it a little bit.” That meant, among other changes, redeploying some officers from desk jobs to the field, posting officers on fire boats in the Mississippi River

and increasing the presence of officers at the cruise ship terminals, he said.

In addition, three officers on the force have received anti-terrorism training from a federal training center in Georgia, Mr. Hecker said.

The Port Authority of New York & New Jersey is using \$4 million of its grant to shore up security at cargo operations, while the remainder is being used for security upgrades at passenger facilities, such as ferry operations.

Since the Sept. 11 terrorist at-

tacks, the port authority has almost doubled the number of security officers that guard port facilities, and it has made a number of procedural changes, such as coordinating with emergency response agencies that can provide equipment and personnel in the event of another terrorist threat.

“We are definitely moving in the right direction,” said Ms. Rooney. “Do we still need to do more? Absolutely.”

Increased vigilance against terrorism has also helped reduce crime

overall at the Port Authority of New York & New Jersey. The authority, which also operates bridges, tunnels, trains and airports, saw crime fall 40% at its facilities during the first four months of 2002.

Like the ports, businesses that operate at the nation’s waterways have had to make security changes as well.

“We have improved facility security in a way to guarantee fleet crew member safety,” said Ellen Vinck, vp of risk management at U.S. Marine Repair Inc., a waterfront defense contractor in San Diego. Both U.S. Navy crew members and employees of U.S. Marine Repair work on Navy vessels at the facility.

Vehicles can no longer drive directly toward ships from the front gate of the repair facility: Concrete barricades forming a sort of obstacle course prevent vehicles from gathering speed when approaching the vessels. In addition, although badges were required for those entering the facility before the terrorist attacks, “the emphasis has been heightened” on making sure the badges are checked and photo identification is verified, Ms. Vinck said.

Among other changes at U.S. Marine repair are the posting of additional guards at gates and increased patrols throughout the site. There also is an increased awareness and

vigilance regarding potential threats from the water, Ms. Vinck said.

But not all marine facilities are as vigilant, some observers suggest.

Barry Tarnef, transportation loss control specialist with Chubb Corp. in Philadelphia, said he encountered no difficulty entering a marine terminal recently when he drove up and simply announced that he was there to see someone.

Mr. Tarnef said procedural improvements are just as important as physical changes made to boost security. “You can have fences, limited access, lighting” and other physical roadblocks to terrorism, but big gaps can remain if procedural controls are not up to snuff, he said. “I think procedural security is more important.”

“You’ve got to have someone knowing how things operate when things aren’t right,” Mr. Tarnef said, as well as personnel trained in matters such as checking paperwork on cargo and crews. “If I had to choose between Fort Knox with poor procedural controls or a facility buttoned up on the procedural side, I would take the latter.”

Importers and others are getting some help from federal initiatives that are aimed at minimizing the terrorist threat from the water.

The ports of Seattle and Tacoma, **See SECURITY/page 18**

PORT SECURITY GRANTS AFTER 9/11 ATTACKS		
Ten largest 2001/2002 federal security grants to port jurisdictions		
Port	Grant amount	Location
Broward County Board of County Commissioners	\$6,844,800	Fort Lauderdale, Fla.
Miami-Dade County	6,370,801	Miami
Virginia Port Authority	5,293,140	Norfolk, Va.
Port of Oakland	4,867,071	Oakland, Calif.
Port of Seattle	4,769,724	Seattle/Tacoma, Wash.
Harbor Department of the City of Long Beach	4,335,000	Long Beach, Calif.
Port Authority of New York & New Jersey	4,068,800	New York/New Jersey
Board of Commissioners of the Port of New Orleans	3,684,450	New Orleans
Tampa Port Authority	3,500,000	Tampa, Fla.
Maryland Port Administration	3,264,000	Baltimore, Md.
Source: U.S. Department of Transportation		

Assurex UBterbatuibak
5 column x 7"

Casualty insurance can either open doors or close doors in your financial strategy. Which is yours doing?

By freeing your collateral, our Exposure Buyback Program allows you to manage your balance sheet while still managing risk. Its innovative virtual captive structure provides unprecedented flexibility in up-front collateral investment, freeing capital to pursue other objectives. It's the product of more than 40 years of experience developing off-shore funding vehicles to serve the unique needs of large customers around the globe.



INSURANCE IN TOUCH WITH BUSINESS



Risk Management

For more information, visit www.cna.com
CNA is a service mark and trade name of CNA Financial Corporation. Copyright 2001-2002. All rights reserved.

Security: Grants to fight terrorism

Continued from page 16

Wash., this summer began participating in the Transportation Security Administration's Secure Maritime Asian Routes for Trade program, an effort aimed at ensuring that cargo containers are safe.

The initiative was begun as a way

If a terrorist cargo is loaded on a container, it's either very difficult to uncover or too late to find once it reaches the United States.

*Barry Tarnef
Chubb Corp.*

to track containers and ensure they haven't been tampered with en route to their destination, explained Jeff Hollingsworth, risk manager for the Port of Seattle. "The Port of Seattle and the Port of Tacoma were the first to look at this system."

Under the SMART program, participants are testing technologies to track containers and ensure they were properly sealed at the port of origin and remained so during the voyage. The project requires coordination between steamship lines, intermodal carriers, manufacturers and others in the distribution chain.

The U.S. Customs Service earlier this year introduced its own program, called Customs-Trade Partnership Against Terrorism, which

requires importers, brokers, freight forwarders and others to take steps to make sure cargo is safe throughout the distribution chain. In exchange, members of the program are able to clear customs more quickly than nonmembers, as well as receiving other benefits.

Under the initiative, importers conduct a comprehensive assessment of supply-chain security and implement a program to enhance security throughout the chain. Once the Customs Service determines a company is compliant, it becomes eligible for "fast lane" customs processing, which means fewer inspections and the ability to self-police in some areas rather than submit to customs procedures.

Mr. Hayden said that, despite a critical shortage of trained personnel to guard the waterfronts, he supports government agencies' efforts to spot problems before they reach U.S. shores. "One of the things the experts say is that we have to move the borders out. That's what these programs tend to do."

Mr. Tarnef of Chubb agreed. "What's happening makes a lot of sense," he said. "Going to the source is really the key."

Otherwise, container examinations in the United States will be costly, time consuming and less effective, Mr. Tarnef noted. If terrorist cargo is loaded on a container, he pointed out, it's either very difficult to uncover or too late to find once it reaches the United States.

Cargo: Targeting hijackers

Continued from page 10

and who they don't want."

Northland Insurance Co., a unit of Travelers Property Casualty Corp., avoids underwriting high-risk cargo such as cigarettes, electronic goods and jeans, said Frank Netcoh, senior vp for Hartford, Conn.-based Northland.

Northland does write coverage for the high-incidence port areas. Because of its pricing for those locations, though, it attracts few buyers.

Consequently, the hijacking of trucks accounts for only 2.5% to 3% of the total cargo loss occurrences insured by Northland, Mr. Netcoh said. Most of the trucking operations insured by Northland own, on average, fewer than 10 trucks.

Small companies of that size usually lack the sophisticated resources necessary to deter hijackings and other types of cargo theft, observers say. Large trucking companies, by contrast, can employ security teams composed of former FBI agents and other former law enforcement officials.

The larger companies can also afford to equip and operate tracking facilities that resemble National Aeronautics and Space Administration control rooms. From such facilities, the security teams can use the Global Positioning System and other electronic communication equipment to direct their drivers and monitor the location and operations of their trucks as they move from place to place. The teams can quickly respond when their trucks make unusual stops or take unusual routes.

Such trucking companies may also have risk management departments that oversee their insurance purchasing. But often the task of theft deterrence falls to security departments.

Mr. Baker said that though insurers are involved with the National Cargo Security Council, most of the council's trucking-industry members are security directors. "We should have a lot of (risk managers), but we have never gone out and solicited them," he said.

Ron Chipman, executive vp-risk management for Watkins Motor Lines Inc. in Lakeland, Fla., is vice chair of an American Trucking Assn. insurance task force. The task force's current focus, he said, is on the high cost of coverage, which he said is driven by tort concerns such as large jury awards.

Shippers, for their part, limit their losses by contracting with cargo carriers that have the sophisticated security measures. They also insist that the carriers assume the financial responsibility for any losses.

Measures taken by insurers include supporting law enforcement units that focus on cargo thefts.

Novato, Calif.-based Fireman's Fund McGee Marine Underwriters,

for example, has led a recent high-publicity effort to find alternative local government funding for a Los Angeles County Sheriff's Department unit known as Cargo CATs, which stands for Cargo Criminal Apprehension Team.

The sheriff's department created the team in 1990. Insurance industry sources say that were it not for the work of CATs, recovering stolen goods and deterring further losses, they would have to increase rates and impose more restrictions for clients operating in the vicinity of the Los Angeles Port.

"Everything that gets recovered means a shipment our customers are not charged with, in terms of it going into their loss experience, and it doesn't go in our rates," said Doug Martin, Fireman's Fund vp and counsel for government affairs.

But recent county budget cuts have put pressure on the sheriff's department to shut down the unit. So Mr. Martin has been soliciting assistance from other local government officials in Southern California to help keep Cargo CATs operating.

"They do such a good job creating the sentinel effect," Mr. Martin said.

Trucking security standards sought

By ROBERTO CENICEROS

When Sept. 11 forced a widespread re-evaluation of security concerns, discussions within the trucking industry turned to the potential for terrorists to steal tanker trucks hauling hazardous or volatile materials.

"It wasn't really on anybody's consciousness before Sept 11," said Michael J. Hill, president of Freberg Environmental Insurance, a Denver-based managing general agent. "Now everybody who does this business is very aware of that issue."

To minimize the newly realized risk of terrorists hijacking trucks loaded with volatile materials, several trucking-industry participants have begun developing loss mitigation strategies.

Shortly after Sept. 11, for example, about 50 companies that provide high-tech tracking and communication systems and services for freight trucks formed the Freight Transportation Security Consortium.

Among other measures, the New York-based FTSC seeks to establish industrywide standards for security-related devices and services that permit the monitoring of in-transit hazardous and high-risk materials.

Carriers hauling hazardous materials already face an extremely difficult time finding insurance coverage, acknowledged Drew Robertson, the FTSC's director.

If just one truck is used in a terrorism event in the United States, it will hurt the entire trucking industry, because insurers will be even

more shy about providing coverage, Mr. Robertson said.

"You need a complementary risk mitigation program that covers the entire industry, and that is what we are proposing," Mr. Robertson said. "You can't just protect a fraction of the industry; you have to protect the entire industry."

Freberg Insurance's post-Sept. 11 response includes a 60-page spiral-bound handbook for hazardous material transporters, "Recognizing & Managing Carrier Security." The manual, which addresses security concerns, also comes on a CD-ROM that is included with the handbook.

The handbook and CD provide advice on topics such as establishing relations with law enforcement authorities; developing security policies; investigating suspicious threats; and conducting pre-employment screening, a task that several trucking industry observers identify as crucial in reducing cargo thefts.

Mr. Hill explained that Freberg's underwriters work with its clients to ensure that they develop security programs; the handbook helps with those efforts, he said. His company provides a hazardous materials and waste insurance program for trucking operations with two to 100 power units.

New York-based Gulf Insurance Co., which provides coverage underwritten by Freberg, does not exclude acts of terrorism, Mr. Hill said. "That is how we decided to handle the risk," he said, referring to the handbook and underwriters' work with clients.



This company isn't what it used to be. And it'll be something else tomorrow.

Visit us online at www.firemansfund.com/careers to learn more about Fireman's Fund Insurance Company and to register your profile with our Career Navigator tool. Our easy to use and confidential tool allows you to manage the information that you receive from Fireman's Fund. Whether you are interested in receiving up to the minute company news, industry e-newsletters or even have jobs that match your profile sent to you, the Career Navigator tool puts you in charge.

Fireman's Fund has 138 years of experience in the insurance industry. And we owe it all to being able to adapt. Just like we're doing now.

Today, thanks to continued support from Allianz AG, our global parent, Fireman's Fund is undergoing substantial transformation because we know that times, like markets, change. Our commitment to sound actuarial practices will ensure we achieve our goals both strategically and financially. Your work as an Actuary will help set the tone for creating financial viability across all of our businesses.

A new atmosphere of increased engagement, responsibility and accountability is spreading around our company, giving our Actuaries a greater sense of challenge – in an environment which encourages professional achievement. It's all part of our commitment to provide our Actuaries with continued development opportunities.

When you add your skills and expertise to Fireman's Fund, you will join the financial conscience of a company committed to profitability. Learn more about our vision for the future – a vision that will make ours the envy of other companies in the industry.

Employees enjoy innovative benefits including professional development opportunities, paid leave accounts, a matching 401(k) program and retirement benefits. Fireman's Fund is an Equal Opportunity Employer, M/F/D/V.



www.firemansfund.com/careers

Products & Services Guide

To place your ad, contact **Irais Amleshi**
(312) 649-5340 / fax: (312) 649-7937 / E-mail: iamleshi@crain.com
Business Insurance, Classified Department, 360 N. Michigan Ave., Chicago, IL 60601-3806.
Call for details on blind box and internet advertising

CPCU® AIC, ARM, IIA, CLU/CnFC, and CIC candidates
I've never seen anyone so good... you'll pay the first time, every time or your money back!
Call 1-888-BL ENHAM Now!
www.BarthmanSystem.com

Any Risk Management Questions?
Ask www.GeorgeLHead.com

• EXECUTIVE FORUM • EXECUTIVE FORUM •

12th Annual Insurance Executive Forum

Breakfast Seminar for Insurance Executives and Risk Managers

Save the Day!

Tuesday, October 15, 2002
8-11:30 a.m.
Palmer House Hilton, Chicago

Topic:
A Year in Retrospect: Impact of 9/11 on the P&C Industry

Program

May you live in interesting times! The insurance industry is certainly in the midst of such times. The events of 9/11/01 have changed the world and dramatically affected the insurance industry. On the heels of that catastrophe came the Enron collapse and ensuing turmoil in the surety, D&O, and professional liability lines of business. On many fronts changes are ongoing and will continue for some time.

The most direct effect of 9/11 is the enormous losses incurred by the insurance industry. It will take years for the full effect of these losses—variously estimated at \$60 billion to \$80 billion—to be fully recognized by the industry. The hard market in place on 9/11 has been intensified by those losses. How long will this hardening last? Is the new emphasis on quality underwriting just another phase in the cycle, or is it a fundamental shift in how the industry operates? What must the industry do to achieve longer-term stability and profitability?

How will the industry now handle the risk of terrorism? Few expect a return to terrorism coverage as part of property insurance forms at no additional charge. What will the government's role be? What role will the financial markets and other alternatives play?

The Insurance Executive Forum will offer you and your colleagues the opportunity to hear the perspectives of a diverse and distinguished panel of industry executives about these issues and other questions. Plan to attend!

Panelists

Alice Cornish, senior equity research analyst, Prudential Securities; Tom Tizzio, senior vice chairman, AIG; Shivan Subramaniam, chairman, president, and CEO of FM Global; Paul Karon, president, Benfield Blanch; Gary Prestia, senior vice president and chief underwriting officer—property lines of Conventium Reinsurance (NA), Inc.; and David Mair, former director, risk management and purchasing of the U.S. Olympic Committee.

Moderator

Paul Winston, Editor, Business Insurance

Registration information will follow. For more information, call (309) 438-3021 or (800) 697-8692, or E-mail katie@exchange.cob.ilstu.edu.

KATIE SCHOOL OF INSURANCE AND FINANCIAL SERVICES
ILLINOIS STATE UNIVERSITY

New legislation would make screening bad drivers easier

By MEG FLETCHER

Screening the driving records of employees or job applicants as a way to reduce vehicle accidents involving workers may become easier.

Many employers take steps to ensure that only safe, competent drivers are permitted to drive a vehicle on company business, whether it's a fleet vehicle or rental car. But conducting a thorough screening of drivers is not as easy as it sounds.

For operators of trucks and buses who have commercial drivers licenses, there is a national commercial drivers license system with "common guidelines that link the states together," said David Snyder, assistant general counsel with the American Insurance Assn. in Washington. That system, which enables states to share information on commercial drivers, has made "a significant improvement" in safety, he said.

But no such national system currently exists for the millions of other business-related drivers who do not hold special commercial licenses, making it more difficult for employers to screen out bad drivers.

Currently, states track the public data about a driver's performance through their respective Departments of Motor Vehicles. States vary, however, in their willingness to release driving records, in part because of privacy concerns.

In many states, employers can overcome such access problems by requiring job applicants and em-

ployees to sign a form authorizing the company to obtain driving records. A few states, though, require a letter from the individual approving the release of his or her driving record.

In some other states, an insurer can obtain such information but cannot share it with a commercial customer, said David Golden, director of commercial lines for the National Assn. of Independent Insurers in Des Plaines, Ill.

The national commercial drivers license system, which enables states to share information on drivers, has made 'a significant improvement' in safety.

David Snyder
American Insurance Assn.

A new legislative proposal, though, could make it easier for employers to track employee driving records on a nationwide basis.

Sen. Dick Durbin, D-Ill., plans this month to introduce the Driver's License Integrity Act, which would provide federal funding for states to establish minimum uniform standards for licenses, as well as standards for increasing the security of license cards themselves, a spokeswoman for the senator said. The proposed bill also would require the participating states to

adopt internal auditing and anti-fraud measures.

The impetus for the bill was the revelation that eight of the 19 terrorists in the Sept. 11 attacks were able to obtain state-issued identification cards by exploiting "a loophole" in Virginia that made it easy for applicants to obtain such credentials, according to a statement from Sen. Durbin's office.

Many insurance industry representatives support the concept because it could improve the exchange of conviction information among the states. Such a change could help employers screen out bad drivers, as it would prevent convictions in states other than the driver's home state from going unnoticed in reviews of driving records.

In addition, accidents that don't involve violations of the law are difficult to track.

The Insurance Research Council in Malvern, Pa., notes that states' DMV databases track only convictions and violations but not car insurance repair claims that did not result in legal action. Consequently, "most insurers obtain accident claim history data from third-party information vendors," the IRC said in a statement.

One such vendor is ChoicePoint Inc. in Alpharetta, Ga.

ChoicePoint operates a personal auto insurance database but is considering developing a database of commercial auto insurance claims, said Richard Collier, vp-marketing and sales.

Order Any Issue Now... While Supplies Last

Has your company appeared in a ranking ...
Have you or a colleague been mentioned in an article ...
Do others in the office keep borrowing your only copy...
Or do you need extra copies for your next meeting...?



Don't wait...
Don't miss out!

Call us toll-free at
(888) 446-1422 or
(313) 446-0450 outside U.S.

We offer quantity discounts
and an overnight option too.

Business Insurance
www.businessinsurance.com

LOOKING FOR QUALITY RESULTS?

Advertise in
Business Insurance
Next Issue: **September 23**

**Reinsurance:
Rendez-Vous Report**
**Bonus Distribution:
Canadian RIMS; IIAA**

Closing: September 17
**Call (312) 649-5340
to reserve your space!**

September 16, 2002

International

21

U.K. firms face high prices, less capacity for professional indemnity coverage

By CAROLYN ALDRED

LONDON—U.K. professional firms such as law firms, financial advisers and surveyors are paying much more for their professional indemnity insurance, and some large firms have scaled back the amount of coverage they buy due to reduced capacity in the London market.

Several London market companies and Lloyd's of London syndicates, including those operated by Cox Insurance Holdings P.L.C. and Wellington Underwriting P.L.C., have stopped writing U.K. professional liability business, while other underwriters have reduced capacity. As a result, professional firms are seeing rate increases of 100% or more in a market that is rapidly drying up, market sources say.

Capacity for professional liability risks is falling because "many insurance companies are increasing their

'The largest firms may indeed not be able to buy the same level of cover as last year where very high limits are sought, or they could simply find it uneconomic to do so.'

Steven Pollock
St. Paul International
Insurance Co Ltd.

exposure to sectors with no long-term runoff, such as property," where rates also are increasing, said Trevor Moss, director of Alexander Forbes Professions, a London-based unit of broker Alexander Forbes Ltd.

For law firms, which traditionally renew their coverage in September, "rates have gone up substantially, and firms are finding it difficult to

buy more than £200 million to £300 million (\$311.2 million to \$466.8 million) of cover," said Peter Farthing, a partner at London law firm Clyde & Co. and chairman of the Law Society of England & Wales' indemnity insurance committee.

A broker who specializes in professional indemnity insurance for lawyers agreed that insurers' appetite for that business has diminished considerably and noted that the renewal season has been "volatile." Rate increases for the primary £1 million (\$1.6 million) of coverage range from 10% to 50%, and firms are seeing increases of 200% to 400% for layers above £1 million, the broker said.

Two years ago, law firms had to turn to the commercial market for their compulsory primary-layer professional liability coverage after the Solicitors Indemnity Fund, a mutu-

al insurer run by the Law Society, was placed in runoff (*BI*, July 7, 1999). Rising claims against lawyers and law firms forced the Law Society to dissolve the mutual, but the 34 commercial insurers competing for the business offered rate reductions.

During this renewal season, however, the number of insurers writing the primary layer is less than two dozen, and most have reduced the capacity they're willing to offer, noted Richard Gerrard, a marketing manager for St. Paul International Insurance Co. Ltd., which writes about 25% of the primary-layer market for U.K. professional liability.

Even with the current level of rate increases, however, Mr. Gerrard predicts that the total amount of premium written by primary insurers this year will be less than the

See FIRMS/page 23

World Updates

London insurers change after Sept. 11: Survey

The terrorist attacks of Sept. 11, 2001, have prompted more than half of the insurers in the London market to modify the business they write, according to a survey by PricewaterhouseCoopers. PwC, which surveyed 41 insurers in the Lloyd's of London and London company markets, found that 54% said the terrorist attacks had directly led them to change the lines of business in which they operate. Sixty-four percent of Lloyd's companies said the attacks had prompted at least a limited change in their business mix, while 37% of company market insurers noted a change.

Insurance regulator joins Wellington

David Gittings, director of the U.K. Financial Services Authority's insurance firms division, has left his post to join Wellington Underwriting Agencies Ltd. Mr. Gittings, a former director of regulation at Lloyd's of London, will join the board of London-based Wellington. He will be responsible for risk management, group legal services and human resources at the Lloyd's managing agency. Mr. Gittings joined the U.K. financial services regulator from Lloyd's in April.

Hiscox plans to make private share offering

Lloyd's of London-based insurer Hiscox P.L.C. hopes to raise £110 million (\$170.5 million) through a private stock offering to shareholders. Robert Hiscox, chairman of the company, said Hiscox would use the capital to take advantage of rising insurance rates. The issue is subject to approval by shareholders, who will vote on the proposal Sept. 26.

ACE Tempest Re opens Dublin office

ACE Tempest Reinsurance, a unit of Bermuda-based ACE Ltd., has opened an underwriting office in Dublin, Ireland. ACE Tempest Re also named Tony Spice as chief underwriting officer, with responsibility for developing property/casualty treaty business in continental Europe.

Intermediaries form transatlantic alliance

Glenrand Reinsurance Ltd., the reinsurance arm of Lloyd's broker Glenrand Ltd., has forged a strategic alliance with Westfield, N.J.-based reinsurance intermediary Access Reinsurance. The alliance will focus on loss warranty business, property retrocession, and marine and

See WORLD UPDATES/page 23

Many in U.K. opt to keep DB plans open

A majority of U.K. employers say they are not planning to close their defined benefit pension plans to new participants, a survey reveals.

A survey of 940 companies, conducted by the Confederation of British Industry and Mercer Human Resources Consulting, found that 24% of respondents have closed their defined benefit plans to new participants within the last five years, while a further 12% are considering doing so. But 64% of companies surveyed said they do not plan to close their plans to

new participants.

Meanwhile, last week's annual meeting of the Trades Union Congress saw debate about the issue of occupational pensions. John Monks, general secretary of the London-based labor federation, has accused the U.K. government of taking too long to respond to what he characterizes as a pensions crisis, with many defined benefit plans closing to new members in recent years.

And Roger Lyons, joint general secretary of the London-based manufacturing union Amicus,

said 90% of its members were prepared to strike to defend their defined benefit plans. Last month, workers at three U.K. steel mills staged a walkout over the closure of their company's plan to new participants.

The TUC also has called on the government to mandate employer contributions to occupational pension plans, to ensure that workers have adequate savings at retirement (*BI*, Sept. 2).

But John Cridland, deputy director general of the CBI, said in a statement that, although there is

"clearly a need for a national debate on pensions, as many employers are struggling to maintain traditional provision despite their best efforts," compulsory employer contributions are "not a realistic solution."

Mr. Cridland said that compulsory pension contributions could make companies reluctant to employ more individuals and could even threaten the viability of some smaller companies.

Copies of the CBI/Mercer survey are available at www.cbi.org.uk.
—By Sarah Veysey

Risk managers offer mixed response to initial recommendations

Australia examines broad tort reforms

By SIMONE ZENONI

CANBERRA, Australia—Risk managers in Australia have given a lukewarm welcome to a national report recommending changes to the country's tort system, including the enactment of uniform public liability law in all Australian states.

In May, the Australian federal government asked a panel headed by New South Wales Supreme Court Justice David Ipp to develop proposals for "a principled approach to reforming negligence laws," the panel's first report on the project notes.

The report, released Sept. 2, suggests various broad steps for reforming the tort system in Australia. Chief among them is a recommendation that tort reform measures be drafted into a single statute to be enacted in each Australian state and

territory. The panel said the proposed act should apply to any claim for damages for personal injury or death resulting from negligence.



A second report, which will suggest specific changes for limiting liability and capping damage awards, will be published on Sept. 30.

In its first report, the panel also recommends that medical negligence claims be weighed against a

standard of care. The panel proposes that such a standard be established in accordance with what a majority of medical practitioners regard as proper treatment.

In addition, the panel recommends that nonprofit organizations and emergency services be shielded from liability except in cases of gross negligence.

Under the panel's recommendations, a claimant would have three years in which to initiate litigation for negligence. The three-year period would begin on the date on which the plaintiff came to know, or ought to have come to know, that personal injury or death had occurred and was potentially attributable to the negligent conduct of the defendant. Currently, statutes of limitations for such tort claims vary from state to state.

Helen Coonan, federal minister

for revenue and assistant treasurer, said the panel was guided by the principle that individuals should take responsibility for their own actions. Ms. Coonan said the report's recommendations could have a significant positive impact on medical negligence, public liability and professional indemnity insurance. Risk managers in Australia have faced sharply rising liability premiums in recent years, driven by growing litigation, increasing damage awards and the loss of some markets for liability coverage, including failed HIH Insurance Ltd.

Risk managers have mixed feelings about the panel's initial recommendations.

Bruce Ferguson, president of the Sydney-based Assn. of Risk & Insurance Managers of Australasia, noted that many individuals interviewed by the panel had cited improved

See TORT/page 23

Professional MarketPlace

To place your ad, contact **Irais Amleshi** at (312) 649-5340 / fax: (312) 649-7937 / E-mail: iamleshi@crain.com
Business Insurance, Classified Department, 360 N. Michigan Ave., Chicago, IL 60601-3806. Call for details on blind box and internet advertising

EXPERT NEEDED

Corporate policyholder looking for expert on origin, history, purpose and application of contingent business interruption coverage to assist in litigation dispute with all-risks property insurer. Please contact Jim or Frank at (206) 467-6477 or send resume to James R. Murray at *Gordon Murray Tilden, 1325 4th Ave., Suite 1800, Seattle, WA, 98101.*

EXPERT NEEDED

BUSINESS OPPORTUNITY

PROGRAM MANAGERS AND REINSURERS NEED A FRONT COMPANY? Equity Investors Invited

Need a policy issuing carrier for your Program? Clean NY domiciled P/C carrier available for NY programs. We can also provide policy and claim administration. You supply the surplus and acceptable reinsurance security. Reply to P.O. Box 563, Patchogue, NY 11772, (Attn: SH) and provide your telephone contact. All replies will be treated in strict confidence.

HELP WANTED

Product/Sales Manager

Phoenix Independent Agency looking for a producer/sales manager. Must be aggressive, successful, energetic, and a leader. With or without book. We offer competitive salary, bonus, and possible equity buy-in. Full Confidentiality. EOE. Send resume to Business Insurance, Box 3182, 360 North Michigan Avenue, Chicago, Illinois 60601 or e-mail to BIBox3182@crain.com.

HELP WANTED

Account Executive

National Insurance Brokerage firm's Boston office looking for an experience Account Executive to service Employee Benefits Insurance clients. Must be service oriented and able to juggle multiple priorities. Two years experience a must with a proficiency in Microsoft Office Suite products. Sales interest a plus. Send resume to: Business Insurance, Box 3183, 740 North Rush Street, Chicago, Illinois 60601-3806, or e-mail: bibox3183@crain.com.

SEEKING TO BUY

All types of Life-Annuity - A&H including Disability - LTC - Major Med. - Med. Supp. - Dental & Vision. Individual or group business.

Respond to: Business Insurance
Box 3181, 360 N. Michigan Ave.
Chicago, IL 60601-3806
or Email: bibox3181@crain.com

SEEKING TO BUY

Personal Lines and Commercial Lines Business

Respond to:
Business Insurance, Box 3185
360 N. Michigan Ave.
Chicago, IL 60601-3806
or Email: BIBOX3185@crain.com

HELP WANTED

HELP WANTED

Vice President, Underwriting & Claims

Managing General Underwriter of Special Risks Accident and Health Insurance in the Chicago Suburbs is seeking a qualified individual to run its Underwriting and Claim Department.

Primary duties are: running the Underwriting Department, and its staff of 6. Will also serve as the main contact with the underwriting company in all matters of contract negotiations, underwriting and reinsurance guidelines, business process design, policy and regulatory matters, and meeting profit objectives as set by the underwriting company.

You will also work with our Claim TPA(s) on claims issues that are outside the TPA's authority level.

A qualified candidate will have 7-10 years of underwriting management experience in the Accident & Health market.

A Competitive salary and benefit program is available along with the ability to work in an entrepreneurial work environment.

This position reports directly to the President and CEO of the Company.

Send your resume to: P.O. Box 1605 Elk Grove Village, IL 60009-1605; ATTN: HR-VPC515.

LEGAL NOTICE

LEGAL NOTICE

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

IN THE MATTER OF THE LIQUIDATION)
OF AMERICAN HORIZON INSURANCE COMPANY) 02 CH 12796

NOTICE OF CLAIM FILING DEADLINE AND PROCEDURES

PLEASE TAKE NOTICE, that on July 11, 2002, the Circuit Court of Cook County, Illinois, entered an Agreed Order of Liquidation With a Finding of Insolvency ("Agreed Order of Liquidation") against American Horizon Insurance Company ("American Horizon"). Nathaniel S. Shapo, Director of Insurance of the State of Illinois, is the statutory and court-affirmed Liquidator of American Horizon (the "Liquidator").

TAKE FURTHER NOTICE, that pursuant to the Agreed Order of Liquidation, all rights and liabilities of American Horizon and its policyholders, creditors and stockholders, and all other persons interested in its property or assets, are fixed as of July 11, 2002, unless otherwise provided in subsequent orders of the Court.

TAKE FURTHER NOTICE, that on September 10, 2002, the Circuit Court of Cook County, Illinois, entered an Order Providing for the Filing of Claims and the Setting of Claim Filing Deadlines ("Claim Filing Order"). Pursuant to the Claim Filing Order, all persons, companies or entities who have, or may have claims against American Horizon, its property or assets, or against an American Horizon insured or policyholder, shall have the right to present and file with the Liquidator proper proofs of claim on or before July 11, 2003 at 4:30 p.m. (C.D.T.).

TAKE FURTHER NOTICE, that any insured under an insurance policy issued by American Horizon shall have the right to present and file with the Liquidator a proper proof of claim setting forth a contingent claim on or before July 11, 2003 at 4:30 p.m. (C.D.T.). No contingent claim shall be allowed for purposes of participating in any distribution of estate assets that may be made at the fourth priority level, 215 ILCS 5/205(1)(d), unless such claim has been liquidated and the insured claimant has presented and filed evidence of payment of such claim to the Liquidator on or before July 12, 2004 at 4:30 p.m. (C.D.T.). Any contingent claim for which a proper proof of claim is filed on or before July 11, 2003 at 4:30 p.m. (C.D.T.), but which is not liquidated on or before July 12, 2004 at 4:30 p.m. (C.D.T.), may be estimated pursuant to 215 ILCS 5/209(4)(b) for purposes of participating in any distribution of estate assets that may be made at the fifth priority level, 215 ILCS 5/205(1)(e), unless otherwise directed by the Court.

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

THE LAST DATE FOR THE FILING OF PROOFS OF CLAIM WITH THE LIQUIDATOR IS SET FORTH ABOVE. NO PERSONS, COMPANIES OR ENTITIES HAVING OR CLAIMING TO HAVE ANY CLAIM AGAINST AMERICAN HORIZON, ITS PROPERTY OR ASSETS, OR AGAINST AN AMERICAN HORIZON INSURED OR POLICYHOLDER, SHALL PARTICIPATE IN ANY DISTRIBUTION OF THE ASSETS OF THE COMPANY UNLESS SUCH CLAIMS ARE PROPERLY FILED WITH THE LIQUIDATOR ON OR BEFORE JULY 11, 2003 AT 4:30 P.M. (C.D.T.)

Cathleen M. Travis
Special Deputy Receiver

RECRUIT THE INDUSTRY'S MOST QUALIFIED CANDIDATES!

When the most talented men and women in the insurance industry want to make a move, they turn to . . .

Business Insurance®

Advertise in the
PROFESSIONAL MARKETPLACE.

Call 312-649-5340

**RESERVE YOUR SPACE NOW
FOR THESE UPCOMING ISSUES**

September 23

Reinsurance: Rendez-Vous Report
Bonus Distribution: Canadian RIMS; IIAA
Closing: September 17

September 30

**Benefits Management Take-Out Section:
Pension/Retirement Plans**
Chart & Online Directory: 401(k) Plan Administrators
Bonus Distribution: ASHRM
Closing: September 24

October 7

35 Rising Stars
Bonus Distribution: CIAB/CICE; NAPSLO
Closing: October 1

October 14

**Top of the Class: Insurance/
Risk Management Education**
Closing: October 8



**Need a Legal Notice or Request for Proposals published?
Call Irais Amleshi at (312) 649-5340**

Firms: Liability market difficult

Continued from page 21

£250 million (\$389 million) of contributions made by members of the Solicitors Indemnity Fund in 1999, its last year of operation. When the primary layer transferred to the open market in 2000, insurers' premium volume totaled just £150 million, increasing to £164 million in 2001.

According to Mr. Gerrard, the law firms seeing the highest increases are those with poor claims records and firms specializing in areas such as residential real estate work, personal injury or corporate law.

St. Paul also predicts that there will be a substantial increase in the number of firms who must enter the Assigned Risk Pool, a jointly underwritten pool set up for law firms unable to find coverage in the commercial market.

Mr. Farthing, meanwhile, doubts there will be a large influx into the pool. The number of firms that have indicated they may need to enter the ARP is not much higher than it was at the same time last year, he said.

A significant change this year is that reduced capacity has meant that law firms now must buy coverage in more layers, increasing their costs, brokers say.

For example, insurers that last

year provided £9 million excess of £1 million wrote cover this year in two layers of £4 million excess of £1 million and £5 million excess of £5 million, noted the professional indemnity broker. Meanwhile, rates for the excess layers, where capacity now is vastly reduced, have increased dramatically, brokers and underwriters note.

To obtain coverage, firms must convince insurers that they have risk management procedures in place, particularly if they have had a poor claims experience or operate in high-risk business areas, noted the professional indemnity broker.

Meanwhile, lawyers are not the only professionals suffering.

"Capacity seems to have shrunk dramatically for independent financial advisers, especially those with any degree of complicated exposure. The market also is reluctant to write surveyors who undertake a lot of survey and valuation work," said Steven Pollock, senior professions underwriter for St. Paul.

"As reinsurance rates have increased dramatically, the cost of cover above the first £1 million has increased by a greater proportion than the primary million, often by 100% or more," resulting in large companies paying bigger increases, said Mr. Pollock. He added, howev-

er, that "we are seeing increases for all professions in the 30% to 60% range at the moment for the primary £1 million of cover." Many large companies also have reduced the amount of coverage they buy.

"The largest firms may indeed not be able to buy the same level of cover as last year where very high limits are sought, or they could simply find it uneconomic to do so," said Mr. Pollock.

While larger firms may be facing higher increases, smaller firms are the least able to absorb increases and may find it difficult to get any coverage.

"An increasing number of firms are finding themselves unable to obtain cover at all, or, where a quote is available, are finding it unaffordable," said Mr. Pollock.

Such is the level of concern that the Financial Services Authority, which regulates financial advisers and the insurance industry, is in discussion with insurance brokers and underwriters and may even consider relaxing the amount of professional liability insurance it re-

quires advisers to have, said an FSA spokeswoman.

Many small surveying firms also face closure if the market continues to harden, said Mark Southwell, insurance adviser for the London-based Royal Institution of Chartered Surveyors.

Surveying firms of all sizes face increases ranging from 50% to as high as 1,000%, depending on their claims record and type of work, he said, noting that underwriters regard survey and mortgage valuation

as high-risk business.

Wayne Taylor, company secretary for London-based surveyor Allsop & Co., expects to pay 50% to 100% more for his firm's professional indemnity insurance when it renews at the end of this month.

Rates for higher levels of cover are increasing dramatically, he said. For example, a firm may expect to pay 500% more for £50 million excess of £40 million, resulting in firms opting to buy less cover, said Mr. Taylor.

World Updates

Continued from page 21

aviation alternative risk transfer transactions, Glenrand said. John Gefaell, one of the people who founded Access Re in April 2002, will relocate to London to head the alliance.

Briefly noted

Lloyd's of London insurer **Amlin P.L.C.** recorded first-half profits of £18.2 million (\$27.9 million) for

2002, compared with a loss of £12.6 million (\$19.3 million) for the first six months of 2001. Amlin said gross written premiums increased by 30%, to £461.1 million (\$705.5 million)....Mark Hardinge, deputy chief executive of **JLT Risk Solutions**, part of Jardine Lloyd Thompson Group P.L.C., has left the company. A JLT statement said Mr. Hardinge's departure was the result of a mutual decision.

Tort: Aussies mull broad reforms

Continued from page 21

risk management as the way to reduce claims and premiums. But, the panel noted that, due to the nature of its task, it could not make specific recommendations about risk management changes.

Mr. Ferguson, who is risk and insurance manager with Sydney Water Corp., said the panel's failure to address risk management—despite an awareness of its importance—is "a real problem with the report."

'My fear is that medium (tort) claims will be inflated because of the existence of a maximum figure' under tort reform proposals.

*Bruce Ferguson
Assn. of Risk & Insurance
Managers of Australasia*

Despite those concerns, Mr. Ferguson said that, overall, the review was "a positive move."

"My only fear is that most of the initiatives introduced by various governments have been around capping large claims," he said. "But very large claims are not common. My fear is that medium claims will be inflated because of the existence of a maximum figure."

Chris Spraggon, manager of insurance and risk of Sydney-based Australian Gaslight Co. Ltd., said

legislation on public liability is welcome, but he said he does not think it will be "a crucial step in the process of reform."

Mr. Spraggon noted that four Australian states—Queensland, New South Wales, Victoria and South Australia—have introduced laws to limit liability but that each measure is different.

Mr. Spraggon said the panel's proposed reforms are too broad, and he suggested that Australia introduce a system similar to that used in New Zealand, which has a state-run no-fault accident compensation plan. In New Zealand, the government assesses claims and pays damages in accidents involving public liability. Damage awards, which are based on the type of injury suffered, are capped.

Sid Levett, general manager of group insurance and risk at Melbourne-based Amcor Ltd., said he welcomed the report, calling uniform legislation among states "preferable" to a patchwork of different laws.

Mr. Levett said he also supports the capping of damage awards, but he warned that those caps should not be placed too low. "There needs to be some objectivity," he said.

Mr. Levett noted that any proposed changes should include provisions for proportionate liability. "The deep-pocket syndrome needs to change," he said.

The panel's full report is available at www.revofueg.treasury.gov.au.



JOIN US FOR THE 12th

November 18-20, 2002 ~ Registry Resort, Naples, Florida

WORLD CAPTIVE FORUM

Produced by: Business Insurance, Tillinghast-Towers Perrin, Quest Insurance Solutions Limited

Conference Agenda

MONDAY, NOVEMBER 18, 2002	
8 AM - 1:30 PM 3:00 PM - 5:00 PM	\$10K Golf Tournament and Box Lunch Opening Workshops Track 1: Captive Basics: The Latest Developments Track 2: Employee Benefits in Captives: The Opportunities and the Realities Track 3: Investments for Captives - the Lows and the Highs, from the Ground up to the Stratosphere
5 PM - 5:45 PM 6 PM - 8 PM	Interactive Special Topics Workshop <i>Featuring a discussion on the extension of the Federal Risk Retention Act</i> Welcome Reception with Exhibitors
TUESDAY, NOVEMBER 19, 2002	
8 AM - 9 AM 9 AM - 10:30 AM	Breakfast in the Exhibit Hall Keynote Address David Mair , Immediate Past President of RIMS Susan Rivera , President, ACE INA Holdings, Inc. Cyber Café Beverage Break in the Exhibit Hall Breakout Sessions Track 1: Cell Captives and Rent-a-Captives Track 2: Reinsurance Networks and Strategies: The Latest Developments
10:30 AM - 11 AM 11 AM - 12:15 PM	Buffet Luncheon featuring speaker Kathryn Westover Breakout Sessions: Track 1: Cell Financing Strategies Track 2: Fronting
3 PM - 6 PM 7 PM - 10 PM	Networking Poolside Break Cocktail Reception, Dinner and Entertainment
WEDNESDAY, NOVEMBER 20, 2002	
7:30 AM - 9 AM 9 AM - 10:30 AM	Domicile InfoBreakfast Network with domicile representatives at informational breakout sessions scheduled during breakfast Captive Case Studies This year features a representative from a large international energy company, an association executive from a consumer-based captive in California, and a small association captive representative.
10:30 AM - 11 AM 11 AM - 12:30 PM 12:30 PM - 1:30 PM	Beverage Break in Exhibit Hall Tax Developments Prize Drawing, Box Lunch and Conference Round Up

To register, call the World Captive Forum Office at (952) 928-4659 or register on-line at www.captive.com/CaptiveForum

Contact the Registry Resort Directly to make your hotel reservations at (941) 597-3232 or Toll Free at (800) 247-9810 www.registryhotels.com

12th World Captive Forum Sponsors

A.M. Best Company
 Barbados Investment & Development Corp.
 Brown Brothers Harriman & Co.
 Captive.com
 Old Republic Risk Management, Inc.
 Riordan, Dashiell & Donnelly, Ltd.
 Risk Enterprise Management Limited
 State of Vermont
 Watson Wyatt Insurance & Financial Services, Inc.

D&O: CEO pay under scrutiny

Continued from page 1

my, a Boston-based organization that focuses on economic inequality in the United States.

The study also suggests that the current approach to executive compensation, which relies heavily on stock options, encourages excessive risk-taking and the widespread adoption of aggressive accounting techniques as a way to boost share prices in a short period of time. Although stock options have been around for years, they became popular with the high-tech startup companies that emerged during the 1990s. The trend then migrated to other large corporations as the bull market ran throughout the decade. Today, stock options account for 60% to 70% of total executive compensation, sources say.

Much of the exorbitant pay packages and risky accounting emerged as a result of the booming economy a few years ago, said Alan Johnson, managing director of executive compensation consulting firm Johnson Associates Inc. in New York.

"For a two- to three-year period, we all did silly things because the world was turned upside down," he said. "There was a tremendous number of silly things done—silly executive pay, silly IPOs, silly acquisitions

and silly stock recommendations."

"I think the long-term trend is for better directors and better oversight," Mr. Johnson said. "It's a shame we had this bubble period in the economy that distorted everything."

Better boards of directors and bet-

'For a two- to three-year period, we all did silly things because the world was turned upside down. There was a tremendous number of silly things done—silly executive pay, silly IPOs, silly acquisitions and silly stock recommendations.'

Alan Johnson
Johnson Associates Inc.

ter oversight over compensation practices may come as a result of D&O underwriters who are beginning to take a closer look at executive pay.

Executive compensation "is an issue that...since the Enron, WorldCom, Tyco scandals, has taken on a much greater importance to us," said Jim Nestheide, vp and profes-

sional and financial risks practice leader for the Americas at Royal & SunAlliance USA in Cincinnati. "I think it's systemic of the broader topic of corporate governance in general."

"D&O underwriters have looked at corporate governance at a high level. They have looked at the board of directors and look at its independence and asked whether it is a rubber-stamp board or whether they really, truly have board members who, based on their experience, would make sense in that particular industry," Mr. Nestheide said. "Although we've looked at that on a high level, now, I think, underwriters have realized they have to drill down much further than that." At client meetings, there needs to be "frank and open discussions about how the committees interact and the quality of the people on the board. Those are things that we're getting into in more detail than we ever have in the past," he said.

"It's an issue we will dig deeper on, but an area we've always been concerned with," said Evan Rosenberg, senior vp and chief underwriting officer-executive protection in the United States for Chubb Specialty Insurance in Warren, N.J. "As an underwriter, when you have shareholder litigation, one of the allegations tends to be that these (executives) have enriched themselves. If the stock price dropped, whether or not fraud was committed, plaintiff attorneys are going to look at the compensation structure and whether there was insider trading."

Two big areas D&O underwriters now are asking more questions about and want more details on are whether executive pay is tied to company performance and whether the make-up of the board and the compensation committee is appropriate, they say.



PHOTO: AP/WIDE WORLD

Former WorldCom Inc. CEO Bernard J. Ebbers received a low-interest personal loan from the company as well as collecting millions of dollars in salary, bonus and other compensation, a study shows.

"If you go back to the '80s, everyone had issues with the cash awards these (executives) were getting," explained Jack Kuhn, president of Kemper Financial Insurance Solutions, a unit of Kemper Insurance Cos. in Berkeley Heights, N.J. "Then, everyone got away from the huge annual cash bonuses and went toward (stock) options with the thought that if the stock did well, everyone's in the money and if the stock didn't do well, well, we haven't wasted or paid out any money for cash bonuses."

"What has happened is that we've had several examples of where accounting irregularities have taken place with overstating earnings," which has had an impact on the stock price, he said.

"The focus is understanding the pay for performance," Mr. Kuhn said. "If it's strictly all stock options, then you have some concerns from the standpoint that if it's too heavily weighted, are you setting up the stage to have issues that might come out from accounting irregularities or put more pressure on performing to get the stock price up?"

At the same time, "you don't want straight cash awards to be set in the contract, either, because then there is no effort or responsibility for getting the stock price up or keeping it up," Mr. Kuhn said. "There needs to be a fine balance between the two."

Underwriters also are looking at whether an executive's pay is in line with other company executives of the same size or same industry group and whether it is commensurate with company performance.

"If the executive turns up on a list of the most highly paid CEOs and, at the same time, the company turns up on the list of the most under-performing companies," underwriters are going to ask, "Why is the top executive making out like a bandit while shareholders and the net worth of the company is suffering?" said Ann M. Longmore, senior vp and fiduciary practice leader at Willis Group Holdings Ltd. in New York.

In addition to pay for performance, underwriters also are looking at the composition of the board of directors more closely.

"You'll find D&O underwriters taking a little more time and being very careful from the standpoint of looking at the composition of the

board," Mr. Kuhn said. "They are looking at whether board members have the right type of experience and whether they are independent directors."

"I think in terms of publicly traded companies, there's no longer the luxury of loading your boards up with cronies who are going to basically rubber-stamp what you do," Mr. Nestheide said. "Those days are long gone. And board members are going to take their jobs much more seriously than they have in the past. As a D&O underwriter, that is very encouraging," he said.

But it's not just executive salary, bonus and stock option grants that have raised concerns. Many other executive perks, such as personal loans, company-paid housing, use of corporate aircraft and rich retirement benefits, also are making headlines.

For example, in addition to L. Dennis Kozlowski's \$331.8 million in salary, bonus, the value realized from exercising stock options and other compensation he made during 1999 through 2001 as the former CEO of Tyco International, he also received millions of dollars in loans from Tyco, according to the study. The study said he used the loans to purchase luxury real estate, fine art, antiques and other furnishings. Mr. Kozlowski, who faces various allegations ranging from grand larceny to enterprise corruption and falsifying records, was indicted in June on charges of conspiring to evade sales taxes on art purchases.

Bernard J. Ebbers, former CEO of WorldCom received a \$408 million low-interest loan from the telecom giant, which filed for bankruptcy protection earlier this year, the study said. From 1999 through 2001, he earned \$44.1 million in salary, bonus, stock options and other compensation, the study said.

Although these perks do raise concern for underwriters, they say it's a difficult issue.

"We're trying to get to that at client meetings, but, admittedly, some of those perks are hard to get to," RSA's Mr. Nestheide said.

Such corporate loans as the ones Tyco and WorldCom gave to their top executives will be a thing of the past. The Accounting Industry Reform Act, which President Bush signed into law in late July, prohibits companies from giving personal loans to top executives.

Marine Insurance Problems?

We're Ready.

G & M MARINE, INC.

MARINE INSURANCE UNDERWRITERS

www.gmmarine.com

(504) 588-9044

SAFETY NATIONAL WELCOMES RUSSELL SIMMONS



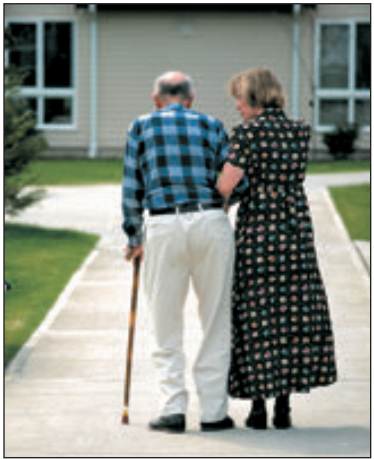
Russell Simmons joins Safety National Casualty Corporation in the newly created position of Director of Business Development. He most recently served as Second Vice President at Employers Reinsurance Corporation in charge of underwriting excess workers' compensation for stand alone employers and self-insured groups. Mr. Simmons brings 25 years of marketing and underwriting experience in the commercial insurance industry. He is a Charter Property and Casualty Underwriter (CPCU) as well as an Associate in Reinsurance (ARe).

Since 1942, Safety National Casualty Corporation has been a leading provider of excess workers' compensation coverage to self-insured employers and self-insured groups nationwide. Today, with the addition of large deductibles and alternative risk financing services, Safety National has evolved into a versatile alternative market provider.

For more information visit www.sncc.com or call 314.995.5300



Products & Services



Nursing home program emphasizes loss control

PASADENA, Calif.—Arrowhead General Insurance Agency Inc. is offering a new nursing home insurance and risk management program called Silver Lining.

"This is a whole new approach to loss prevention in nursing homes," said a statement issued by Carole Fleischman, president of Arrowhead's managed insurance programs division. "Rather than offering a new market to a desperate industry, the Silver Lining program will partner with select insureds who will work with

our risk management group to better their risk profile and ultimately lower their insurance through risk participation."

The program is being offered first in California, with plans to expand to other states.

Policyholders take a self-insured retention of \$50,000 under the program. The coverage, written by the managing general agency on behalf of underwriters at Lloyd's of London, will provide limits of \$1 million per occurrence with a \$3 million aggregate. Minimum premium is \$50,000.

More information is available from Arrowhead at 626-844-2464.



GE unit lets employers tailor disability offerings

ENFIELD, Conn.—A new disability product offered by GE Financial

Employer Services Group lets employees tailor their coverages by combining benefits and riders in a customized package.

The plan, marketed under the GE Voluntary Benefits brand, is underwritten by Professional Insurance Co. and offers the voluntary insurance products through employee payroll deductions. Among the choices are partial disability coverage, a benefits-building rider that allows workers to increase the benefit period with no additional premium at renewals, and a hospital confinement rider that helps offset a range of expenses such as deductibles.

Unlike many voluntary disability products, the plan can provide guaranteed-issue coverage, which means policies can be issued to employees in the absence of medical exams as long as the total group meets all other plan requirements.

Employers can get more information from Karen O'Donnell at 860-737-6892.

Product liability materials from court cases offered

CHICAGO—Risk managers dealing with product liability exposures now have access to a wealth of resources related to the landmark 1993 Supreme Court ruling in *Daubert vs. Merrell Dow*



Pharmaceuticals.

The Daubert Tracker, offered online by MDEX Online Inc., provides access to court decisions and developments pertaining to the *Daubert* case as well as to product liability cases *Kumho Tire vs. Carmichael* and *GE vs. Joiner*.

The service provides a searchable database of more than 2,000 cases at the federal level and 1,000 state cases that are based on the three product liability cases. There are links to opinions, docket sheets, briefs, transcripts and other documents. A weekly e-mail update notifies subscribers of the latest cases, including summaries. Also provided is a quarterly journal that contains articles by trial attorneys, law professors, judges and experts on product liability cases.

Daubert centered on allegations that the anti-nausea drug Bendectin caused birth defects. The plaintiff's case was rejected despite the testimony of experts in several fields regarding the hazards of the drug.

More information is available at www.mdexonline.com.

Consultant focuses on workforce changes

NEW YORK—Towers Perrin has formed the FutureWork Institute to focus on demographic, technological and generational issues that companies face as they strive to compete for the best talent.

The institute, a spinoff of Towers Perrin's diversity and work/life consulting practices, will operate as a separate entity. Margaret Regan, an expert in diversity and workforce issues, will serve as president and chief executive officer of the new organization.

The FutureWork Institute will provide consulting services on issues including workforce and marketplace diversity, flexibility in the workplace, the workforce and workplace of the future, and the coming shape of organizations and their management.

"We will assist companies in anticipating, developing and implementing the workforce strategies of the future," Ms. Regan said in a statement.

The FutureWork Institute will provide services in the United States, Canada, Europe, Latin America and Asia, using its own staff as well as affiliate consultants.

Business Insurance

www.businessinsurance.com

• SERVICES •

REPRINT SERVICES

BI's Reprint Department can provide reprints, in quantities of 100 or more, of any article that has appeared in the magazine. Legal permission complying with U.S. copyright laws also can be provided to companies that seek to reprint, on their own, materials that have appeared in the magazine. For information, please call or fax:

Phone: 312-649-5319
Fax: 312-280-3174

ARTICLE FAX SERVICE

For article photocopies sent by fax on the same day, please telephone and provide the *BI* issue date, the article headline and credit card information. The charge is \$10.00 per copy, per article. In-publication directories are not available by fax. For article photocopies, please call:

Phone: 312-649-5329

SINGLE-COPY SALES

To order any current or back issue of *Business Insurance*, call the single-copy sales division of *BI's* Circulation Department:

1-888-446-1422

CHANGE OF ADDRESS?

If you have moved recently and would like to change your subscription address, or if you would like to report a delivery problem, please call us at 888-446-1422 toll-free or e-mail us at subs@crain.com

Medicare: HMO pullouts continuing

Continued from page 1

HMO, which operates under the name Secure Horizons.

- Louisville, Ky.-based Humana Inc. intends to exit one county in both Indiana and Texas and two counties in northern Illinois. The withdrawals will affect 10,600 of its roughly 354,000 Medicare HMO enrollees.

- Aetna Inc. in Hartford, Conn., will exit markets in three Pennsylvania and two New Jersey counties, affecting 16,000 enrollees. Aetna currently has about 125,000 Medicare HMO enrollees.

- Blue Cross & Blue Shield of Florida in Jacksonville will exit three counties in Florida, affecting about 20,000 of its 70,000 enrollees.

- Health Net Inc. in Los Angeles will stop offering its Medicare HMO in portions of Alameda County and Santa Barbara County in California. The withdrawals, though, will affect fewer than 1,000 of its 118,000 enrollees.

In addition to exiting markets, most HMOs are hiking premiums. For example, Harvard Pilgrim Health Care, which covers 40,600 enrollees in its Medicare HMOs in Massachusetts and New Hampshire, will double monthly premiums for Massachusetts enrollees next year to \$120 from \$60. In addition, it will bump up premiums to \$100 a month from \$85 in the one county in New Hampshire—Hillsborough—where it offers a Medicare HMO.

In addition, Tufts Health Plan, which provides coverage to 95,000 Massachusetts Medicare beneficia-

ries, will boost monthly premiums by an average of \$50, lifting the range of monthly premiums it will charge next year in nine Massachusetts counties to between \$70 and \$145.

Many Medicare HMO plans also are cutting benefits. For example,

'We had to make some very tough decisions this year because of the inadequate funding for the Medicare+Choice program.'

Patty Blake
Tufts Health Plan

Massachusetts Blue Cross & Blue Shield is doubling to \$100 per day the copayment for inpatient hospitalization for up to five days, while Harvard Pilgrim is tripling office copayments to \$15 per visit. The Blues plan covers about 37,000 people in its Medicare HMO.

This triple whammy of plan withdrawals, premium increases and benefit cutbacks is a sea change from the Medicare HMO market of five or six years ago.

During that era, Medicare HMOs were rushing to enter new markets. In some parts of the country, they offered incredibly rich plans—such as providing unlimited prescription drug coverage—and they didn't charge a premium. The plans believed the payment rate they received from the government to pro-

vide coverage to beneficiaries who opted out of the traditional fee-for-service Medicare program would more than cover the costs of the plans they were offering.

The high point for the plans was hit in 1999, when enrollment in Medicare HMOs peaked at 6.2 million. Since then, though, enrollment has declined sharply and now stands at 5 million, a number that will surely fall next year when the latest round of HMO pullouts takes effect.

Without exception, HMOs attribute their Medicare market withdrawals, premium increases and benefit cutbacks to insufficient increases in government reimbursement rates, which generally have been capped at between 2% and 3% annually for the last several years.

"A 2% annual increase does not match what we are seeing in medical inflation," said a BC/BS of Florida spokesman.

"We had to make some very tough decisions this year because of the inadequate funding for the Medicare+Choice program," said Patty Blake, vp-marketing for Tufts Health Plan in Waltham, Mass.

The decline of Medicare HMOs as an alternative to the traditional Medicare program has eroded employers' ability to control retiree health care costs. Many employers had found it less costly to pay any premiums charged by Medicare HMOs for retirees than to provide coverage in their own indemnity plans that supplemented Medicare.

But as Medicare HMOs continue to exit the market and remaining

plans boost premiums and cut benefits, that cost-cutting strategy has been seriously jeopardized.

In fact, in some markets, Medicare HMO premiums have gotten so high that employers may not save much if retirees move from the employer's plan to a Medicare HMO, said Joe Martingale, national director of health care strategy in New York for Watson Wyatt Worldwide.

In other markets where government payments are relatively high, employers still can reduce costs by between 20% and 30%, consultants say, though the number of such markets—due to the cap on payment increases—continues to shrink.

Still, there are bright spots in Medicare system. Benefit experts point to a new three-year government demonstration project that opens the Medicare+Choice market to preferred provider organizations as evidence that lawmakers and regulators recognize the need for better funding for plans that provide coverage to Medicare beneficiaries.

"The government recognizes that there has to be extra funding," Mr. Martingale said.

Under that demonstration project, which will be available to 11 million of Medicare's 40 million beneficiaries, PPOs will receive special financial incentives not available to HMOs. In addition, the government, under an optional risk-sharing program, will absorb a portion of losses incurred by the PPOs, as well as share in any profits of the plans (*BI*, Sept. 9).

Pollution: 9th Circuit blocks city's liability shield

Continued from page 1

the city potentially liable for the pollution at the center of the litigation. The appeals panel remanded that issue to a lower court.

If the city is adjudged as a potentially responsible party, then some of its statutory protections are further weakened.

The city enacted its disputed ordinance in August 1997 to beef up its pollution response authority as required by its May 1997 agreement with the California Department of Toxic Substances Control.

The DTSC, which had been investigating city groundwater contamination, concluded that four businesses were PRPs. The state agency also found that some of the contamination entered the groundwater through city water wells and sewer lines.

In its agreement with the DTSC, Lodi refused to accept PRP status, but it acknowledged that the state agency might have claims against the city, according to court papers. Lodi agreed to reimburse the agency up to \$1 million of some cleanup funding shortfalls, and the DTSC agreed to protect the city from cleanup contribution claims by other PRPs.

After the city enacted its pollution abatement ordinance, Fireman's Fund—which covered one of

the named PRPs—was among the insurers that challenged the statute. The insurers contend that provisions in the statute that would minimize Lodi's pollution liabilities violated the federal Comprehensive Environmental Response, Compensation and Liability Act and state pollution abatement laws.

In its original unanimous decision, which partially overturned a lower court's ruling, the 9th Circuit panel last year struck down a provision of the Lodi ordinance that would have allowed the city to directly sue the insurers of PRPs without first obtaining court rulings against the polluters.

The panel last year also voided a provision that would have exempted the city, if it were classified a PRP, from contribution claims by other polluters seeking to hold the city responsible for its share of a pollution cleanup.

In addition, the panel last year ruled that California law prevented Lodi from requiring PRPs to meet a higher standard of proof than state law imposes if the polluters attempt to apportion some of their cleanup liabilities to other polluters.

But the appellate panel withdrew that ruling months ago and reissued a more sweeping decision on Aug. 6.

In its latest unanimous ruling,

the appellate panel again bars Lodi from taking direct actions against polluters' insurers and prohibits the city from shielding itself against contribution claims.

Cities in the 9th Circuit still could sue polluters' insurers directly, as long as the cities first obtain judgments against the polluters. 'This is a vehicle by which states and cities can obtain funding for environmental cleanups.'

*Robert M. Horkovich
Anderson Kill & Olick P.C.*

Additionally, the 9th Circuit panel last month axed a provision of Lodi's ordinance that would have allowed the city—if it were named a PRP—to shift all pollution liabilities to other PRPs by declaring those entities jointly and severally liable.

That ruling would be "especially important" if there are any so-called "orphan shares" of liability, or cleanup costs that cannot be recovered because the polluters have gone out of business, said Fireman's Fund attorney Terry J. Houlihan, a

partner with Bingham McCutchen L.L.P. of San Francisco. Typically, orphan shares are split among the remaining PRPs.

In addressing the ordinance's burden-of-proof provision, the panel ruled that CERCLA, the federal act that created Superfund, preempts the provision. Because CERCLA, rather than California law, pre-empts the provision, the ruling now applies to every state within the 9th Circuit, Mr. Houlihan explained.

The court last month also ruled that if Lodi were named a PRP, then the city could not require other PRPs to cover its attorneys' fees.

The 9th Circuit panel, reversing the lower court, also reinstated Fireman Fund's official capacity claims against three Lodi officials.

The 9th Circuit, however, did rule that cities have the right to enact pollution abatement statutes.

Policyholder attorney Robert M. Horkovich noted that cities in the 9th Circuit still could sue polluters' insurers directly, as long as the cities first obtain judgments against the polluters. "This is a vehicle by which states and cities can obtain funding for environmental cleanups," said Mr. Horkovich, a partner with Anderson Kill & Olick P.C. of New York.

Most states already allow direct

actions against insurers in general, though only Minnesota has authorized such actions specifically for pollution cleanup cost recovery efforts, Mr. Horkovich said. But direct actions against polluters' insurers should be permissible under all states' direct action statutes, said Mr. Horkovich, who filed an amicus brief in the 9th Circuit case on behalf of United Policyholders, a nonprofit consumer organization and advocacy group.

Insurer attorneys, however, said that direct actions against insurers would not benefit cities.

Direct actions could divert funds away from cleanups, said Mr. Houlihan and insurer attorney Laura A. Foggan, counsel for the Complex Insurance Claims Litigation Assn. and a partner with Wiley Rein & Fielding L.L.P. in Washington. With direct actions, cities—rather than policyholders—would have to pay the legal costs of fighting for insurance proceeds when insurers invoke pollution exclusions to deny coverage, the two attorneys said.

Attorneys for the city and other insurers in the case did not return calls.

Fireman's Fund Insurance Co. et al. vs. the City of Lodi, et al., 9th U.S. Circuit Court of Appeals, Aug. 6; No. 99-15614.

N.Y. hospitals work together on bioterror planning

By MARY SISSON

Like many hospitals in New York City, Elmhurst Hospital Center in Queens once believed itself to be well prepared for a major emergency.

That emergency would, of course, happen nearby and would affect only the immediate neighborhood. Administrators at Elmhurst Hospital didn't really know where other nearby hospitals stood in the way of emergency preparedness, and they didn't much care—whatever the crisis, Elmhurst would be able to handle most of the fallout itself.

Then the Sept. 11, 2001, terrorist attacks came along, and those assumptions were demolished, along with so much else.

Although the attack happened in Lower Manhattan, injured people traveling on foot showed up in Elmhurst's emergency room. When the hospital tried to communicate with the Manhattan headquarters of its system, the city's Health & Hospitals Corp., it found itself cut off because of downed phone lines and closed bridges and tunnels.

More hard lessons followed in October, when people began to receive anthrax-laced mail. Suddenly, bioterrorism was no longer merely the stuff of science fiction.

The experiences of last fall made the stand-alone strategy of hospital emergency planning seem laughably naive.

"No hospital in and of itself can respond to such an event," observed Wayne Osten, director of the New

York Health Department's Office of Health Systems Management. "That message was heard loud and clear."

Now, the New York area's normally fractious hospitals are joining forces to form a defensive front against bioterrorism. They are ignoring traditional rivalries, sharing information to an unheard-of degree and even centralizing decisions on some purchases. In addition, they increasingly see themselves as members of a single team—an attitude that may someday lead to more coordinated planning of day-to-day care.

"It is unprecedented, this kind of cooperation," said Dr. Steven Garner, chief medical officer at Saint Vincent Catholic Medical Centers, a system with eight New York-area hospitals.

It's difficult to say how much defense is enough, especially in New York City, where the combination of a high international profile and a dense population create an obvious target. But experts say the interhospital cooperation is helping New York leap ahead of other areas of the country.

"New York City is probably one of the most progressive and best-prepared," said Stephen S. Morse, director of the Center for Public Health Preparedness at Columbia University's Mailman School of Public Health.

Cooperating to defend against bioterrorism may seem simple, but it's more difficult than it looks and is tremendously important.

The first step in containing an at-

tack—be it a release of anthrax, smallpox, plague or some other disease—is the realization that it is happening. People exposed to a disease may move around before becoming sick, so a dozen victims could wind up in a dozen different hospitals, each appearing to be suffering from an isolated case of an unusual disease.

The delay in recognizing an attack means more chance of misdiagnoses and more time for infection to spread. Add a conventional attack that interferes with communication, and the delay grows even longer.

Efforts to tie hospitals together are happening on many levels. The city's Department of Health now regularly gathers data from emergency rooms, looking for patterns that could indicate an attack.

The Greater New York Hospital Assn. worked with the state to develop a Web-based emergency-alert system, which became operational in New York City this summer. The system can flash requests to hospitals in an emergency to find out, say, how many botulism antitoxin kits they have on hand.

Hospitals are even working together to lay in supplies, which also helps control costs. The American Hospital Assn. estimates that an urban hospital will spend about \$3 million making initial preparations for attacks; New York City institutions will probably spend more.

Elmhurst Hospital more than doubled its stockpile of antibiotics and almost doubled its amount of

protective gear. Significantly, the amount and type of supplies and the vendors were determined not by Elmhurst alone but by the emergency-management committees, organized by GNYHA, to which it belongs.

Hospitals are also linking up on their own. After Elmhurst realized that a hospital from a rival system might be the only facility that could help it out in an emergency, the institution spearheaded the creation of an informal disaster-response alliance in Queens. The hospitals are looking to draw up a list of staff who could be cross-credentialed, enabling them to work in different facilities during a crisis.

Stronger links among hospitals may well benefit public health, since the same reporting designed to detect a bioterrorism attack can detect other disease outbreaks. In addition, the relationships being forged now may eventually lead to a more cooperative approach to providing health care services.

"I can see it's heading in that direction," said Saint Vincent's Dr. Garner. "We've never had this level of trust and intimacy."

But networking has a cost as well: It takes time and effort to attend meetings and to gather and share information. "It's extraordinarily labor-intensive," said Susan Waltman, GNYHA senior vp and general counsel. "We're pleased to do it, but it's taking away from other things."

While hospitals are showing no signs of lagging so far, burnout and complacency may eventually erode

networking efforts. Links are unlikely to be abandoned entirely, since regulators are beginning to require a certain amount of cooperation.

And the threat, of course, remains. For Ms. Waltman's part, one assumption that should join those scrapped last fall is that a period of quiet indicates that the terrorists have been defeated.

"That just means they're probably planning something bigger," she said.

Mary Sisson is a reporter for Crain's New York Business, a sister publication of Business Insurance.

ADVERTISER

INDEX

Issue of September 16

ADVERTISER	PAGE #
Aetna Corporate	7
Aon Truck Group	12
Assurex International	16
Blue Cross of California	15A
Business Insurance	15, 25
CNA Risk Management	17
CNA RSKCo	28
Crawford & Company	14
Dempsey, Myers & Company	2
Fireman's Fund Insurance	18
Fireman's Fund McGee	13
G&M Marine	24A
HUB International	11
Lord Bissell Brook	4
Oxford Health Plan	15B
Safety National Casualty Corp.	24
Sun Life Financial	9
Valley Oak Systems, Inc.	6
Zurich NA	5, 19

For the Record

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

Court won't review Holocaust ruling

The 9th U.S. Circuit Court of Appeals will not review a three-judge panel's decision that California-licensed insurers and reinsurers must comply with a state law requiring them to disclose information about Holocaust-era policies that they or affiliated companies sold in Europe. California's Holocaust Victim Insurance Relief Act of 1999 requires insurers to disclose the status of life insurance policies sold to Europeans between 1920 and 1945, even if that means local insurers must obtain the information from affiliated companies located overseas.



Beverly Hills, Calif.-based Hilton Hotels obtained terrorism coverage for a group of its properties.

Hilton buys terror cover to end mortgage dispute

Hilton Hotels Corp. has purchased stand-alone terrorism coverage to resolve a dispute over whether the exclusion for terrorist events under the company's global all-risk property policy constituted a default on \$490 million in collateralized mortgage obligation bonds. Beverly Hills, Calif.-based Hilton purchased the \$250 million per occurrence/annual aggregate terrorism coverage through a joint

participation program from Bermuda startup AXIS Specialty Ltd. and Berkshire Hathaway Inc.

The Hartford raises \$600 million

The Hartford Financial Services Group Inc. has raised about \$600 million in new capital. About half of the funds were raised through the sale of about 6.35 million common shares at \$47.25 per share, while the



rest came from the sale of 6 million convertible shares and debt securities

at \$50 per unit. The Hartford, Conn.-based insurer plans to use about \$300 million of the net proceeds to boost its property/casualty subsidiaries' capital.

NAIC projects budget increases for 2003

The National Assn. of Insurance Commissioners' proposed 2003 budget shows projected spending of



\$54.2 million and projected revenues of \$54.5 million. These represent increases of about 1.1% and 5.9%, respectively, over the 2002 consolidated budget. The budget proposal calls for average salary increases of 3.5%, to \$23.96 million, excluding payroll taxes and benefits. The Kansas City, Mo.-based association also estimates that it will spend more money for insurance

and meeting costs, while it spends less on travel and temporary personnel costs. The NAIC will hold a public hearing Nov. 6 by telephone.

AHPs would benefit businesses: report

A Labor Department report holds that association health plans could significantly reduce premiums for small businesses and expand coverage. The report cites research by the Congressional Budget Office indicating that some small firms could save as much as 25% of their health insurance premiums by using AHPs, which are a proposed type of health plan that could operate nationwide after meeting federal solvency and other standards. The report also notes CBO's estimate that enactment of AHP legislation currently before Congress could result in at least 330,000 uninsured people and possibly as many as two million-joining the ranks of the insured.



Companies ask high court to delay asbestos trial

About 250 corporations last Monday petitioned the U.S. Supreme Court to delay the start of class-action asbestos litigation scheduled to begin later this month in West Virginia. The companies already had appealed to the high court a decision by the Supreme Court of Appeals of West Virginia that the litigation can proceed to trial. The defendant companies, led by ExxonMobil Corp. and Honeywell International Inc., argue that the claims of the roughly 8,000 plaintiffs, who allege injuries stemming from asbestos exposure, are too dissimilar to be brought as a class action.

California to maintain guaranty fund assessment

California insurers will continue to pay a state guaranty fund assessment of up to 2% of premiums, under legislation signed by Gov. Gray Davis. The 2% assessment to the California Insurance Guarantee Assn. was scheduled to be reduced to 1% on Sept. 12. Under the new law, the higher assessment will be extended through 2007. CIGA, which pays the claims of insolvent insurers, collects the assessments as needed.



Gov. Davis

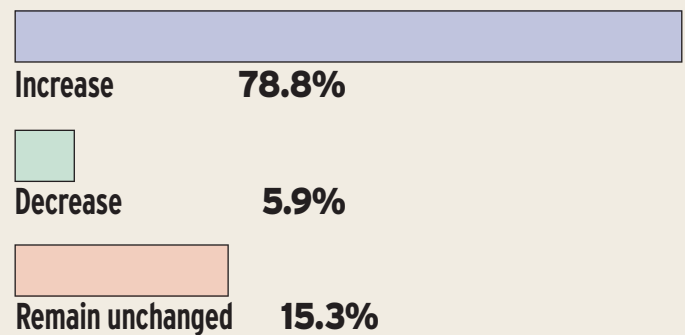
Briefly noted

California Gov. Gray Davis has signed into law a measure that **extends the statute of limitations** for personal

injury and wrongful death suits in the state to two years from the current one year. In addition, S.B. 688 extends to two years from one the time that victims of the Sept. 11, 2001, terrorist attacks have to bring a suit....Warren, N.J.-based **Chubb Corp.** said Thursday that Chief Executive Officer Dean O'Hare will retire no later than Dec. 31. The insurer said it expects to name a new CEO by the end of the year....A.M. Best Co. has assigned an A- financial strength rating to St. Louis-based **Vanliner Insurance Co.** Vanliner writes coverages mainly for the moving industry, including automobile liability, workers compensation, commercial umbrella liability and warehouse/car-go....Charlotte, N.C.-based Wachovia Corp. will acquire **E-Risk Services L.L.C.**, a Flanders, N.J.-based managing general agency specializing in management liability coverages. Wachovia said the acquisition will enable it to broaden its insurance offerings, including directors and officers liability, errors and omissions liability and other lines. Terms were not disclosed.

Online Poll [9/9 - 9/13]

Through 2003, do you expect consolidation in the property/casualty sector to:

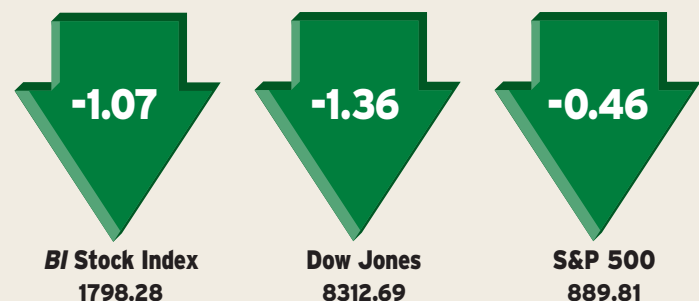


Take part in our weekly poll at www.businessinsurance.com

BI Stock Index [9/9 - 9/13]

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

Percentage change of BI Stock Index vs. key indicators



Largest gains

Gainsco Inc.	50.00%
PacificCare Health System	9.31%
Everest Reinsurance	7.95%
ACE Ltd.	7.82%
SCPIE Holdings Inc.	6.84%

Largest losses

AEGON N.V.	-19.21%
Argonaut Group	-17.87%
Seibels Bruce Group	-16.13%
PMA Capital Corp.	-13.57%
ESG Re Ltd.	-13.33%

Weekly change by market segment

Brokers	0.39%
Insurers/Reinsurers	-0.05%
Managed Care Organizations	2.61%

Source: CNET Investor (investor.cnet.com)

RIMS: Terror cover tough to find

Continued from page 3

able buy terrorism insurance. All told, 71% of respondents said it was very "difficult or impossible" to find adequate terrorism.

The results were not unexpected, according to Christopher Mandel, president of RIMS and assistant vp-enterprise risk management at USAA Group in San Antonio. Anecdotal information gathered from the society's membership since the attacks has indicated that problems with securing terrorism coverage were mounting, he said. After reinsurance renewals for 2002 and further attempts by risk managers to secure terrorism coverage during 2002, "it has started to hit home," he emphasized.

"At the end of the day, the percentages of companies that said this is a problem, didn't come as a sur-

prise to me," Mr. Mandel noted. "I just couldn't prove it."

Passage of a terrorism insurance bill could have 'a material impact on pricing. If we're lucky, maybe terrorism (coverage) will show its way back onto property forms.'

Christopher Mandel
USAA Group

Mr. Phillipus said about half of the respondents indicated in the survey said that they own or lease high-profile buildings or have facilities in areas they felt are at a high

risk for a terrorist attack. That shows that risk managers don't consider skyscrapers as the only potential targets for terrorists, he explained. Refineries, utilities, entertainment venues and many other locations, as well as high-rise properties, are now viewed as at-risk for an attack, he pointed out.

Passage of a terrorism insurance bill is "critical," Mr. Mandel said. "We've spent more time and resources on this than any other legislative issue ever."

There is a good chance, "based on what underwriters have said," Mr. Mandel noted, that passage of a bill "would have a material impact on pricing. If we're lucky, maybe terrorism (coverage) will show its way back onto property forms."

RIMS expects to make the survey available on www.rims.org by Friday.

INSURER TOPICS



We can handle it.

Clausen Miller Lawyers.
Subrogation worldwide.

subro@clausen.com
312-855-1010

Great Chicago Fire, 1871

Chicago . Newark . Newport Beach . New York . Wheaton . London . Paris . Rome

Clausen Miller PC

Anti-fraud courses available online helping industry meet training needs

By MICHAEL BRADFORD

It's getting much harder for the bad guys to get away with fraud, thanks in part to a program that trains those who look for the criminals and others who work to prosecute them.

The National Insurance Crime Training Academy is an Internet-based service operated by the National Insurance Crime Bureau and developed with the help of the

had grown from approximately 10 to 15 operated by insurance departments and attorneys general to around 40. Spending to fight fraud had risen from around \$200 million to \$650 million, according to NAI estimates.

"We had an immense, driving need for more training," Mr. Eager said. There were a number of anti-fraud conferences being held throughout the country, but "they weren't very well coordinated," he said.

The NICB, the NAI and its member companies discussed the idea of a training program with the Federal Bureau of Investigation in February 2000. The challenge was to develop a regimen that would provide resources for public and private entities and do it in a virtual format, Mr. Eager said.

Soon after the meeting, with input from the FBI, NICTA was online.

Among its offerings are a new course on vehicle fraud and another that helps prosecutors prepare fraud cases. Other courses cover topics including workers compensation fraud, investigations and vehicle theft.

NICTA provides a way for an insurer to offer the courses to its claims adjusters without having to pay individual fees for each of the thousands of adjusters who sign up. A site license can be purchased that allows all of a company's adjusters to use the system for a single fee. Mr. Eager said some of the country's largest insurers have purchased licenses.

"If you have 8,000 to 10,000 adjusters, they all can get training through NICTA and not have to pay over and over," Mr. Eager said. Given the number of insurance company employees who are potential candidates for the courses, it is reasonable to assume that thousands have already taken them, he said. It's not known how many public-sector fraud fighters have taken NICTA courses.

Unlike other training programs, the NICTA program does not provide its own certification to successful trainees. Instead, Mr. Eager explained, the courses are structured to be helpful to candidates for certifications such as the Chartered Property Casualty Underwriter designation.

Information on NICTA is available on the academy's Web site, at www.nicta.org. The NAI can provide information, too. The NAI telephone number is 847-297-7800.



The National Insurance Crime Training Academy offers anti-fraud courses online.

National Assn. of Independent Insurers and other insurance industry partners.

The academy, which offered its first course in 2001, recently unveiled its second generation of 14 updated and new courses, aimed at teaching insurance company personnel, prosecutors, law enforcement officers and others how to combat fraud. Thousands of participants have taken NICTA courses.

Such training was needed because of the dramatic increase in interest in fraud prevention over the last 10 years, said John Eager, senior director of claims services with the NAI in Chicago. "Just from the number of people at the state level" who participate in fraud training has grown dramatically," Mr. Eager said.

In 2000, an NAI task force looked at the fraud problem, after last issuing a report on fraud in 1992. The group found significant growth in efforts to battle the white-collar crime. In eight years, anti-fraud bureaus across the U.S.

You Get What You Pay For...

Except When You Get More!

Like when you subscribe to *Business Insurance*.

Because we offer all of our paid subscribers a variety of valuable, exclusive and free online content at BusinessInsurance.com, including:

- Access to our searchable archive of all *Business Insurance* articles, in their entirety, published since 1994.
- Access to our extensive, custom-searchable database of vendors from our exclusive industry directories.
- Click-through access to complete articles available on our Sunday email, "This Week In BI".
- Desktop access to the full content of the current issue before it reaches your mailroom.

So subscribe to *Business Insurance* today... and get so much more than you bargained for.

Get your subscription, and everything that comes with it, at www.businessinsurance.com or call 888-446-1422 (outside the U.S., 313-446-0450).



Business Insurance

www.businessinsurance.com

Insurer Topics	
ADVERTISER INDEX	
Issue of September 16	
ADVERTISER	PAGE #
Business Insurance	14G
Clausen Miller PC	14F
GMAC	14C
ING Re	14B
ISO	14D/E