

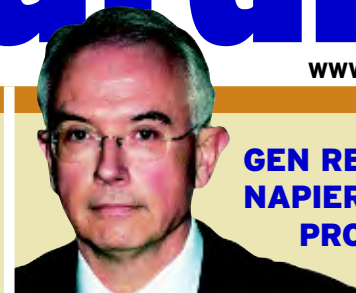
Business Insurance

September 21, 2009

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RULING ON BANK OF AMERICA EXECUTIVE BONUS PAYMENTS RATTLES D&O MARKET / PAGE 3

U.S. POLICYHOLDERS WIN ROUND IN FIGHT OVER SCOTTISH LION RUNOFF PLAN / PAGE 3



GEN RE TRIAL WITNESS NAPIER RECEIVES FINE, PROBATION / PAGE 3

In Brief

Antitrust bill would cut health insurer exemption

Sen. Patrick Leahy, D-Vt., has introduced legislation that would repeal the health insurance industry's longstanding exemption from federal antitrust law established by the McCarran-Ferguson Act of 1945. The Health Insurance Industry Antitrust Enforcement Act of 2009, which also would apply to medical malpractice insurers, would subject insurers "to the same fair competition laws that apply to nearly every other company doing business in the United States," according to a statement by the senator's office.

McGraw honored with Stuart Award

The Risk & Insurance Management Society Inc.'s Ontario chapter presented Janice McGraw with the Donald

See **IN BRIEF** page 26



Health care reforms proposed by Sen. Max Baucus, D-Mont., do not contain a public option, but still they failed to win Republican support.

Health reform bill stirs up debate

Baucus measure would add burdens for many employers

By **JERRY GEISEL**

WASHINGTON—The stage is set for a showdown in the Senate Finance Committee on health care reform legislation.

This week, the committee takes up a reform measure proposed by its chairman, Sen. Max Baucus, D-Mont. Behind schedule and despite months of meetings, he unveiled his plan last week without support from any of the panel's Republican members.

The Senate package, with cost estimates ranging from \$774 billion to \$856 billion over 10 years, includes many features in legislation already approved by several House committees. Those provisions include an individual mandate to buy health insurance or pay a financial penalty, barring insurers

from denying coverage for pre-existing medical conditions, premium subsidies for the lower-income uninsured, and establishing state insurance exchanges where individuals and small employers could buy coverage from competing insurers.

"There is 80% common ground" between the Baucus proposal and the House bill, H.R. 3200, said Michael Thompson, a principal with PricewaterhouseCoopers L.L.P. in New York.

But the Baucus measure, America's Healthy Future Act, has striking differences. It does not include the controversial public option, a government-run insurance plan that has drawn fire from many Republicans and some Democrats. Opponents say such a system would be the first step toward a single-payer national health insurance system. Instead, the Baucus plan would put about \$6 billion in new funding toward setting up nonprofit insurance cooperatives to give buyers

See **REFORM** page 26

AIG's future still murky after year of turmoil

Weakened firm remains big market player

By **JUDY GREENWALD**

A year after the federal government came to the rescue of American International Group Inc., the insurer remains a company in transition, observers say.

The many moving parts in play include ongoing efforts to sell noncore assets, installation of a new chief executive officer and the expected spinoff of its commercial property/casualty operations now under the new Chartis brand.

Looming over everything is AIG's obligation to repay billions it owes in federal loans, with some observers questioning how long the federal government's patience on this score is likely to last (see story, page 24). With all this going on, it is difficult to get a firm fix on AIG's future, observers say.

Last September, AIG turned to the federal government for help as it faced the imminent threat of bankruptcy (see story, page 25). After a number of revisions, the

federal government's financial commitment to AIG was about \$182 billion as of June 30.

There is general agreement the situation is a lot better today.

An AIG spokeswoman cited the company's \$1.82 billion second-quarter 2009 profit and other factors. "Our businesses continue to show stability and signs of improved results," while the financial products unit "continues on shrinking its portfolio and reducing risk," she said.

Observers also praised the recent selection of Robert H. Benmosche as CEO, but said

See **AIG** page 24



HIGHLIGHTS Major events in the bailout of AIG. **PAGE 24**

CAUSES What if 'Hank' were still in charge? **PAGE 25**

EFFECTS Some see holding company regulation. **PAGE 25**

SPOTLIGHT

REINSURANCE: RENDEZ-VOUS REPORT

Renewal season kicks off with annual gathering in Monte Carlo; stable renewal expected in most lines of reinsurance; inflation, potential D&O claims weigh on casualty

pricing; reinsurers' capital levels improve; retro market favors securitization; economic recovery may fuel mergers and acquisitions.

PAGE 11

Risk managers dig deeper to uncover insurer flaws

Seek to hedge risks through diversification

By **ROBERTO CENICEROS**

A year after the near-failure of American International Group Inc., risk managers say they have adjusted their insurance programs and increased their scrutiny of insurers' financial position.

In fact, they are looking beyond the insurer to scrutinize its parent company.

Many say AIG's fall was a wake-up call, forcing them to diversify their insurance programs by moving some coverage to other insurers. They also moved portions of their programs so they could sleep better at night knowing their insurer

would be around.

Fred O. Pachón, vp of risk management for Santa Barbara, Calif.-based Select Staffing Inc., transferred his employment practices liability coverage from AIG to Zurich Financial Services Group, he said.

"I did not want to risk it," Mr. Pachón said. "In the employment/staffing world, we are a prime target for discrimination and sexual harassment claims, etc. So we must be sure that the carrier will be there if and when the day comes. Diversification was the second consideration in

See **RISK MANAGERS** page 25

INDEX	
Advertiser Index	21
Business Resources	20
Commentary.....	6
End Page.....	27
Opinions	8
Products & Services	10
Professional MarketPlace	20
Up Close	20

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On the Web

AIG RESCUE

Current AIG news all in one place

Business Insurance's coverage of American International Group Inc. online includes updated news, details of the asset sale, the federal bailout and more. www.BusinessInsurance.com/AIG.

BI VIDEO

Captives help clients in economic downturn

In the latest segment of the Captive Markets video series, *Business Insurance* Special Projects Editor Rodd Zolkos speaks with Stephen Cross, CEO of Aon Global Risk Consulting, on what captive managers are doing to help clients in the current economic climate. Go to www.BusinessInsurance.com/video.

BI BLOGS

Follow the blog on D.C. Benefits & Risks

Combining 50 years of Washington reporting experience, Editor-at-Large Jerry Geisel and Senior Editor Mark A. Hofmann blog about what's happening inside the Beltway for benefit and risk managers. Go to www.BusinessInsurance.com/blogs.

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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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Rejection of bonus pay accord raises worries

Bank of America ruling could spark a wave of D&O suits

By ZACK PHILLIPS

NEW YORK—A judge's rejection of a settlement between federal regulators and Bank of America Corp. over controversial bonus pay highlights concern among insurers and policyholders that lavish executive compensation could fuel substantial claims against corporate directors and officers, observers say.

On Sept. 14, U.S. District Court Judge Jed Rakoff rejected a \$33 million fine the Securities and Exchange Commission proposed to levy against Bank of America in connection with \$3.6 billion in

'This is perhaps the beginning of a trend—short-term, hopefully—of executive compensation being a big issue for the plaintiffs bar.'

Steve Shappell,
Aon Financial Services Group

bonuses paid to employees of Merrill Lynch just before it was acquired by the Charlotte, N.C.-based bank. The SEC said a financial report from Bank of America misled sharehold-

ers into believing bonuses would not be paid, but it declined to sue bank executives, citing a lack of evidence that their deceit was intentional.

But Judge Rakoff took the unusual step of rejecting the settlement and forcing the case to trial, calling the settlement unjust because the fine would have been paid by the corporation and its shareholders, the alleged victims of the wrongdoing, rather than by executives. The development has added to concerns among D&O liability attorneys and others that, with heightened public awareness about executive compensation, the issue could produce significant D&O liability claims.

"This is the kind of stuff that keeps me awake at night," said Steve Shappell, managing director of Aon Financial Services Group in

New York and Denver.

Mr. Shappell and others say plaintiffs attorneys already have sent many companies "demand letters," insisting corporations investigate the compensation package of certain executives. Experts say such letters are a legal precursor to shareholders filing a derivative lawsuit on behalf of the corporation against its own directors and officers.

"We're going to see a substantial spike in financial executive compensation cases," Mr. Shappell said. "This is perhaps the beginning of a trend—short-term, hopefully—of executive compensation being a big issue for the plaintiffs bar."

Companies already are spending millions of dollars responding to "dozens and dozens" of demand let-

See **PAY** page 23



BLOOMBERG NEWS

Former General Re executive Richard Napier in 2008, when he testified against co-defendants in a bogus 2001 reinsurance deal with AIG.

Sentencing wraps case in sham Gen Re-AIG deal

Lenient sentence given to key witness in finite risk trial

By COLLEEN MCCARTHY

HARTFORD, Conn.—Former General Re Corp. executive Richard Napier last week was ordered to serve two years' probation, the final sentencing made in connection with a sham 2001 finite reinsurance deal between Gen Re and American International Group Inc.

In a Hartford, Conn., hearing, U.S. District Judge Christopher Droney sentenced the former Gen Re senior vp to probation, fined him \$10,000 and ordered him to perform 400 hours of community service.

Mr. Napier, who pleaded guilty in 2005 to conspiracy, was one of two witnesses who assisted prosecutors in a case that resulted in the jury trial and conviction of four former Gen Re executives and one from

AIG.

Mr. Napier testified for seven days at the 2008 trial of his alleged co-conspirators, testimony that prosecutors said was "important" in enabling the government to secure the five convictions.

In a sentencing memo, the government sought a lesser penalty than stated in federal sentencing guidelines, citing Mr. Napier's "extraordinary assistance and cooperation." He could have been sentenced to as much as five years in prison and fined \$250,000.

In June, John Houldsworth, former chief executive officer of Gen Re's Cologne Re Dublin unit, was sentenced to two years' probation and fined \$5,000. He also pleaded guilty to conspiracy and cooperated with the government.

At trial, prosecutors accused the former executives of creating a sham loss-portfolio transfer that inflated AIG's loss reserves without

See **GEN RE** page 23

U.S.-based policyholders win round to halt runoff

Interim decision in Scottish Lion case seen as 'significant'

By COLLEEN MCCARTHY

EDINBURGH, Scotland—A proposed runoff plan for Scottish Lion Insurance Co. Ltd. is in jeopardy after a Scottish court ruled in favor of a group of U.S.-based policyholders opposing the plan.

The move is likely to lend greater bargaining power to other U.S. policyholders involved in so-called solvent schemes of arrangement, in which solvent companies attempt to eliminate some liabilities through runoff, legal experts say. The Sept. 10 opinion by Lord Glennie comes after the insurers' application to the Scottish Court of Sessions to sanction the plan, which would enable the solvent insurer to shed its liabilities and wind up the company.

Schemes of arrangement are U.K. court-approved mechanisms that have become increasingly popular as part of the insurance runoff and restructuring business, but the approach often is controversial when applied to solvent insurers, legal experts say.

Edinburgh-based Scottish Lion, which has been in runoff since 1994, held a remaining portfolio that contained short- and long-tail policies, including significant asbestos and pollution exposures, according to court documents. The company proposed a scheme of arrangement to its policyholders in October 2008.

But a group of U.S.-based creditors opposed the proposal, arguing it was unfair. The policyholders—including Goodrich Corp., Exxon-Mobil Corp., Textron Inc., ITT Corp. and Zapata Corp.—all had either general liability or general

aviation insurance policies with Scottish Lion, according to Washington-based law firm Covington & Burling L.L.P., which represents the companies.

Under U.K. law, the English Companies Act 1985, scheme of arrangement advisers need the approval of at least 75% of creditors to proceed with the application for sanctioning. U.K. courts so far have sanctioned all but one deal, which involved a proposed solvent scheme of arrangement by British Aviation Insurance Co. Ltd.

But in his 34-page opinion, Lord

WHAT HAPPENED

- A Scottish judge has ruled in favor of U.S. policyholders opposing a proposed runoff plan for Scottish Lion Insurance Co. Ltd.

WHAT'S NEXT

- The judge, saying the parties have time to "consider the court's opinion," has set another hearing in October.

Glennie said he did not think schemes of arrangement for solvent companies should be sanctioned unless creditors unanimously vote in favor of the proposals.

"In a situation where the company is sound financially, why should one group of creditors who might wish to enter into a commutation agreement with the company be entitled to force other creditors to participate against their will?" Lord Glennie wrote.

An attorney for the opposing creditors said the opinion supported the policyholders' concerns, but noted Lord Glennie's opinion was not yet the final word on the mat-

See **LION** page 23

Family health premiums outpace single coverage: Study

Kaiser Family/HRET releases annual survey of employer plans

By JOANNE WOJCIK

WASHINGTON—Premiums for family coverage through employer-sponsored health insurance plans rose 5% this year, though the average premium for single coverage was not statistically different from last year, according to a survey released last week by the Kaiser Family Foundation and the Health Research & Educational Trust.

Annual premiums rose to \$13,375 for family coverage and \$4,824 for single coverage, the 2009 Employer Health Benefits Survey concluded.

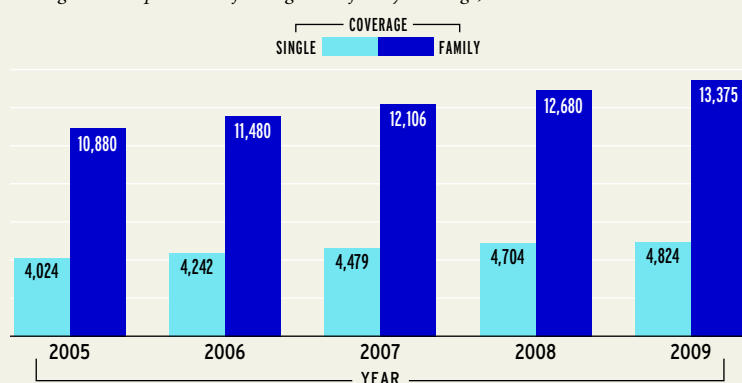
In the case of the self-insured plans, projected premium equivalents were used to determine employee contributions. Approximately 43% of plan members covered by the survey are enrolled in fully insured plans.

Although this year's increase was more moderate than rate increases earlier in the decade, it still outpaced the overall U.S. inflation rate, Drew Altman, Kaiser president and chief executive officer, said during a Washington news conference about the survey results.

"At a time when people and employers have been hit by all kinds of other economic shock," the "combination of rising health care costs and the recession increases the pain level," Mr. Altman said. In fact, 34% of individuals

STEADY RISE FOR EMPLOYER HEALTH INSURANCE COSTS

Average annual premiums for single and family coverage, in dollars



Source: Kaiser/HRET Survey of Employer-Sponsored Health Benefits

responding to a July Kaiser Family Foundation Health Tracking Poll

said they were "very worried" they will not be able to afford needed

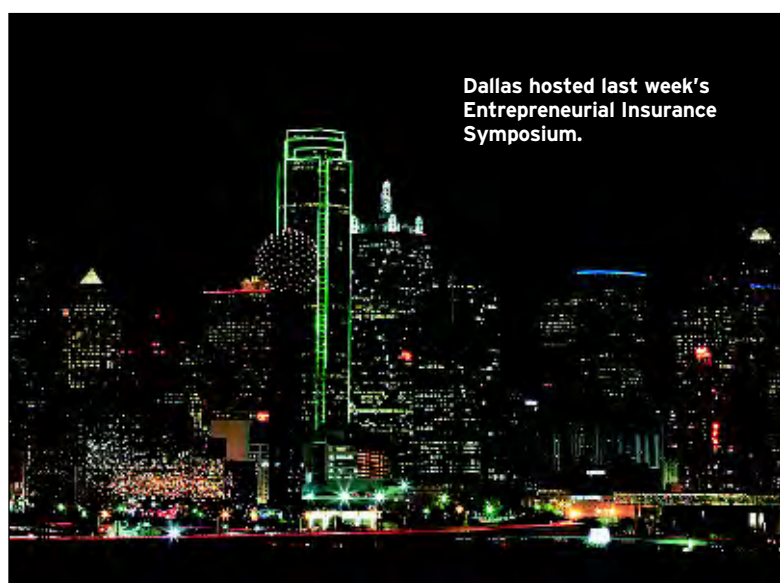
health care services in the future, compared with 28% in September 2008, he said.

As the cost of health insurance continues to rise, so do employee premiums and other cost-sharing, Maulik S. Joshi, president of HRET and senior vp for research at the American Hospital Assn., said during the news conference.

Twenty-one percent of firms said they reduced the scope of benefits or increased employee cost-sharing this year compared with last year; 15% said they increased workers' share of premiums, according to the survey.

Moreover, 41% of employers said they are very or somewhat likely to increase premium contributions next year; 40% may increase office

See **SURVEY** page 26



Risk managers discuss drivers of innovation

Panelists outline ways to improve risk processes

By RODD ZOLKOS

DALLAS—Communications and incentives are two key elements in achieving innovation from a risk management perspective, according to a panel of risk managers who gathered last week in Dallas.

Lance Ewing, vp of risk management at Harrah's Entertainment Inc. in Cordova, Tenn.; Greg Dodd, risk manager at Perot Systems Corp. in Plano, Texas; and Kyle Weddle, former regional risk manager and global risk practices leader at General Motors Corp., discussed innovation in and as it applies to risk management last week at the annual Entrepreneurial Insurance Symposium.

"The key of innovation for GM and for us in risk management was having the conversation," Mr. Weddle said.

The nature of GM's operation

and its supply chains created numerous silos and "little baskets of risk," Mr. Weddle said. To more effectively address the exposures across the organization, risk management mapped the company's supply chains.

"We were able to expand that to the supplier community and provide a ton of data to the people who were managing our suppliers," the former GM risk manager said. Prior to that, "communication wasn't happening in a lot of the silos."

"I'm a big believer in enterprise risk management," Mr. Weddle said. "The value and the innovation is in the discussion."

Candid communication among stakeholders is essential to innovation in risk management, he said, adding, "I think enterprise risk management is a way to do that. I think it's way underleveraged right now."

Mr. Weddle noted that Web 2.0 social networking tools facilitate those sorts of communications, and said such online applications are a

See **SYMPOSIUM** page 26

Marsh buys captive manager IAS

Deal gives big boost to broker's Bermuda captive operations

By SALLY ROBERTS

HAMILTON, Bermuda—Marsh Inc. has acquired independent captive manager International Advisory Services Ltd. in a deal that will strengthen Marsh's position as the largest captive manager in Bermuda.

Terms of the transaction were not disclosed.

In 2008, Marsh Captive Services (Bermuda) managed 295 captives, with premium volume of \$7.5 billion, while IAS had 190 captives under management with \$6.1 billion in premium volume.

IAS' roughly 100 employees, including founder and Chief Executive Officer David Ezekiel and Exec-

utive Vp and Chief Operating Officer David Pickering, are expected to join Marsh.

"When we are looking to invest in our core businesses, we really do it from the perspective of identifying and strengthening our ability to serve our clients," said Michael Cormier, managing director and CEO of Marsh's Global Captive Solutions Practice in New York. The addition of IAS makes Marsh bigger, "but we were already big enough in Bermuda....Additional size here wasn't what we were looking for," he said.

In terms of capabilities, Mr. Cormier noted that IAS has an "exceptional reputation" in providing services to startup insurance companies in Bermuda in addition to traditional captive management services.

"As an independent, one of the real appeals here is Marsh's strength

in terms of offering not only a global capability for our captives but, on the insurance side, a much wider range of solutions," said Mr. Ezekiel, who was named chairman and managing director of Marsh Captive Services (Bermuda).

Because much of IAS' business comes from independent brokers, it was important that Marsh's business was structured in a way that the captive operations are completely separate from the brokerage operations, Mr. Ezekiel said.

Mr. Cormier noted that 50% of Marsh's global captive clients come from outside Marsh's retail brokerage network.

Jill Husbands remains responsible for the day-to-day operations of Marsh Captive Services (Bermuda), while IAS' Mr. Pickering has been named COO of Marsh's Global Captive Solutions practice based in Bermuda.

Willis pays CNA \$130 million to settle personal accident reinsurance fight

By ROBERTO CENICEROS

LONDON—Willis Group Holdings Ltd. has agreed to pay CNA Financial Corp. \$130 million to settle a dispute over placement of personal accident reinsurance "in London and elsewhere," according to a report Willis filed with the U.S. Securities and Exchange Commission.

In the 8-K report filed last week, Willis said it believes the \$130 million settlement, completed Sept. 11, will be covered by errors and omissions insurance and includes no admission of wrongdoing by either party.

The settlement applies to certain CNA units, including Continental Casualty Co., stemming from a Jan-

uary 2008 action CNA brought against Willis in English Commercial Court.

CNA was a Willis client and alleged deceit and negligence by a Willis employee in placing personal accident reinsurance, according to Willis' 2008 annual report. CNA originally sought \$251 million, plus exemplary damages, interest and costs, according to a 2008 Willis annual report.

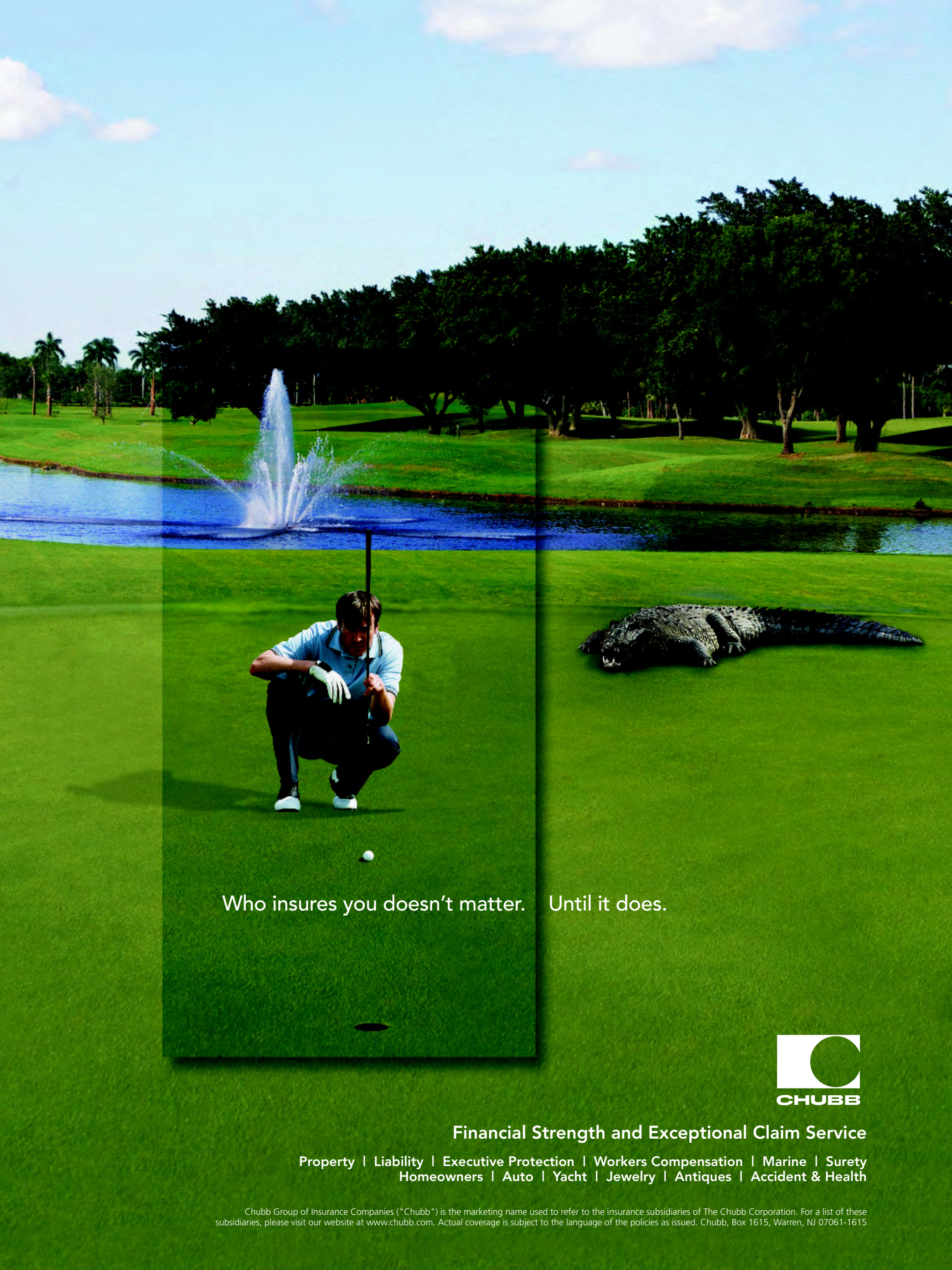
Willis was among "a small number of brokers" active in placing personal accident excess-of-loss reinsurance between 1993 and 1998, according to the annual report.

Legal proceedings involving reinsurers, insurers and intermediaries resulted from deals arranged during that period, with reinsurers alleging

they sustained substantial losses due to a "spiral" in the market for reinsurance contracts, the annual report states.

Reinsurers argued information about contracts was not disclosed by reinsureds or their reinsurance brokers, the annual report stated. A spiral generally refers to insurers and reinsurers reinsuring each other so an exposure is actually maintained by a few companies rather than transferred outside.

In this year's second quarter, Willis recorded a reserve of \$125 million and a related insurance recoverable of \$15 million in connection with the claim, according to its 8-K filing. The additional \$5 million will be reflected in Willis' third-quarter financial results.



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Commentary

What it takes to achieve 'innovation epiphanies'

I spent a couple days last week at the Entrepreneurial Insurance Symposium (formerly the eInsurance Symposium) in Dallas, an annual gathering that brings together leaders from across the insurance business to discuss industry innovation and strategies.

The gathering is presented by Dallas-based electronic insurance exchange MarketScout in partnership with *Business Insurance*, Liberty Mutual Group Inc., Microsoft Corp. and the National Alliance for Insurance Education & Research.

There were many fine presentations and panels at this year's gathering; elsewhere in this issue of *BI*, you can find a report on a panel examining risk managers' take on the importance of innovation in the insurance industry.

But I think for those of us who'd attended last year's symposium, it was hard to separate this year's gathering from memories of the events taking place as we gathered last year. For it was during last year's symposium that the bottom fell out of the financial services industry.

This might be a memory I've embellished during the past year, but it seems I can recall an elevator ride that was a metaphor for all that was taking place during the course of those few days. With BlackBerrys even more in use during those days last year than they typically are at such events, I remember someone telling me as I stepped off the elevator on the ground floor of a hotel that the price of AIG stock was half of what someone had quoted as I'd stepped aboard the elevator on the 42nd floor.

Naturally, the events of last September—the financial services crisis and the recession (which we now seem to be emerging from, according to many economists including Robert Hartwig, president and chief economist of the Insurance Information Institute and a speaker at this year's symposium)—were a common touchstone in Dallas last week.

It's probably not surprising that at a gathering focused on industry innovation, those conversations frequently sought to turn the lemons served up during the past couple of years into business lemonade.

"Whenever calamity occurs, it always creates new opportunities," noted Richard Kerr, MarketScout's chief executive officer, in his opening remarks at last week's symposium.



RODD ZOLKOS

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For businesses and businesspeople looking to seize those opportunities, a particularly interesting point was made, I think, by David Bell, chief operating officer of Pembroke, Bermuda-based Allied World Assurance Co. Ltd., who noted that innovation isn't a function of capital. He quoted Steve Jobs, CEO of Apple Inc., as saying, "Innovation has nothing to do with how many (research and

I remember someone telling me as I stepped off the elevator that the price of AIG stock was half of what someone had quoted as I'd stepped aboard the elevator on the 42nd floor.

development) dollars you have."

Instead, it's about people, leadership and "how much you get it," Mr. Jobs said. And, Mr. Bell said, "People that are widely known as the ones that 'get it' didn't necessarily start that way." Innovation is a mindset, Mr. Bell said, and it's possible to have an "innovation epiphany."

It seems to me that a key to achieving those epiphanies is communication, sharing information and ideas with co-workers, stakeholders, customers and others, with an openness to new and sometimes radically different ways of doing business, solving problems, etc.

The insurance industry and risk management are, by their nature, disciplines rooted in looking back. And there's much to be learned from the events of the past year. But the innovators will take those lessons and look forward.



The child is fine.

It was the hospital's future that was iffy.

Insurance costs rose tenfold—for the hospital. See how this medical drama resolves: [Milliman.com/hospital](https://www.milliman.com/hospital).



Business Insurance OPINIONS

Tough lessons taught by '08 require action

ONE YEAR AFTER the financial services meltdown that nearly bankrupted the world's largest insurance organization, it's a good time to review what went wrong.

There are significant lessons from the mistakes that caused a worldwide recession and prompted an unprecedented amount of federal aid, billions of dollars of it to American International Group Inc.

First of all, there was a failure of risk management. AIG and other financial institutions, eager to book profits from credit derivatives, lost sight of their aggregate exposures. In AIG's case, its Financial Products unit wrote credit default swaps with a notional value exceeding \$350 billion, unhedged. That kind of exposure would be unthinkable for an insurer, and AIG's insurance operations were and remain financially sound. Investment banks such as Bear, Stearns & Co. Inc. and Lehman Bros. Holdings Inc. were highly leveraged, investing as much as 40 times their available capital.

Secondly, assumptions about the risk to asset values proved to be wrong—massively. An enormous amount of securities was derived from subprime loans, and nobody forecast a systemic collapse of those underlying assets. Investors in mortgage-backed securities usually are exposed mainly to prepayment risk, but with the subprime loans, a huge number of defaults made the derivative investments plummet in value and trigger collateral requirements. That caused a liquidity crisis for AIG and would have wiped it out without the Treasury Department's emergency involvement.

Thirdly, we think the lack of strong regulation of financial services abetted the above factors. It's disappointing that, as we begin to emerge from the worst recession in 70 years, Congress still is debating financial services reform. Now is the time to achieve balanced regulation that avoids economic meltdowns but allows for innovation, a hallmark of the U.S. financial services system. If we do not learn from mistakes of the past year, we are doomed to repeat them.

If health care reform stalls, millions will lose

WHAT WENT WRONG in the drive to pass comprehensive health care reform legislation?

While three House committees have approved measures, not a single Republican cast a vote in favor. When the traditionally bipartisan Senate Finance Committee this week considers a reform measure put together by Chairman Max Baucus, D-Mont., it likely will do so without support from any Republican panel members.

Certainly, President Obama deserves some blame. His refusal until recently to go beyond general principles for reform allowed far-left-of-center House Democrats to frame specifics of the legislation. The result was a bill that increased public concerns.

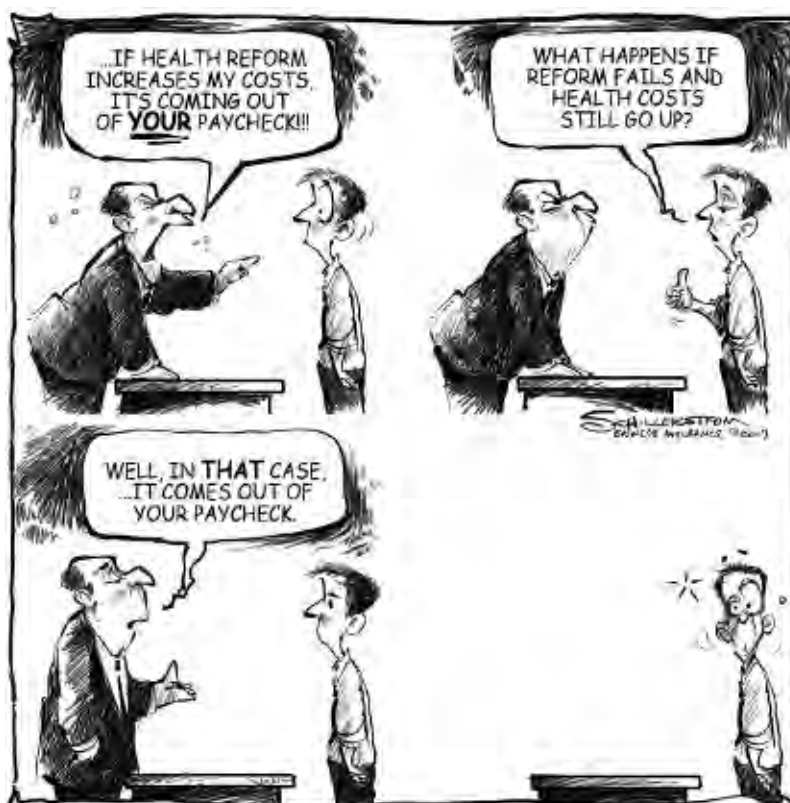
House Democratic leaders also deserve blame for devising a measure with provisions, such as the "public option," that stoked the fires of opposition.

And we wonder if there are some congressional Republicans who oppose the legislation simply because they see its defeat as a way of politically weakening President Obama.

Whatever the reasons, the victims of a failure to reach an agreement will be many, including millions of U.S. residents who will continue to have no means to obtain affordable health insurance coverage.

We hope, as legislators take another stab at reform legislation, that they can achieve a bipartisan plan to improve the nation's health care delivery and financing system.

Now is the time to achieve balanced regulation that avoids economic meltdowns but allows for innovation.



WRITE

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THIS WEEK'S RESULTS

Q What impact will President Obama's speech to Congress have on enactment of health care reform?



Make it more likely

24%

Make it less likely

18%

No impact

57%

NEXT WEEK'S QUESTION

Q: How prepared are financial services companies to prevent another meltdown?

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Products & Services

Earthquake briefing aims for model transparency

BOSTON—Karen Clark & Co. has added an executive briefing service to its consultancy offerings to help firms better understand two revised earthquake catastrophe models for North America.

The briefing, "Implementing the New U.S. Earthquake Models: Look Before You Leap," is aimed at boards of directors and insurance company executives with guidance about interpreting and using the models, the company said.

According to the Boston-based firm, the briefing addresses several key issues that include an analysis of the reduced loss estimates the models produce, and subsequent changes to earthquake underwriting and pricing as a result, the company said.

The offering is designed to "bring more transparency to the science underlying the new earthquake models, and helps companies enhance their risk management decisions," the company said in a statement.

For more information, e-mail info@karenclarkandco.com.

Valiant liability offering targets private companies

NEW YORK—Valiant Insurance Group Inc., a wholly owned subsidiary of Ariel Holdings Ltd., has introduced a primary management liability package for small- and medium-sized private companies.

The Private Company Safeguard package includes directors and officers liability, employment practices liability and fiduciary liability coverage. Policy highlights include a broad definition of loss, optional coverage for claims by third parties for discrimination, and optional defense expense coverage for wage and hour claims, New York-based Valiant said.

Policyholders also have access to legal consultants for workplace legal topics and related claims through the company's partnership with law firm Jackson Lewis L.L.P., Valiant said.

For more information, contact Lori Marino, senior vp of management liability, at 212-444-4019 or Lori.Marino@Valiantinsurance.com.

ISO thinks green with property policy

JERSEY CITY, N.J.—Insurance Services Office Inc. has introduced a standard coverage option policy for commercial property owners interested in rebuilding damaged property with environmentally friendly materials.

The new policy wording offers a uniform approach for ISO-participating insurers and contains three major components:

- Additional green upgrade coverage to pay for more energy-efficient and environmentally friendly building materials, products or design and construction, as recognized by a green standard-setter, such as Leadership in Energy and Environmental Design or ENERGY STAR.

- Related-expense coverage, which provides an additional limit for expenses related to green upgrades that include waste reduction and recycling costs, such as reusing or salvaging building materials or contents and related removal and transportation costs.

- Business interruption coverage for policyholders with an underlying time-element policy that extends the restoration period.

ISO files standard policy forms for use by insurers with state insurance regulators. For more information, contact Beth Fitzgerald, vp-commercial lines and modeling, at BFitzgerald@iso.com or visit www.iso.com.

RIMS' Workers Comp Kit focuses on cutting costs

NEW YORK—The Risk & Insurance Management Society Inc. has introduced Workers Comp Kit, a Web-based workers compensation management program designed to help

companies reduce their costs.

The program is aimed at assessing workplace injury procedures and can provide scoring and feedback on programs as well as suggest areas of improvement, New York-based RIMS said in a statement.

The program features three levels: Level 1 is diagnostics, Level 2 is data benchmarking, and Level 3 offers solutions and tools, RIMS said.

The program also offers a dashboard monitor feature to track progress.

The program costs \$4,000 and RIMS members receive a 20% discount. An sample of Workers Comp Kit can be accessed at www.rims.org/resources.

For more information, contact Kate Powers, program manager, at 212-655-6219 or kpowers@RIMS.org.

TO SUBMIT ITEMS

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The annual Rendez-Vous de Septembre brings reinsurance industry executives to Monte Carlo to kick off discussions of expected market conditions heading into 2010 renewals.

REGIS J. COCCIA

Reinsurance: Rendez-Vous Report

SPOTLIGHT

**RANKING: INDEPENDENT
U.S. RISK MANAGEMENT
CONSULTANTS**

PAGE 12

**INFLATION, POTENTIAL
WAVE OF D&O CLAIMS
WEIGH ON CASUALTY**

PAGE 15

**REINSURER CAPITAL
LEVELS IMPROVE, BUT
INVESTORS WARY**

PAGE 16

**RETROCESSIONAL
MARKET FAVORING
SECURITIZATION**

PAGE 17

**CATASTROPHE BONDS
REGAIN FAVOR AS
PRICING MODERATES**

PAGE 18

**ECONOMIC RECOVERY
SEEN FUELING M&A
AMONG REINSURERS**

PAGE 19

Stable reinsurance prices foreseen

Rates flat for most property risks, but some see hikes for cat-exposed accounts

By REGIS COCCIA and MICHAEL BRADFORD

MONTE CARLO, Monaco—Reinsurance companies are looking to increase rates on property coverage, but intermediaries expect cedents will find stable prices at renewal unless a significant loss event occurs this year.

Reinsurers' cash flow surged in the first half of 2009, Christopher Klein, head of the business intelligence unit for Guy Carpenter & Co. L.L.C., said during the recent Rendez-Vous de Septembre. "Negative operating cash flow usually signals rate increases. We see strong cash positions, and that points to a stable pricing environment," he said.

"Reinsurers have been able to regain much of the capital lost

from the financial crisis and windstorms in 2008, and so rates are likely to be flat at the next renewal," Mr. Klein said.

Although two hurricanes, Ike and Gustav, were multibillion-dollar loss events last year, the financial crisis largely overshadowed them.

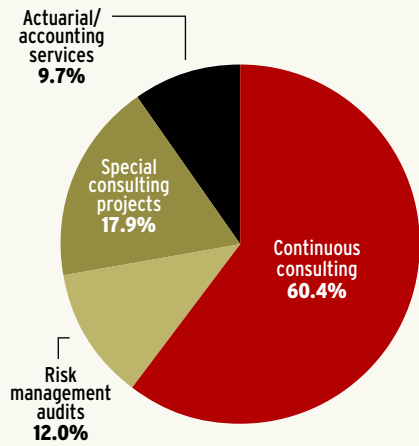
"Losses from Ike and Gustav led to price increases," particularly for offshore energy accounts, said Richard Booth, vice chairman of Guy Carpenter.

Price discounts in 2007 and early 2008 for other property lines generally remained, he said. "It took a simultaneous catastrophe and financial crisis to achieve a double-digit rate

See **PROPERTY** page 14

BREAKDOWN OF REVENUES

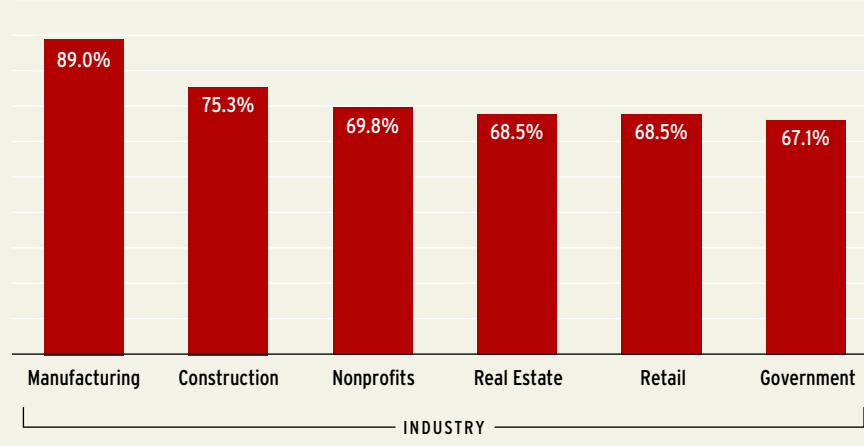
Revenue sources for all companies listed in the directory



Source: BI survey

MOST COMMON INDUSTRIES SERVED

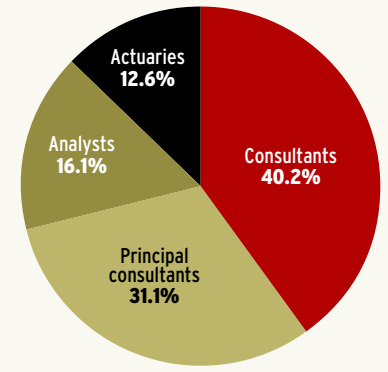
Percentage of companies serving these major industries



Source: BI survey

BREAKDOWN OF PROFESSIONAL STAFF

Risk management professionals for all companies listed in the directory



Source: BI survey

Largest independent U.S. risk management consultants

Companies deriving a majority of their gross revenues from unbundled risk management consulting¹

Rank	Company/Address	Phone/Web site	2009 unbundled revenue from risk management consulting ²	Unbundled clients ³	Professional staff ³	Principal officer
1	RMI Consulting Inc. 20 Soundview Marketplace, Port Washington, N.Y. 11050	516-767-7373 www.rmiconsulting.com	\$11,600,000	500	23	MaryAnn Sackman, president
2	J.H. Albert International Insurance Advisors Inc. dba Albert Risk Management Consultants 72 River Park, Needham Heights, Mass. 02494-2631	781-449-2866 www.albertrisk.com	\$7,900,000	600	33	Alfred H. Nagelberg, Stuart T. Cowart, presidents
3	Risk International Services Inc. 4055 Embassy Parkway, Suite 100, Fairlawn, Ohio 44333	216-255-3400 www.riskinternational.com	\$6,882,000	55	22	Douglas L. Talley, chairman/CEO
4	Corporate Risk Solutions L.L.C. 178 Myrtle Blvd., Larchmont, N.Y. 10538	914-834-1234 www.crslimited.com	\$5,500,000	312	7	Joseph F. Coughlin, CEO
5	Alpha Risk Management Inc. 60 Cutter Mill Road, Great Neck, N.Y. 11021	516-829-3500 www.alphariskmanagement.com	\$4,250,000	76	19	Herbert H. Feldman, president/CEO
6	Risk Navigation Group L.L.C. 37 Dumont Road, Suite 100, Far Hills, N.J. 07931	908-470-1010 www.risknavigation.com	\$2,500,000	75	9	Richard M. Sabetta, managing principal
6	Robert Hughes Associates Inc. 508 Twilight Trail, Suite 200, Richardson, Texas 75080	972-980-0088 www.roberthughes.com	\$2,500,000	239	13	John R. Oakley, president
8	Insurance Buyers' Council Inc. & First Risk Management/IBC Inc. 9720 Greenside Drive, Suite 1E, Cockeysville, Md. 21030	410-666-0500 www.consultibc.com	\$2,450,000	130	9	Adam P. Sielicki Jr., president/treasurer
9	Kevin F. Donoghue & Associates 190 High St., Boston, Mass. 02110	617-482-7015 www.kfda.com	\$2,200,000	140	11	Kevin F. Donoghue, president
10	ALS Group 1 Park Way, Third Floor, Upper Saddle River, N.J. 07458	201-661-5020 www.als-uic.com	\$2,000,000	40	9	Albert L. Sica, managing principal

¹ Business Insurance defines independent consulting operations as those that are not owned by insurers or brokers. In addition, companies deriving 50% or more of their revenues from actuarial, captive, environmental, property loss or safety consulting are not ranked. ² Estimated. ³ As of June 30, 2009.

Source: BI survey

Researched by Kevin Edison

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Eleven reinsurance companies launched a new trade association, the Global Reinsurance Forum, at the Rendez-Vous. Executive members of the GRF present, from left: Stefan Lippe of Swiss Re, Tad Montross of Gen Re, Michael McGavick of XL, Ulrich Wallin of Hannover Re, Nikolaus von Bomhard of Munich Re, Robert Orlich of Transatlantic, Denis Kessler of SCOR, Patrick Thiele of PartnerRe, Lord Peter Levene of Lloyd's and Hiroshi Fukushima of Toa Re. Not pictured is Greig Woodring of RGA.

Property: Rates riding on 2009 losses

CONTINUED FROM PAGE 11

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Reinsurance Co. in New York.

Much of the overall increase will come not in the more common treaty reinsurance but in the large facultative reinsurance placements, Mr. Klecan said, "because it is hard to rate large corporate facultative and not have some cat component attached to it. So as a result, the pricing is going up; that is a good sign."

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Losses for the remainder of 2009 and reinsurer earnings largely will determine the amount of rate increases, market sources said.

"Reinsurers to some extent are looking for improvements" in pricing, said Victor Peignet, Paris-based CEO of global property and casualty at SCOR S.E. "We will kick off negotiations with the view that we are producing a result that is just what we need, no more. I think next year we will be pricing the business with investment yields that will be lower than last year."

If there are minor natural catastrophe losses in the United States by the end of this year, reinsurance rates will go up by 10%, said Konrad Rentrup, president and CEO of Hannover Re (Bermuda) Ltd. "If we see a big loss, a Katrina (type of) event, we are not talking about increases of 30%, we are talking about much bigger increases," he said.

In addition, "probably some players would be forced to leave the market if something like this happened," Mr. Rentrup said.

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"If we have a light catastrophe season, reinsurers will still make money. A medium event, resulting in a 5% to 10% erosion of capital, is at the cusp of" break-even, he said.

"Light is a \$30 billion loss year, in places that are reinsured. Medium is \$60 billion of insured events, and \$100 billion is a heavy year. In the event of a heavy year, then pricing will go back to" 2006 levels, "when capital flowed," Mr. Ehrhart said.

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Bryon Ehrhart, CEO of Aon Benfield Analytics in Chicago, does not foresee a return to the high reinsurance pricing of 2006 absent a major catastrophe.

"If we have a light catastrophe season, reinsurers will still make money. A medium event, resulting in a 5% to 10% erosion of capital, is at the cusp of" break-even, he said.

"Light is a \$30 billion loss year, in places that are reinsured. Medium is \$60 billion of insured events, and \$100 billion is a heavy year. In the event of a heavy year, then pricing will go back to" 2006 levels, "when capital flowed," Mr. Ehrhart said.



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REGIS J. COCCIA

The Cafe de Paris is a popular meeting spot during the Rendez-Vous reinsurance gathering in Monte Carlo.

Experts warn of challenges amid falling casualty rates

Predictions for 2010 say reinsurance rates will be flat or down

By REGIS COCCIA

MONTE CARLO, Monaco—Rates for casualty reinsurance in 2010 will be flat or possibly down, according to reinsurance market experts.

Some challenges lie ahead, however, with the prospect of inflation eroding returns and capital, market observers said at the recent Rendez-Vous de Septembre.

"A major event in the market will have a significant impact on renewal discussions, but in the absence of a very large event, I'm not sure the market is ready for a correction on long-tail lines," said Jamie Veghte, chief executive officer of reinsurance operations for XL Capital Ltd. in Stamford, Conn. "We won't see a dramatic change in rates on long-tail lines."

He suggested no events have moved the entire market since the Sept. 11, 2001, terrorist attacks and that a loss event "well north of \$50 billion" would be needed to change the current conditions. "Companies will have to start to feel pain before the market moves in casualty," Mr. Veghte said. He believes there will be "continued rate deterioration, mid-single-digit rate reductions."

Rates for directors and officers liability reinsurance in the United States "are showing signs of improvement," Mr. Veghte said. XL "has significantly reduced our exposure" in non-U.S. casualty reinsurance business, he said.

But, for companies writing D&O liability risks, a wave of claims is building, according to Richard Booth, vice chairman of intermediary Guy Carpenter & Co. L.L.C. in New York.

"A multibillion-dollar pipeline has formed for D&O claims arising from the financial crisis, Mr. Booth said at a press conference in Monte Carlo, Monaco. "Those claims could take five years" to show up in industry results, which would likely cause rate changes, he said.

Zurich-based Swiss Reinsurance Co. sees "a broad trend for price increases on the reinsurance side. A closer look shows there are differentiations to be made," Stefan Lippe, Swiss Re's CEO, said at a press conference during the Rendez-Vous. While prices on property catastrophe business are becoming very attractive, "this situation is very different on the long-tail (casualty) segments," he said.

"We at Swiss Re made announcements three years ago that we had the feeling that in these (long-tail) segments the prices are declining, the claims tendency is not going down. And we saw in the first quarter of 2009 that the rates, which are very important for the economic result of long-tail business, are down close to never-seen-in-history low yields. And this has to be reflected in the prices," Mr. Lippe said.

While there is ample capacity overall, certain sectors of the casualty reinsurance market have limited participation, reinsurance brokerage executives said.

"Capacity in casualty is plentiful, but it's getting smaller as clients retain more risk," said Bryon Ehrhart, CEO of Aon Benfield Analytics. "Casualty has performed well because frequency has declined in auto, workers comp and umbrella, and severity has been manageable."

"What it means is when a casualty market turn comes, insurers will

own more of that risk," Mr. Ehrhart said.

"From a reinsurance perspective, we need to attract capital to the casualty market," said David Priebe, chairman of global client development for Guy Carpenter. "There isn't an abundance of capacity for some specific casualty lines. Clients would like to see a broad panel of reinsurers" writing casualty business, he said.

"If the perception was that (casualty) was a strong pricing market, that would encourage more companies to step in," Mr. Priebe said.

With stable to reducing rates on casualty risks, and the prospect of inflation, reinsurers' returns will be under pressure, observers said.

"I'm very concerned about the long-tail markets," said Mr. Veghte. "Rates have been creeping down and have slowed somewhat lately. I'm not so sure that rate reductions slowing is cause for joy."

He cautioned that insurers' and reinsurers' earnings have been helped by releases of prior-year reserves and that source of funds is disappearing. While most of the releases have come in short-tail

lines, such as property, marine and other non-casualty lines, he said the industry should be "very careful about prior-year releases on long-tail lines."

Meanwhile, Mr. Veghte said "yields on new money are generating low returns, and there seems to be a fairly strong consensus that increases in inflation are likely." Inflation would be particularly problematic for long-tail business, such as casualty, he noted.

Michael Bradford contributed to this report.



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Reinsurer capital levels rising, but investors remain wary

Industry stronger but not yet recovered from financial crisis

By MICHAEL BRADFORD

MONTE CARLO, Monaco—Reinsurers are increasing their capital as the financial crisis eases, but they remain short of where they'd like to be and are wary of factors that could hinder capital growth, market participants said during the Rendez-Vous de Septembre reinsur-

urance gathering.

A report by Aon Benfield released during the Monte Carlo, Monaco, meeting showed reinsurers have begun to improve their capital positions that eroded in 2008. The report tracking financial results of the world's 24 largest reinsurers said improved investment returns have helped the companies add capital in the first half of this year.

But even so, capital remains below pre-financial crisis levels and challenges remain, experts said.

"There is a tighter capital situation," said Martin Albers, head of

client markets in Europe for Zurich, Switzerland-based Swiss Reinsurance Co. Reinsurer capital now is about 15% to 20% lower than before the financial crisis, he said in an interview.

While improved investment returns may be bringing in more capital, it has not yet replaced the capital lost as a result of the financial crisis, experts said. Some worry that a large catastrophe could hit reinsurers at a time when additional capital is not readily available.

"Many reinsurers will be unable to write (new business) after a large

impairment to surplus," Michel Plécy, Paris-based executive vp and head of treaty underwriting at Zug, Switzerland-based Paris Re Holdings Ltd., said in an interview.

Mr. Albers said he believes reinsurers will be able to replenish capital after the next major catastrophe, although it could take a few years.

"What is attractive about the nat cat markets is that they have been robust markets," Mr. Albers said. "Generally, after three to five years, losses have been recovered through the market mechanisms of price corrections, capacity adjustments

and so forth," he said. "I don't see any change to those mechanisms."

In fact, alternative sources of capital are not as abundant during the current market cycle, and their absence could lead reinsurers to try to push rates higher, Mr. Albers said.

"The easy influx of new capital we have seen in other times of tighter capital situations is not visible (currently), so sidecars, hedge funds and alternative investors are not flocking to the sector," he said.

Mr. Plécy said it's unclear whether sidecars, special-purpose vehicles that provide capital to reinsurers, will return to the marketplace. "We placed one three years ago that was not renewed," he said. "Do I think that it is something that will come back and play a major role? It's hard to say."

Swiss Re and Paris Re are well-positioned to withstand a catastrophe with adequate capital, the executives said. SCOR Reinsurance Co. said it also is well-positioned to handle such a strain on capital.

"We have a global, diversified portfolio of business. We've never been a believer in the monoline concept," Henry Klecan Jr., president of the New York-based reinsurer unit of Paris-based SCOR S.E., said in an interview. "They've taken big risks and they've taken big hits," he said of monoline reinsurers. "We have not. We will not."

Stefan Lippe, chief executive officer of Swiss Re, said his company illustrates reinsurers' role as an alternative source of capital for insurers.

During a news conference at the Monte Carlo meeting, Mr. Lippe said "many insurance players have suffered from the financial crisis. And those whose solvency has been badly affected are now looking for fresh capital or capital-substitution instruments. And that plays to our strengths and capabilities."

Capital markets could help insurers and reinsurers as the financial crisis fades, but investors remain cautious, sources said.

"The capital markets are reopening," said Achim Bauer, partner at PricewaterhouseCoopers in London. "Our assessment is they will be much more selective in the balance sheets they will be supporting. Their selectivity will be based on solidity of balance sheets, the ability to understand what insurance and reinsurance companies are doing, transparency" and other factors, he said.

"Capital markets are opening up," agreed John Andre, group vp, property/casualty ratings at A.M. Best Co. Inc. in Oldwick, N.J. As proof, cat bonds issued are catching up with issuance levels of a few years ago, he said.

Smaller insurers are more apt to turn to reinsurers than the capital markets, which are very expensive, said W. Marston Becker, chairman and CEO of Bermuda-based Max Capital Group Ltd.

"So their primary tool for capital management is reinsurance, and I don't see that changing right away.

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Retrocessional market options ride on securitization

Insurance-linked securities regaining some lost ground

By REGIS COCCIA

MONTE CARLO, Monaco—Reinsurers' options for retrocessional risk transfer are limited, but investor appetite is growing for certain securitized products, experts said at the recent Rendez-Vous de Septembre reinsurance gathering.

Two major components of the retrocessional market, in which reinsurers spread the risks they assume to other reinsurers known as retrocessionaires, are insurance-linked securities and industry loss warranties.

Demand for both types of risk transfer is down somewhat from a few years ago, reinsurance experts said.

"We see capital markets being the provider of retrocessional capacity, through securitization," said David Priebe, chairman of global client development at Guy Carpenter & Co. L.L.C. of New York. "We see the retro market no longer as traditional; the core solutions set is more insurance-linked securities and collateralized reinsurance."

While risk transfer through the capital markets slowed greatly after the financial crisis took hold in 2008, investors' appetites for insurance-linked securities is returning, said Mr. Priebe (see story, page 18).

"The property catastrophe component will be the driver of the cat bond space for the foreseeable future," said Paul Schultz, president of the investment banking group at

Aon Benfield in Chicago. He said deals involving pension funds and life insurers, for whom "hedging longevity risk is important," are likely to grow. Mr. Schultz said he expects such deals in the future will not resemble catastrophe bonds but be derivative investments, issued without collateralization.

Industry loss warranties, or ILWs,

offer protection triggered by industry-wide losses reaching a predetermined threshold.

"Demand for Gulf Coast wind (ILWs) was less than expected, but it's still a vibrant and active vehicle," Mr. Priebe said. Generally, pricing for ILWs on U.S. windstorm losses "is unattractive below attachment points of \$20 billion," he

said.

"The ILW space has shrunk," said Bryon Ehrhart, CEO of Aon Benfield Analytics in Chicago. Because ILW contracts offer liquidity, they are "a flexible portion of the capital structure of the industry. More people would like to write them, but there isn't demand" for ILW contracts, he said.

Victor Peignet, CEO of property and casualty business at Paris-based SCOR S.E., confirmed that retrocessional solutions have a place, but SCOR's appetite for buying them is limited. "SCOR is not a trader of risk, we are a carrier of risk. We buy retrocessional coverage to protect our book but we don't build our business on retro," he said.

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Continued from previous page

The result is good demand for reinsurance, but yet it's not enough to spike prices. It really has generated what I would call an orderly market," Mr. Becker said in an interview.

"It's interesting that we have seen the capital management pendulum swing over the past few years," Mr. Andre said. "About a year ago, (the thinking) was preserve capital and bring it in, for obvious reasons. Now we are seeing stock repurchase plans announced again...Companies are looking to deploy now, but they should be mindful again of the storm season that remains, if indeed the market were to turn and they needed some dry powder for future underwriting."

"The reality is people will end this year with about the same capital as they had in 2007, so it's not as though you've had this great growth in surplus," Mr. Becker said of insurers' overall capital levels before the recession hit. "So I think you still want to be somewhat prudent in the how you do things and, of course, that's assuming no cat events. While everyone is waving the victory flag, it's only the beginning of September."

Colleen McCarthy contributed to this report.

Interest in catastrophe bonds expected to keep growing

Issuance is down, but capital flowing; strong growth seen

By COLLEEN MCCARTHY

MONTE CARLO, Monaco—Interest in transferring catastrophic risk to the capital markets continues to grow as issuers resume using catastrophe bonds as a portfolio management tool, reinsurance experts and observers say.

At the recent Rendez-Vous de

Septembre meeting in Monte Carlo, Monaco, speakers said they expect catastrophe bonds, one type of insurance-linked security, to add \$1.5 billion in capacity during the fourth quarter, bringing the year's total between \$3 billion and \$4 billion.

So far this year, \$1.8 billion in cat bonds have been issued, according to reinsurance brokers Aon Benfield and Guy Carpenter & Co. L.L.C. That would be greater than the roughly \$3 billion issued in 2008, but off sharply from the record \$7 billion in cat bonds issued in 2007.

"We have a very aggressive out-

look for the remainder of the year and we're seeing a lot of interest," Paul Schultz, president of Aon Capital Markets in Chicago, said during a panel discussion at the Sept. 4-10 meeting.

"Major issuers are using cat bonds to complement and diversify their core placements. With capital flowing again, cedents and markets have options, and they are taking advantage of them," said David Priebe, chairman of global client development for New York-based Guy Carpenter, said at a news conference during the annual gathering.

The catastrophe bond market, which was hit by last year's collapse of Lehman Bros. and the subsequent ratings downgrade of four cat bonds backed by the investment bank, has had 11 transactions so far this year, most of which featured reinsurance capacity for U.S. hurricanes and earthquakes, according to Guy Carpenter.

"We are very convinced that the underlying rationale for insurance-linked securities remains very valid, and actually has been accelerated by the financial market dislocation over the last year," Martin Bisping,

head of nonlife risk transformation at Swiss Reinsurance Co. in Zurich, Switzerland, said during another news conference. "Sponsors with increased awareness of credit and counterparty risks value the collateralized multiyear capacity from an alternative market," he said.

Contributing to the expected boost in issuance is a moderation of catastrophe bond pricing, which peaked early this year. The pricing is expected to continue to drop as the global financial crisis shows signs of recovery, absent a major catastrophe, observers said. Lower pricing is expected to attract new issuers to the market and open the way for non-U.S. perils to be securitized toward year-end, observers said.

"Non-U.S. perils will be particularly attractive as a result of falling prices," Mr. Bisping said.

Observers said potential deals that may close by year-end include cat bonds for European and Japanese windstorms and U.S. and Japanese earthquakes.

However, pricing will determine the sector's growth, several observers said.

"If the pricing curve continues to come in line with traditional reinsurance pricing, then the sector will remain healthy," said Aon's Mr. Schultz.

Torsten Jeworrek, chairman of the reinsurance committee at Munich Reinsurance Co. in Germany, said during a panel discussion that "the pricing and economic advantages have to improve, and that is not just a problem for 2008 and 2009 when we have seen a reduction in capacity from the capital markets."

In July, German reinsurer Hannover Reinsurance Co. placed the €150 million (\$213.8 million) Eurus II Ltd. cat bond covering windstorms in seven European countries through March 2012.

It was the first cat bond issued for a non-U.S. peril this year with strong investor demand that boosted it past its original size, Mr. Schultz said.

Observers say investor confidence has been driven, in part, by the cat bond sector outperforming most asset-backed securities in the past year amid light catastrophe losses.

According to its annual review of the ILS market presented at the Rendez-Vous, Aon Benfield said ILS products provided a total investment return of 3.89% for the fiscal year ending June 30, down from 10.12% the previous year, with European bonds posting the strongest performance.

Market participants say that performance suggests the sector is resilient and should help attract additional investors.

"The capital markets realized during the financial crisis that insurance-linked securities have done pretty well," said Henning Ludolphs, director, insurance-linked securities at Hannover Re in Hannover, Germany.

Hannover Re expects to see "far more issuances next year than we saw this year," Mr. Ludolphs said.

Senior Editor Michael Bradford contributed to this report.

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Financial crisis expected to fuel reinsurers' M&A activity

By COLLEEN McCARTHY

MONTE CARLO, Monaco—Mergers and acquisitions are expected to gain momentum as reinsurers look to accelerate growth after the financial crisis, experts said at the Rendez-Vous de Septembre.

Attendees at the annual reinsurance gathering in Monte Carlo, Monaco, said an expected recovery in the world financial markets later this year, combined with a return of capital to the reinsurance sector, likely will drive the consolidation trend.

"Over the next 24 months, M&A activity is likely to be robust," said David Priebe, chairman of global client development for New York-based Guy Carpenter & Co. L.L.C. "Expect reinsurers to consolidate to accelerate growth, capture market share, and use economies of scale to push margins wider."

Brian Duperreault, president and chief executive officer of New York-based Marsh & McLennan Cos. Inc., also forecast a wave of mergers and acquisitions, and views consolidation as a natural development after the financial crisis.

"Equity and credit capital, now more available with the recent thawing of the financial markets, are likely to be integral to a wave of M&A activity. Some carriers realize that they will have to acquire or be acquired," Mr. Duperreault told a PricewaterhouseCoopers L.L.P. breakfast in Monte Carlo.

In addition, the financial crisis has resulted in many companies still trading at or below their book value per share and "that makes them attractive targets," said Paddy Jago, New York-based CEO of U.S. operations of Willis Re Inc., a reinsurance unit of Willis Group Holdings Ltd.

Continued soft market conditions also could influence the desire to grow through acquisitions, Mr. Jago said.

Several recent strategic transactions have resulted in tie-ups for European and Bermuda reinsurers looking to gain scale and access to capital. In July, Pembroke, Bermuda-based PartnerRe Ltd. said it would buy Zug, Switzerland-based Paris Re Holdings Ltd. in an all-stock deal valued at \$2 billion.

After a bidding battle, Bermuda-based reinsurer IPC Holdings Ltd. agreed in July to merge with rival Validus Holdings Ltd. in a \$1.77 billion deal. Validus broke up a planned merger between IPC and Bermuda-based reinsurer Max Capital Group Ltd.

In an interview, Max Capital CEO W. Marston Becker said he was "still open to acquisition opportunities." However, "in this kind of market, it would take a unique situation to make it real," he said.

"There's a lot of reasons why consolidation is attractive, but there are still a lot of challenges to making that happen, because no one has the currency to pay a premium," Mr. Becker said.

The IPC/Max Capital combination was intended as an all-stock deal before Validus launched a hostile bid that it revised several times

with cash components.

"I think there will be more consolidation and, at some point, we may be a part of that," said John Berger, CEO of Hamilton, Bermuda-based Harbor Point Ltd. "We're certainly open to anything that makes sense."

While market speculation at Monte Carlo suggested that Harbor Point was in potential merger discussions with Bermuda-based reinsurers Ariel Reinsurance Co. Ltd. and Montpelier Re Holdings Ltd., Ariel Re Chairman and CEO Don Kramer dismissed the talk.

"There's absolutely no truth to

the three-way deal," Mr. Kramer said. "It wouldn't make sense to combine with either because there's too much overlap and we do the same thing," he said in referring to high concentrations of property catastrophe business for the three companies.

Montpelier and Harbor Point declined to comment on market rumors.

"We're always looking for opportunities, but right now the focus is more on diversification efforts," said Mr. Kramer, who cited Ariel Re's recent move to open a branch office in Zurich, Switzerland, to

write credit and surety reinsurance beginning in 2010.

While observers generally agreed Bermuda is ripe for consolidation and likely will play a role in the next wave of M&A activity, others said they don't necessarily expect Bermuda-based firms to look to combine.

"I think they're looking at growth and diversification from outside Bermuda, rather than inside Bermuda," said Caroline Foulger, a PricewaterhouseCoopers partner based in Bermuda.

Ariel Re and Max Capital are among several Bermuda-based firms

that have added Lloyd's of London platforms in the past year.

In addition, Ms. Foulger said, there may be "less purchases of an entire company and more movement in terms of acquiring underwriting teams" because "it's much less risky."

M&As also could satisfy private equity owners' pent-up demand for liquidity, observers said.

"For the Bermuda-based firms who have not gone public, the shareholders may be looking for an exit strategy. So they may raise their hands and say, 'Pick me,'" Ms. Foulger said.

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Court cites Ledbetter law in reversing its prior decision

Woman requested and was refused pay raise, sued employer

By JUDY GREENWALD

PHILADELPHIA—An employer's refusal to respond to an employee's request for a pay raise can be a violation of the Lilly Ledbetter Fair Pay Act of 2009, a federal appeals court has ruled in reversing its own earlier decision.

In its original March 24 ruling in *Mary Lou Mikula vs. Allegheny County of Pennsylvania*, the 3rd U.S. Circuit Court of Appeals in Philadelphia affirmed a lower court's ruling that had dismissed a claim filed by Ms. Mikula under Title VII of the Civil Rights Act of 1964.

Ms. Mikula, a grants coordinator hired in 2001 by the Allegheny County Police Department, had lobbied unsuccessfully for a salary increase, arguing that a man in a comparable position was paid \$7,000 more a year. When the pay raise was not granted, she sued under Title VII and the Equal Pay

Act of 1963.

In January, President Barack Obama signed into law the Lilly Ledbetter Fair Pay Act of 2009, which eases time limits on age discrimination claims. The law states that an unlawful employment practice occurs when an individual becomes "subject to a discriminatory compensation decision or other practice."

In its original ruling, the court "acknowledged the passage of the Act and explained that it did not change the result because it required the adoption of a discriminatory compensating decision

WHAT HAPPENED

■ A federal appeals court reversed its earlier decision concerning the Lilly Ledbetter Fair Pay Act of 2009.

WHAT'S NEXT

■ An employer's refusal to respond to an employee's request for a pay raise can be violation of federal law.

rather than, as in this case, a request for a raise that was never answered," according to the opinion.

However, in seeking a rehearing, "for the first time, Mikula defines her claim as a 'classic paycheck accrual' case, which, she asserts, is exactly the type of claim that the act was passed to protect.

"She claims that the county's lack of response to her raise requests qualify as discriminatory pay decisions or 'other practices'...Under this rationale, each paycheck that Mikula has received is discriminatory and constitutes a new violation that renews the statutes of limitation," the court said in its revised ruling Sept. 10.

"Despite our earlier decision, we now hold that the failure to answer a request for a raise qualifies as a compensation decision because the result is the same as if the request had been explicitly denied," the appeals court said in the ruling, which sets a precedent.

The court also reinstated its March decision upholding Ms. Mikula's Equal Pay Act claim and remanded the case for further proceedings.

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INDEX

Issue of September 21

ADVERTISER	PAGE #
Aon Corporation	2
Brownyard Programs	20
Business Insurance	14, 18
Chartis	28
Chubb Insurance	5
C. V. Starr	13
Devonshire	20
HCC Insurance Holdings	10
Health Alliance Plan	14R
HealthLink	14R
Hinshaw & Culbertson	23
Katie School of Insurance	20
Lloyd's of London	19
Midlands Management Corp.	26
Milliman	7
Munich Reinsurance America	17
National Alliance for Insurance Education & Research	22
Old Republic Risk Management	16
Pinnacle Actuarial Resources	21
Prudential Advertising	15
XL Insurance	6
Zurich North America	9

Proposed health reform excise tax could affect more employers than initially believed

WASHINGTON—At first glance, it appears an excise tax embedded in the health care reform package proposed by Senate Finance Committee Chairman Max Baucus, D-Mont., would affect few employers.

Under the proposal, a 35% excise tax would be imposed on employer-provided health insurance coverage in which premiums exceed \$8,000 a year for individuals and \$21,000 for families. This would include premiums for medical, dental and vision care; employer contributions to health reimbursement arrangements and health savings accounts; and employee contributions to flexible spending accounts.

Benefit consultants say less than 10% of group health care plans now would pierce those thresholds for the excise tax to kick in.

But the number of employers affected could jump because those \$8,000 and \$21,000 thresholds would apply starting in 2013.

Depending on how much health care-related premiums escalate by then and with such premiums rising about three times as fast as general inflation, more health care plans would bump up against the thresholds,

said Linda Havlin, a worldwide partner in the Chicago office of Mercer L.L.C.

"It is a tax on corporate America," Ms. Havlin said.

Technically, the tax—which the congressional Joint Committee on Taxation estimates would raise about \$215 billion from 2013 through 2019 and be used

'It is a tax on corporate America.'

Linda Havlin, Mercer L.L.C.

to help fund coverage for the uninsured—would be imposed on health insurers and, in the case of self-funded employers, on third-party claims administrators. But insurers and TPAs almost certainly would recover the amounts they pay from employers through additional charges or fees.

Not only would employers ultimately pay the excise tax, they also would be responsible for determining and communicating to insurers and plan administrators how much tax each would owe the government.

A description of the proposal cites an example of how those reporting responsibilities would work. For an employee enrolled in a fully insured major medical plan with a premium of \$23,000 for family coverage, a separate dental plan that costs \$2,000, and a \$3,000 contribution to an FSA, the total cost of coverage would be \$28,000. The amount subject to the 35% excise tax would be \$7,000, which would be pro-rated among the insurers and FSA administrator.

The calculation would require multiplying the total cost of coverage exceeding the threshold by the cost of coverage offered by each insurer and plan administrator. Then that would be divided by the total cost of health care coverage provided to the employee.

In the \$28,000 example, the employer would tell the medical plan insurer its share of the excise tax is \$5,750, inform the dental plan insurer that its excise tax liability is \$500, and tell its FSA administrator that its tax is \$750.

If the employer administered the FSA, the employer would be responsible for calculating the tax and remitting it to the Internal Revenue Service.

—By Jerry Geisel

Reform: Senate panel to take up health proposal

CONTINUED FROM PAGE 1

alternatives to commercial insurers.

The Baucus measure also omits an employer mandate, a big difference from the House bill that would impose an 8% payroll tax on employers that do not offer health care coverage meeting specific standards. Instead, employers with more than 50 employees not offering coverage would have to pay fees, generally capped at \$400 per employee per year.

Nor does the Baucus plan include a House provision that triggered enormous employer concerns—giving the secretary of the Department of Health and Human Services authority to adopt recommendations of a federal advisory panel that would dictate the design of employer plans.

But the Baucus plan includes provisions—not part of the House legislation—that could have a major effect on employer plans. Among other things, it would impose a 35% excise tax on health insurance plans with costs that exceed certain thresholds (see related story).

"It is a cost that would fall on the backs of employers," said Linda Havlin, a worldwide partner in the Chicago office of Mercer L.L.C.

The Baucus plan also would cap contributions to flexible spending accounts at \$2,000 a year—a change that would erode the value of FSAs for employees with big uncovered health expenses and make it more difficult for employers to move employees into plans with more cost-sharing, said Andy Anderson, partner-elect with Morgan, Lewis & Bockius L.L.P. in Chicago.

Additionally, the plan would reduce certain tax breaks for employers whose retiree prescription drug plans are actuarially equal to Medicare Part D, as well as stiffen penalties on employees who withdraw funds from health savings accounts for nonmedical purposes.

In a first, the plan would require employers to disclose on employees' W-2 wage and income statements the cost of their health care benefits, adding what experts say would be a significant administrative burden on employers.

"Some of these things could be real administrative nightmares," said Chantel Sheaks, a principal with Buck Consultants L.L.C. in Washington.

In all, the Baucus plan is "far more moderate on the policy side," than the House bill, concerning the public option and employer mandate, said Paul Dennett, senior vp-health care reform for the American Benefits Council in Washington. But it would pose some significant issues for employers on the tax and administrative side, Mr. Dennett added.

The Senate Finance Committee markup comes at a critical point in the drive to pass health care reform legislation. Although the House panels approved the legislation, they did so without any Republican support.

At the same time, several recent polls show public support for health

reform has slipped and opponents have become more strident in their criticisms.

For example, Rep. Joe Wilson, R-S.C., shouted, "You lie," when President Obama earlier this month addressed a joint session of Congress to drum up support. He later apologized, but the House voted 240-179 in passing a resolution of disapproval against Rep. Wilson.

Amid those developments, doubts have increased about whether a House-type bill could command the 60 votes it would need to break a near-certain Republican filibuster in the Senate.

By leaving out the public option—the provision to which Republicans objected most strongly—Sen. Baucus hopes to defuse GOP opposition and pick up at least a few Republican votes.

"That is something Sen. Baucus clearly hopes to achieve," Mr. Dennett said.

Still, some Republicans may jump aboard depending on how the measure is amended during the Finance Committee markup.

'While just about everyone agrees on insurance market underwriting reforms, after that the slope goes down and consensus becomes so difficult to achieve.'

Chantel Sheaks, Buck Consultants L.L.C.

"I suspect some Republican members are waiting to see what will happen to the product as it goes through committee," Mr. Dennett said.

On the other hand, if Sen. Baucus bends too far to meet Republican objections, he risks losing Democrats' support. In fact, Sen. John D. Rockefeller, D-W.Va., has warned he might not vote for the bill if it does not include a public option among other provisions.

Trying to find an approach that could win GOP support without alienating Democrats will be extraordinarily difficult.

"You try to meet the needs of one group of legislators and then you could lose support from another group," Mr. Dennett said.

"You try for a middle ground, but everyone's definition of a middle ground is different," Ms. Sheaks said. "While just about everyone agrees on insurance market underwriting reforms, after that the slope goes down and consensus becomes so difficult to achieve," she added.

"When politics and policy become intertwined, it becomes very difficult to predict the outcome," said Ken Sperling, a consultant with Hewitt Associates Inc. in Norwalk, Conn.

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Pay: Ruling raises spectre of wave of D&O lawsuits

CONTINUED FROM PAGE 3

ters and are bracing for derivative litigation to follow, said Ann Longmore, New York-based executive vp for D&O with Willis HRH's executive risks practice.

Such derivative lawsuits likely would allege that the company lost money in the form of exorbitant bonuses collected by certain executives and that directors and officers breached their fiduciary duty to properly manage compensation packages. Executives forced by a settlement or judgment to pay back bonus money likely would not be covered by insurance, under the premise that they are paying back

'Right now carriers are braced for what this might mean. They'd thought that with the *Disney* decision a few years back, that it'd kind of put these questions to bed.'

Ann Longmore, Willis HRH

what never rightfully was theirs.

But defense costs for a lawsuit against directors and officers typically would be covered under a D&O liability policy's Side B coverage, Mr. Shappell said. Settlements or judgments in such derivative suits typically would be Side A claims because they often are non-indemnifiable under corporate and state laws, experts say.

Many D&O insurers have written coverage broadly at competitive prices because they believed the chances of derivative suits were remote, Ms. Longmore said.

"Right now carriers are braced for what this might mean," Ms. Longmore said. "They'd thought that with the *Disney* decision a few years back, that it'd kind of put these questions to bed."

In 2005, the Delaware Chancery Court found that directors for Burbank, Calif.-based Walt Disney Co. did not breach their fiduciary duty in awarding a \$130 million severance package to former President Michael Ovitz in 1997. The Delaware Supreme Court upheld the ruling in 2006, finding the board made a rational business decision.

But, Ms. Longmore said, much of the new derivative litigation over executive compensation could take place outside of Delaware. She also said it cost Disney and insurers tens of millions of dollars in legal fees to win the case.

"From an insurance carrier perspective, tens of millions of dollars to get to a win is not always a 'high-five moment,'" she said.

John McCarrick, a New York-based partner at Edwards Angell Palmer & Dodge L.L.P., said courts often are reluctant to second-guess the business decisions of boards—even on decisions that look foolish in retrospect—as long as the board deliberated appropriately. He said the claim that directors breached their fiduciary duty because of conflicts of interest or self-dealings—for example, approving an executive's compensation as part of a package that included their own compensation—is more likely to succeed.

But Mr. McCarrick said he expected the increased attention on executive pay to prompt regulatory actions by the SEC and state attorneys general more than shareholder litigation.

Brokers say executive compensation-related litigation is exactly the type of exposure D&O liability insurance is intended to cover, so underwriters could never exclude it. But, Mr. Shappell said underwriters across the board are asking more questions about executive compensation.

"Is this going to allow insurance companies to charge more premium?" Mr. Shappell said. "I think the short-term answer is no... (But) if we have a substantial spike in frequency, that translates very quickly into the insurance marketplace and the price of D&O insurance."

Gen Re: Former executive testified for prosecution

CONTINUED FROM PAGE 3

actually transferring any risk. The court found that AIG shareholders lost between \$544 million and \$597 million as a result of the fraudulent scheme.

The five—including former Gen Re CEO Ronald E. Ferguson and former AIG Vp of Reinsurance Christian Milton—were convicted of conspiracy, mail and securities fraud, and making false statements to the U.S. Securities and Exchange Commission. Also convicted were former

Gen Re Chief Financial Officer Elizabeth Monrad, former Gen Re Senior Vp Christopher Garand and former Gen Re Senior Vp and Assistant General Counsel Robert Graham.

While they could have been sentenced to life, Judge Dronney rejected federal guidelines and imposed sentences from one to four years in prison.

The five former executives remain free on bail pending appeals. Legal experts, however, said the convictions are not likely to be overturned on appeal.

Lion: Ruling favors U.S. policyholders

CONTINUED FROM PAGE 3

ter. Lord Glennie has scheduled another hearing for October, leaving the parties to "consider the court's opinion," according to the decision, which leaves the status of the sanction unclear for now.

The opponents had argued that the scheme was fundamentally unfair because it sought to terminate "decades of valuable occurrence coverage under valid and binding contracts in the absence of extraordinary circumstances," according to court documents.

"Essentially, the scheme, if it were sanctioned, would force the policyholders to accept a complete cancellation of their policy in return for a payment, which might not be adequate to meet their likely future liability risks," said Ben Lenhart, partner with Covington & Burling.

Dan Schwarzmann, a partner in the London office of PricewaterhouseCoopers L.L.P. and scheme adviser to Scottish Lion, expressed dissatisfaction and said the opinion "results in creditor democracy being replaced by a single creditor veto,

'Essentially, the scheme, if it were sanctioned, would force the policyholders to accept a complete cancellation of their policy in return for a payment, which might not be adequate to meet their likely future liability risks.'

Ben Lenhart, Covington & Burling

which simply cannot be what was intended" by the law. Scottish Lion "intends to appeal" any such final ruling, he said.

Legal experts say the opinion was "significant" because it could set a precedent affecting other schemes in the pipeline.

"There is a lot of divided opinion regarding solvent schemes, but there are certainly some who have been waiting for something like this to happen," said Robin White, a senior associate in the insurance

and reinsurance group of Addleshaw Goddard L.L.P. in London.

U.S. companies face significant long-tail liability exposures, in part because of the litigiousness of the U.S. tort system, and much of the related coverage is written in the London market, observers note.

The ruling likely will give rise to more opposition to solvent schemes by U.S. policyholders, who typically are the most vulnerable, said Julius A. Rousseau III, a partner with Herrick, Feinstein L.L.P. in New York. "The concern for U.S. policyholders is really about the long-tail liability claims, and this type of arrangement basically shifts the risk of loss back to the company," he said.

In an earlier ruling on the Scottish Lion case, a court paved the way for opposing creditors to organize by saying U.K. insurers and reinsurers pursuing a solvent scheme of arrangement must provide creditors with contact information on other creditors of the companies.

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Many changes at AIG in year since government bailout

New brand, turmoil, scorn in company's transformation

By JUDY GREENWALD

American International Group Inc. was labeled the insurer that was "too big to fail" about a year ago, when the government stepped in as it faced the prospect of collapse because of its disastrous involvement in the credit default swap market.

In the year since, it has received an estimated \$182 billion commitment from the federal government; sold certain assets, although key ones remain; arranged the spinoff of its property/casualty business into a special-purpose vehicle; and made several changes in the executive suite.

It also has endured scorn from President Obama on down when it was learned in March that \$165 million in bonuses was being paid to employees of AIG Financial Products Corp., the unit held largely responsible for the insurer's financial struggles, with millions more slated to be paid.

AIG's problems became apparent earlier, when it reported a fourth-quarter 2007 loss of \$5.29 billion, followed by a first quarter 2008 loss of \$7.81 billion. Over those two quarters, the insurer reported

\$20.58 billion in pretax charges for net unrealized market valuation losses related to its credit default swap portfolio.

But AIG's problems deepened and the federal government felt forced to step in and remove the imminent threat of bankruptcy.

Under the original bailout plan, AIG signed a definitive agreement with the Federal Reserve Bank for a two-year, \$85 billion revolving credit facility in return for the government taking a 79.9% ownership.

But that was not enough. In October, a credit agreement for \$37.8 billion was put in place and, in November, a revised bailout plan was announced. The terms included a revised \$60 billion credit facility, purchase of AIG preferred shares and warrants, and establishment of two special-purpose entities.

Then in March, yet another bailout plan was announced, whose terms included a new standby equity capital facility, allowing AIG to raise up to \$30 billion in capital.

In addition, an agreement reached in June stipulated that the preferred equity ownership in American Life Insurance Co. and American International Assurance Co. Ltd. would be transferred to the Federal Reserve Board in return for reducing AIG's debt by \$25 billion.

The federal government's total financial commitment is for \$182 billion, which includes asset pur-



President Obama speaks about American International Group Inc. as Council of Economic Advisers Director Christina Romer and Treasury Secretary Timothy Geithner look on at the White House in March.

chases by special-purpose entities funded by the Federal Reserve Bank of New York, said Kevin Ahern, credit analyst with New York-based Standard & Poor's Corp. According to AIG, the amount owed to the government totals \$87.6 billion as of June 30.

Meanwhile, AIG has moved to separate its commercial insurance operations into a special-purpose vehicle and give it a new brand name, Chartis, to establish an iden-

tity distinct from its parent. AIG has said it may seek outside investors, a third-party buyer, or a stock offering for up to 20% of the entity, depending on market conditions, but no official timetable has been announced.

At the same time, AIG has been gradually selling off its assets. These include the Hartford Steam Boiler Group, AIG Life Insurance Co. of America, most of its stock in Transatlantic Holdings Inc. and

21st Century Insurance Group, and the sale of its Tokyo real estate asset, among others.

Through July 31, AIG has completed asset sales and dispositions this year alone that will generate \$4.6 billion to repay the federal government, which includes the \$1.1 billion Transatlantic offering, according to the company.

But others, including its aircraft leasing business, International Lease Finance Corp., remain. A difficult market in which to sell assets has been blamed for the slow sales.

All this has occurred amid turmoil in the executive suite.

In response to investor pressure, Martin J. Sullivan, who had succeeded Maurice R. Greenberg as chairman and CEO three years earlier, was replaced by AIG Chairman and former Citigroup Inc. President Robert B. Willumstad in June 2008.

At the time of the original bailout, Mr. Willumstad was replaced by former Allstate Corp. CEO Edward M. Liddy. AIG announced in May that Mr. Liddy, who joined AIG at a salary of \$1 a year, would step down, and that it would separate the CEO and chairman roles. Former MetLife Inc. President and CEO Robert H. Benmosche was named president and CEO in August, and Harvey Golub, former American Express Co. chairman and CEO, was named non-executive chairman.

AIG: Company's future remains murky after year of turmoil

CONTINUED FROM PAGE 1

uncertainty remains.

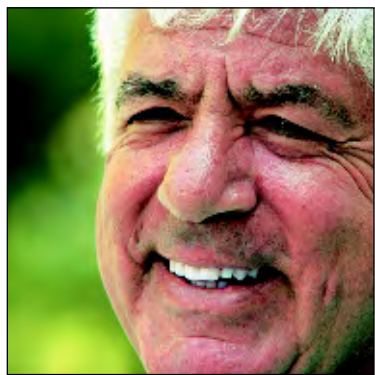
"A year later, we really don't have a resolution" to the restructuring. The longer it takes, "the more the underlying franchise is eroded," said Cathy Seifert, an equity analyst with Standard & Poor's Corp. in New York.

"There's really been a lot of talk, and there's been a lot of chatter, and there's been a lot of speculation, and there have been a lot of CEOs, but there have not been a whole lot of substantive transactions," Ms. Seifert said.

"The biggest challenge they have from an insurance company perspective is, the longer it plays out in the papers, the more of a headline risk it is to the risk manager" who has a "lot of explaining" to do each time AIG appears in the news, said Eric Andersen, New York-based chief executive officer of Aon Risk Services U.S., a unit of Chicago-based Aon Corp.

However, "the financial health of the company is significantly improved from a year ago," when it "teetered on the edge of insolvency," said Jonathan Terrell, president of Washington-based Kenesis Corporate & Information Consulting L.L.C., which specializes in litigation support and insurance-related asset and liability management.

"I think many competitors were licking their lips at the prospects of a disabled AIG. But that was obvi-



Former MetLife Inc. President and CEO Robert H. Benmosche was named president and CEO of AIG in August.

ously premature," Mr. Terrell said.

John Doyle, Chartis executive vp and president and CEO of Chartis U.S., said, "We're very optimistic about the future for Chartis. We have some compelling competitive strengths and our rebranding has been received in the market."

AIG's property/casualty operations remain strong, say rating agencies, brokers and consultants.

"They're still a behemoth to be reckoned with," said Daniel Ryan, vp at Oldwick, N.J.-based A.M. Best Co. Inc. "We view them certainly as a viable market with very strong leadership positions in the P/C marketplace, particularly the commercial marketplace."

Its problems "were not caused by their insurance operations," said Steven K. Bolland, president of New York-based intermediary Gill &

Roeser Inc. "The insurance operations were, by and large, performing quite well, so effectively they have continued to do what they've always done."

"As time has gone by, people are feeling more comfortable that (AIG) remains a solid insurance company," said Aon's Mr. Andersen. While it has lost people, "they had a pretty deep team." Clients have always valued their AIG relationship and realized that it "filled a very big role in the market," he said. They "honestly were hoping they could survive and regain some strength. I think a lot of that has played out in the last nine to 12 months."

"The redefinition of AIG has resulted in some clients reassessing their working relationship with the insurer, prompting some shifts in capacity, but most have remained loyal and continue to value the leading role AIG and now Chartis provide," Sally Bramall, London-based managing director of Willis Global Carrier Management, said in a statement.

To some extent, AIG policyholders have "been able to look through some of the company's problems" and accept they are dealing with a particular subsidiary of the whole company, said Mark Rouck, Chicago-based senior director at Fitch Ratings.

The decision to rebrand commercial property/casualty operations as Chartis "is a step in the right direction," said Mr. Ryan. "Just intuitive-

ly, the further away you get from a tainted brand, we would presume the better off they'll be in the market."

Meanwhile, no date has been set for the Chartis spinoff, which many expect to be in the form of an initial public offering. Chartis has done a good job of explaining to its clients "that it would take some time" to accomplish the spinoff, said Mr. Andersen. "I think there is some growing expectation that it may happen next year," he added. "The clients are hoping for a smooth transition to an independent firm," he said.

One issue that had been of concern was the flight of professionals and businesses from AIG (see story, page 25). But observers generally agree the exodus has leveled off.

A remaining issue, though, is the slowness of the asset sales. The AIG spokeswoman said Mr. Benmosche "is very focused on making sure that we get full value for our businesses. These businesses are unique, they are strong, and it's important and in the interests of all our stakeholders, including the government, that we get full and fair value for them."

Bruce Ballentine, an analyst with Moody's Investors Service in New York, said most of the assets sold to date have been small- to medium-size pieces, while the largest parts considered for sale have moved more slowly. "Market conditions over the past year have been especially difficult for large transac-

tions," he said.

There also is the question of whether AIG will be able to repay the federal government.

"I think the taxpayers are going to be paid back, but the terms and conditions and the timing are going to have to reflect the current reality," said John Wicher, principal of John Wicher & Associates Inc. in San Francisco.

"When you drill down into some of the parts it seems unlikely" that the amount owed "can be repaid from the existing operations of AIG," said John L. Ward, CEO of Cincinnati-based Cincinnati Partners L.L.C.

Moody's questions the government's continued support of AIG. "Their support has been extensive, flexible and critical to date," Mr. Ballentine said. Its initial motivation, he said, "was to avoid further disruption to the financial markets in a time of stress."

However, as the markets have stabilized, "we think their motivation is shifting to recovering value from their investments rather than avoiding a collapse of the financial markets," Mr. Ballentine said.

We may "start to see the government taking more of an active role in basically making sure their interests" are being looked out for, Ms. Seifert said. The government could "force a sale or a spinoff sooner than perhaps market conditions may render ideal to the extent that they want to be made whole," she said.

Risk managers: Buyers digging deeper to uncover insurers' flaws

CONTINUED FROM PAGE 1

this case."

Yet diversification emerged as a top lesson, several risk managers said.

"I think the take-away from the whole AIG situation is the reinforcement of diversity within a risk manager's insurance portfolio," said Lance J. Ewing, vp of risk management for Harrah's Entertainment Inc., in Memphis, Tenn.

Even risk managers who were not AIG customers said they now look much closer at their insurers and react faster to changes in their financial position.

"If there's an insurance company that's having a dramatic stock price decline, that can raise flags," said David Adler, director-risk management for Portman Holdings L.L.C. in Atlanta. Portman did not buy coverage from any AIG units for its insurance program.

"The example I would raise is XL," Mr. Adler said.

Not long after AIG's troubles became known last year, "XL lost a considerable amount of its stock price," Mr. Adler said. "In that situation, we immediately went through our portfolio of coverage and confirmed that we did have an environmental liability policy with XL. We alerted management and went into more frequent monitoring of XL. Since it was a three-year

policy, we also negotiated with XL that should its rating drop, that we would be entitled to a pro rata refund in the event that we chose to replace the coverage."

Insurers also have changed their behavior, said Steve Wilder, vp-risk management at Walt Disney Co. in Burbank, Calif. They have reacted to his department's increased scrutiny of their financial position with a new eagerness to share information.

"Interestingly, some insurers have now been very proactive in sharing their financial information," Mr. Wilder said. "What happened to AIG is not a good thing for anyone, but the result and how we are doing business now makes more sense."

Disney re-evaluated its comfort level with the aggregate amount of coverage placed with any one insurer and that led to some coverage shifts, although Mr. Wilder declined to provide details.

More than before, though, delving deeper into insurers' financial strength has led to closer relations with them, he said.

AIG's problems were "a wake-up call for us to be conscious of the counterparty risk that we have with all the insurance companies we work with," Mr. Wilder said. "In many cases, we have actually talked to their CFO or treasurer, someone who can help us better understand where they are."

Disney's scrutiny now includes scheduled reviews of an insurer's stock price, credit default swap activity, and information available from Moody's Investors Service and Standard & Poor's Corp., Mr. Wilder said.

Claims payment, including the length of time before all losses are paid, also is getting greater scrutiny for signs that something might be amiss, said a risk manager for a Fortune 500 company who asked not to be identified.

Although policy diversification is much more important now, he still must weigh increased costs and rival insurers' global capabilities against the benefits of diversifying the company's coverage, the risk manager said.

Other considerations in maintaining coverage with AIG, which now has its insurance brands under the Chartis banner, also are at play.

"One of the reasons we stay with Chartis is because of the relationships and amount of information that they provided to us in the risk management community after they dropped the ball on how to handle crisis management," Mr. Ewing said. "When their company first imploded a year ago, they didn't handle the public relations crisis as well as I thought they should have. But they got a second swing at the ball and did exceptionally well in keeping us informed as to how they

were righting the ship in these turbulent waters," he said.

"We as a company have made no major changes in the amount of business of we do or not do with Chartis, and they continue to pay claims, which is what we buy the insurance for in the first place," Mr. Ewing said.

Humana Inc. also maintained its AIG insurance, said Carolyn Snow, director, insurance risk management, for the Louisville, Ky.-based health insurer.

"We work with them primarily in the executive risk area and, prior to our last renewals, we had a meeting between the senior management of both companies," Ms. Snow said. "We felt that the core group was still financially stable and we still had confidence in their management. We did some shifting in the upper levels, but kept them on the program."

Monitoring insurers' financial strength has always been important, so few real changes in due diligence have occurred, Ms. Snow said. "But we try to stay continually aware of company changes and probably pay more attention to little things than we might have in the past."

Other risk managers said AIG's problems reinforced the need for their profession's established practices.

Enterprise risk management became increasingly important,

said Jane A. Keegan, enterprise risk manager for the Port of Oakland in California.

Not only is AIG involved in her insurance program, the company and its units have been major purchasers of the Port of Oakland's tax-free municipal bonds and provided a commercial short-term investment program. In addition, an AIG unit won a bid to develop a port terminal project.

While an array of AIG units have been involved in numerous business undertakings, before the conglomerate's weaknesses became apparent, risk managers evaluated only the strength of AIG insurance units rather than scrutinize the entire company business operations, said Scott B. Clark, risk manager for Miami-Dade County Public Schools.

Certain rating agencies on which the insurance industry relies still review only the strength of individual insurance units without evaluating a parent company's entire operations, Mr. Clark said.

"The risk management community really has to start looking...at what is behind the insurance companies...so we can evaluate just what kind of risk we are getting into above and beyond the insurance contract," Mr. Clark said.

Senior Editor Mark A. Hofmann contributed to this report.

Greenberg would have solved AIG, problems some say

By JUDY GREENWALD

If only "Hank" had been in charge.

That is the sentiment a number of people expressed when asked to analyze the reasons behind American International Group Inc.'s near-unraveling a year ago. If former Chairman and Chief Executive Officer Maurice R. Greenberg had remained at the insurer, he would have caught AIG's problems long before it was forced to seek federal help to survive and would have ameliorated, if not avoided, the crisis, some say.

Others, however, say it was AIG's involvement in credit default swaps—which also led to the collapse of Lehman Bros. and others—that led to AIG's downfall.

"It wouldn't have happened if Hank Greenberg had been running the company," said John Wicher, principal of John Wicher & Associates Inc. in San Francisco. AIG "was probably the last one-man company," he said. "It was built and led by the sheer force and ability of Hank Greenberg; and when Hank Greenberg left and (Martin J.) Sullivan came in, I don't think he was able to understand and get his arms around the balance sheet because of its complexity."

"While the problems may have unfolded like they have," the company also was hurt by the "real void of CEO continuity," said John L. Ward, CEO of Cincinnati-based Cincinnati Partners L.L.C.

Cathy Seifert, an equity analyst with New York-based Standard & Poor's Corp., said Mr. Greenberg "probably would have had the sense to dial it down sooner" so "the magnitude of the problem may not have been all-encompassing."

What occurred at AIG, she added, though,



was, "in some respects, a microcosm for what happened in the broad economy and the broader sector, so you had a combination of overzealous activity, the lack of an adequate regulatory framework and a lot of turmoil on the top."

Eric Andersen, New York-based CEO of Aon Risk Services U.S., had another point of view. "I have a hard time believing that one person...would have been able to stop that meltdown of the mortgage market," he said. "I think they were taking risks that they didn't understand."

"It was largely a liquidity situation," primarily at AIG Financial Products Corp. involving collateral requirements for the contracts it had written, combined with the capital needs of the life insurance operations, that ultimately required a federal bailout, said Mark Rouck, Chicago-based senior director at Fitch Ratings.

Other observers said Lehman Bros. and many others were caught up in the same problems as AIG.

"It's difficult to assign blame when everybody's dumb at the same time," said Steven K. Bolland, president of New York-based intermediary Gill & Roeser Inc.

More regulations could arise out of AIG's complications

By JUDY GREENWALD

American International Group Inc.'s travails could lead to more regulation of the holding companies of commercial property/casualty insurers, observers say about the possible effects of its troubles on others in the market.

While state insurance regulators have done a praiseworthy job of guarding AIG policyholders' security, observers say the state officials were neither authorized nor equipped to handle its noninsurance operations, notably AIG Financial Products Corp.'s exposure in the credit default swap market.

Meanwhile, some observers say they believe AIG's bailout by the federal government increased price competition and extended the soft market.

John Wicher, principal of John Wicher & Associates Inc. in San Francisco, said many feel state regulation "is antiquated and over-protective and an impediment to innovation. But all that said, state regulations stood up pretty well throughout this entire process."

However, Mr. Wicher said he expects more regulation of insurers' holding companies. "They're not going to be floating in the middle of the pond," like now. Instead, "they're going to be tethered to somebody's dock," whether it is state or federal regulators, he said.

Another possible outcome is that AIG may be the last of its kind.

"A company of the size and diverse risk of AIG may not be assembled again," said Jonathan Terrell, president of Washington-based Kenesis Corporate & Information Consulting L.L.C. It is unlikely an insurer will be permitted to pair its capital market risk business with its insurance business to the extent AIG did, he said.

Meanwhile, some say they believe AIG's federal aid lengthened the soft market.

"There's no doubt in my mind that preventing AIG from failing has helped to extend" the soft market "in a meaningful way," said John L. Ward, chief executive officer of Cincinnati-based Cincinnati Partners L.L.C.

John Doyle, Chartis executive vp and president and CEO of Chartis U.S., said in response, "The financial strength of our insurance companies was never a question." Mr. Doyle said, "We have more policyholder surplus than anyone in our business. Our balance sheet continues to be very strong."

Steven K. Bolland, president of New York-based intermediary Gill & Roeser Inc., had a different take. "I'm sure AIG didn't help the situation," but "effectively everyone" participated in the soft market.

Kevin Ahern, credit analyst with Standard & Poor's Corp. in New York, said the rating agency's sense is that AIG is pricing its business "based on the fundamentals and not on any implied government support."

Ultimately, said Eric Andersen, chief executive officer of Aon Risk Services U.S. in New York, "I think we may end up with a more diversified, healthier market." AIG competitors "have certainly been able to pick up some market share, and have broadened their appetite in terms of some products they're willing to write. It's become a more balanced market," he said.

But "people buy by product, rather than portfolio," Mr. Andersen said. While insurers "have broadened their appetite a little," they have not done so for every line, he said.

This means there could "be a more difficult market" for certain lines of coverage for which AIG seeks a balanced portfolio.

News In Brief

CONTINUED FROM PAGE 1

M. Stuart Award, Canada's highest honor within the risk management field. Ms. McGraw, manager of risk management and insurance at McGill University in Montreal, received the award at the 2009 RIMS Canada conference in St. John's, Newfoundland, last week. The Donald M. Stuart Award, which debuted in 1979, acknowledges Canadian risk managers who have made contributions to the field of risk management.

S&P still negative on N. American insurers

Standard & Poor's Corp. said it is maintaining its negative outlook on all North American insurance sectors except reinsurance, which it said weathered the financial crisis by minimizing its investment exposures. The negative outlook that has been on most North American personal and commercial insurance lines since August 2008 is expected to continue during the next six months, New York-based S&P said in its report, "Outlook Remains Negative for Most North American Insurance Sectors." S&P said it expects downgrades will continue to exceed upgrades in the next six to 12 months.

HHS vows work on patient safety

The Department of Health and Human Services will proceed with a \$25 million initiative to pursue patient safety and medical liability reform demonstration projects, HHS Secretary Kathleen Sebelius said. At a White House news conference, Ms. Sebelius said the initiative will help states and health care systems test models that meet four goals: put patient safety first and work to reduce preventable injuries; foster better communication between doctors and their patients; ensure patients are compensated in a fair and timely manner for medical injuries, while also reducing the incidence of frivolous lawsuits; and reduce medical liability premiums.

Va. drops Facebook fine in workers comp case

An official of the Virginia Workers'

Compensation Commission has vacated a \$200-per-day fine on Facebook Inc. for failing to reveal information from a subscriber's account. Virginia imposed the fine Aug. 28 after Facebook did not respond to a workers comp defense attorney's subpoena seeking information about an employee for Colgan Air Inc. Facebook responded later and argued that federal law prohibited it from responding to the subpoena. A deputy commissioner agreed and vacated the \$200-per-day fine, the state agency said. The case reportedly involved the airline's attempt to obtain vacation photos of an employee to counter a workers comp claim.

Gallagher backs Spencer scholarship

Arthur J. Gallagher & Co. has committed \$100,000 to the Spencer Educational Foundation to establish a scholarship for risk management students. The Robert E. Gallagher and John P. Gallagher Scholarship initiative was announced at an event in New York marking the Spencer Foundation's 30th anniversary.

XL finance chief Nocco to leave

Brian Nocco, chief financial officer of XL Capital Ltd., has told the insurer that he will leave at the end of the year, XL said. Mr. Nocco, who has been the Hamilton, Bermuda-based insurer's CFO since July 2007, agreed to remain until the end of the year to ensure a smooth transition to his successor. XL said it has initiated a search for a new CFO.

Wachovia Securities faces sex bias suit

Three class action employment law firms have filed a gender discrimination suit against Wachovia Securities on behalf of a class of current and former female financial advisers. The suit, filed in federal district court in Washington, alleges that since at least March 2003, Wachovia Securities has "systematically" denied equal employment opportunities to its female financial advisers with respect to compensation and promotions, in violation of federal and state laws. The suit seeks class action status on behalf of all women who were employed by Wachovia Securities as financial advisers between March 17, 2003, and the present. A spokeswoman for Wells Fargo Advisors said in an e-mail that the company "vigorously disputes" the allegations in the lawsuit.

Symposium: Innovation requires support

CONTINUED FROM PAGE 4

"viable solution" to achieving the necessary communications across business silos.

Mr. Dodd also spoke of technology applications in risk management, but suggested incentives are sometimes needed before innovations can be realized.

He recalled that in 1998 when he appointed Marsh Inc. as Perot Systems' broker, "one of the conditions was that all members of their service team use their online task-tracking portal." But he said, "No one on the service team was using it because no other client was using it."

Five years later, when he appointed Palmer & Cay Inc. as Perot's broker, he faced the same situation. Five years after that, the situation was repeated when he appointed Willis HRH as Perot Systems' broker. "In 10 years there had been no change in the use of technology, even though the online task-tracking systems had improved," Mr. Dodd said.

"Each service team eventually began using the task-tracking systems effectively," the Perot Systems risk manager said. But in each case, it took a financial incentive: The broker would lose money if the online task-tracking system wasn't used and updated every two weeks.

"The intended users must be



'This is your chance to shine' in the reports by listing 'all the great things you did.'

Lance Ewing,
Harrah's Entertainment Inc.

trained and incentivized to use the technology before they can see it as valuable," Mr. Dodd said.

Mr. Ewing, who moderated the panel, said Harrah's also uses cash and other incentives to achieve various goals with its brokers. The

company uses multiple brokers, but wants them to work together on its program. "Once a year we do a blue sky (brainstorming session) where we bring the brokers together," Mr. Ewing said, adding that he looks for a three-year risk management strategy.

He also expects twice-a-year stewardship reports from Harrah's brokers detailing their performance in meeting objectives. While allowing that those reports force the brokers to "air all (their) dirty laundry," Mr. Ewing told brokers in the symposium audience, "This is your chance to shine" in the reports by listing "all the great things you did." And he recommended that brokers make the reports meaningful to the risk managers with whom they work.

Harrah's, Mr. Ewing said, is moving toward electronic policy submissions, including embedded videos of its properties in those submissions. "Wouldn't that be helpful to you?" he asked the brokers and insurers in the audience.

The annual Entrepreneurial Insurance Symposium, formerly the eInsurance Symposium, was presented by Dallas-based electronic insurance exchange MarketScout in partnership with *Business Insurance*, Liberty Mutual Group Inc., Microsoft Corp. and the National Alliance for Insurance Education & Research.

Survey: Family coverage cost rises 5%

CONTINUED FROM PAGE 4

visit cost-sharing; 37% are likely to increase employee copayments or coinsurance for prescription drugs; and 36% are likely to increase deductibles next year, the survey found.

This year, employee premium contributions averaged 17% for single coverage and 27% for family coverage, with monthly contributions averaging \$65 for single coverage and \$293 for family coverage, the survey found.

Despite rising costs, the percentage of employers offering health plan coverage in 2009 was not significantly different than 2008: 60% vs. 63%, respectively. The difference, because of fluctuations in the numbers and types of employers responding to the survey, was not statistically significant, the survey's authors said.

The most prevalent type of plan

86%

Eighty-six percent of firms offering health benefits offer only one type of plan. However, large employers are more likely to offer more than one type of plan than small employers: 45% vs. 13%, respectively.

type of plan. However, large employers are more likely to offer more than one type of plan than small employers: 45% vs. 13%, respectively.

Enrollment in the various types of plans offered showed movement away from traditional indemnity plans toward PPO plans. Just 1% of employees were enrolled in traditional indemnity plans in 2009, down from 2% in 2008. Meanwhile, PPO enrollment grew to 60% from 58% the previous year. Also losing ground were POS plans, with just 10% of employees enrolled in 2009 vs. 12% in 2008. Enrollment rates for HMOs and CDHPs held steady at 20% and 8%, respectively, in 2009 and 2008.

Although CDHP enrollment didn't grow this year, the percentage of covered workers enrolled in a plan with an annual deductible of \$1,000 or more for single coverage grew to 22% in 2009 from 18% in 2008. Employees at small firms were more likely than those at large employers to be enrolled in plans with deductibles of \$1,000 or more: 40% vs. 13%, respectively. Last year, 35% of employees at small firms had deductibles of at least \$1,000 vs. 9% at large firms.

The nationwide survey, now in its 11th year, included responses from 2,054 randomly selected employers ranging in size from as few as three employees to more than 10,000 employees. Interviews were conducted by telephone between January and May. The survey can be found at www.kff.org/insurance/7936/index.cfm.



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Employer could see real consequences for fake holdup

Can a simulated emergency be too realistic?

A pharmacy technician who found herself caught up in fake robbery thinks so and is suing her employer and its parent company for damages.

According to the Philadelphia Inquirer, Babette Perry was working as a pharmacy technician for Hampton Behavioral Health Center in Mount Holly, N.J., when a masked gunman entered and demanded OxyContin—a powerful narcotic—on Christmas Eve 2007.

According to Ms. Perry's suit, the gunman said he'd taken another worker hostage. Ms. Perry said she tried to call for help, but the phone didn't work.

It turned out that the whole incident was a training exercise, and the gun wasn't real and the gunman was a company employee. However, Ms. Perry says she was not informed about the exercise in advance nor was she ever trained to handle a robbery.



In her August suit, Ms. Perry said she was diagnosed with post-traumatic stress disorder stemming from her experiences. She's suing Hampton and its parent, Universal Health Services Inc. of King of Prussia, Pa., for arranging the event and is seeking unspecified compensatory and punitive damages.

The suit could result in a jury determining whether a fake event could mean some very real cash for a traumatized employee.

Business Insurance END PAGE

Contributing: Jeff Casale, Mark A. Hofmann



U.S., Air Canada face off over flight restrictions

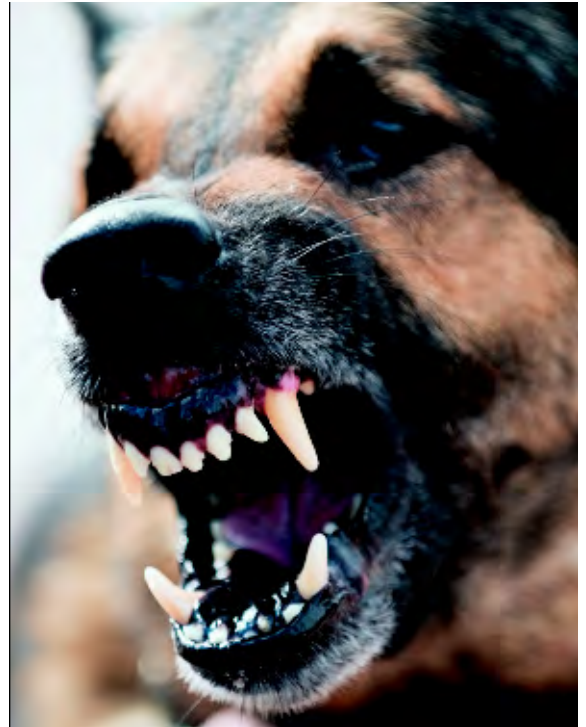
A lawsuit between a Canadian airline and U.S. Transportation Secretary Ray LaHood is threatening to ice the upcoming National Hockey League season before it even begins.

Air Canada is suing Mr. LaHood, seeking to block his enforcement of a U.S. Transportation Department order that the Canadian airline cannot make multiple stops within the United States as it transports NHL teams on multiple-city road trips. The order is "wreaking havoc" on the upcoming NHL season, according to the airline, whose charter service, Jetz, has contracts with six Canada-based NHL teams as well as the Toronto Raptors of the National Basketball Assn.

In the lawsuit, filed Aug. 11 in District of Columbia Federal Court, Air Canada claims Mr. LaHood's position is costing the airline its contracts with the teams.

The U.S. argues Air Canada should not be allowed to make more than one stop in the U.S. before returning to Canada. By law, foreign airlines are not allowed to pick up passengers when flying between U.S. cities. Similar rules apply to U.S. airlines in foreign countries, including Canada.

Air Canada cites political lobbying by U.S. airlines as the reason for the move and contests there never was an issue with Canadian planes flying within the U.S. until U.S. airlines complained.



DOGS TAKE BIG BITE OF HOMEOWNERS INSURANCE CLAIMS

How much is that doggie in the window?

Well, if the doggie in question happens to be sitting in your window with teeth that Fido is not afraid to use, he could prove to be quite expensive in terms of insurance claims.

According to a study released last week by the Insurance Information Institute, dog bites account for about one-third of all homeowner insurance liability claims, which totaled \$387.2 million last year. What may be even more astounding, the average cost of a dog bite claim was \$24,461.

Citing data collected by the Centers for Disease Control and Prevention, the III reported that more than 4.5 million people are bitten by dogs in the United States each year and almost 900,000 of those—half of them children—require medical care.

"Most dogs are friendly, loving members of the family," Loretta Worters, an III vp, said in statement about the report. "But even normally docile dogs may bite when they are frightened or when protecting their puppies, owners or food. Ultimately, the responsibility for properly training and controlling a dog rests with the owner."

As does the responsibility for maintaining adequate insurance in case that proper training and control lack the teeth needed to keep Fido from clamping down where he shouldn't.

IN CASE OF ZOMBIE OUTBREAK...

Swine flu is nothing compared with what could happen if there were an outbreak of zombies.

That's right—zombies.

Recently, Robert J. Smith, professor at the School of Mathematics and Statistics at Carleton University in Ottawa, Ontario, and some colleagues released a catastrophe model of sorts if a zombie outbreak or epidemic occurred.

The model is detailed, offering different scenarios and possible outcomes if there were an outbreak of the brain-eating walking dead, including a look at what he calls the "latent period of zombification," which occurs when humans are infected, but not infectious, and before they become undead. The model also discusses issues such as possible

quarantine and cure.

While the idea behind the report is far-fetched, and even humorous at times, the idea is to get modelers and those involved in handling illness outbreaks to think of better ways to model how civilization would be impacted.

"This is, perhaps unsurprisingly, the first mathematical analysis of an outbreak of zombie infection," the report states. "While the scenarios considered are obviously not realistic, it is nevertheless instructive to develop mathematical models for an unusual outbreak. This demonstrates the flexibility of mathematical modeling and shows how modeling can respond to a wide variety of challenges in 'biology.'"

The report is available at www.mathstat.uottawa.ca/~rsmith/Zombies.pdf.



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