

Business Insurance

October 3, 2005

www.businessinsurance.com

\$5

Late News

Sun gets approval for benefits in captive

Sun Microsystems Inc. has received final authorization from the Labor Department to fund benefit risks for its U.S. employees through the Vermont branch of its Bermuda-domiciled captive. Sun will use the Vermont branch of Solaris Indemnity Ltd. to reinsure life insurance policies written by AIG Life Insurance Co. Ltd., a unit of New York-based American International Group Inc. Solaris, which Sun established in 1997, now is used by the company to fund a wide range of property/casualty risks.

PwC liable for \$182.9M in Ambassador case

A federal judge ruled last week that PricewaterhouseCoopers L.L.P. can be held solely liable for paying \$182.9 million to the creditors of the now-insolvent Ambassador Insurance Co., due to flawed accounting services provided more than 20 years ago to the surplus lines insurer. Judge Harold A. Ackerman determined that the terms of New Jersey's joint-and-several liability law at

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BIGGER IS BETTER

WellPoint deal should benefit large employers.

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FINITE FALLOUT

RenaissanceRe may face charges from SEC.

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AFTER THE STORMS



PHOTO: GAMMA PRESSE

Property damage was extensive in Port Arthur, Texas, near where Hurricane Rita's eye came ashore.

Rita adds to losses, but market impact won't be dramatic

By **JUDY GREENWALD**

Hurricane Rita, whose ultimate losses may be less than one-tenth the size of Katrina, is not expected to dramatically alter the market any more than Katrina already has.

Rita's expected \$2.5 billion to \$7 billion in losses ranks it as one of the costliest insured natural catastrophes in U.S. history. But that total pales in comparison to the estimated \$40 billion to \$60 billion in insured losses stemming from Katrina, say observers.

While it was at one point ranked as a Category 5 storm, the hurricane had weakened to Category 3 by the time it made landfall on Sept. 24 east of Sabine Pass, Texas, and it largely spared areas where there were heavy concentrations of manufacturing and industrial facilities (see story, page 20).

Some companies with Rita losses, including reinsurers, are now under greater rating agency scrutiny. But Rita is much less likely to penetrate reinsurance layers than did Katrina, say observers.

The demand for reinstatements or backup covers, though, which followed Katrina and intensified as Rita approached the Gulf

TOUGH TASK

Storm duo challenges adjusters. **PAGE 20**

ENERGY CRISIS

Oil and gas companies and insurers take hard hit. **PAGE 21**

Coast, is continuing, say observers, although some primary insurers may decide the cost of coverage does not justify the

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Marsh offers bring divided response

Half of clients opt to settle

By **SALLY ROBERTS**

NEW YORK—Nearly 70,000 Marsh & McLennan Cos. Inc. clients next month will begin receiving their share of the \$850 million compensation fund the company established as part of its nationwide settlement with New York officials in January.

But how many of the remaining 70,000 policyholder clients that rejected the settlement offer will pursue their own negotiation or litigation strategy with the brokerage—and at what further cost to MMC—remains unknown.

Attorneys representing some of those clients say they are weighing their options but would most likely seek an individual settlement first before taking legal action.

MMC President and Chief Executive Officer Michael G. Cherkasky last week said he was "gratified"

that so many clients decided to participate in the fund and called the close of the settlement period "another important step forward" for the brokerage in the wake of fraud and bid-rigging charges leveled against it last year by New York Attorney General Eliot Spitzer and Superintendent of Insurance Howard Mills.

Roughly half of the 140,000 eligible policyholder clients that accepted the settlement—including more than 90% of the largest clients—will receive approximately \$750 million of the \$850 million fund, MMC reported last week. Payments will be made in four installments on Nov. 1 of this year and on June 30 in 2006, 2007, and 2008.

Clients whose insurance placements were renewed between Jan. 1, 2001, through Dec. 31, 2004, and

See **MARSH** / page 22

EEOC can issue rule on retiree benefits: Judge

Reverses decision on ADEA exemption

By **JERRY GEISEL**

PHILADELPHIA—A federal court ruling could soon clear the way for the Equal Employment Opportunity Commission to put into effect a final rule that would allow employers to provide richer benefits to younger retirees than to Medicare-eligible retirees without facing age discrimination charges.

Reversing her ruling of a few months ago, Judge Anita Brody of the U.S. District Court for the Eastern District of Pennsylvania said last

week the EEOC has the authority to implement a rule that would exempt from the Age Discrimination in Employment Act changes to health plans that affect retired workers when they become eligible for Medicare.

The practical effect of the rule, first proposed by the EEOC two years ago, would be that employers could provide a two-tiered system of retiree health care coverage—with younger retirees receiving more generous benefits than Medicare-eligible retirees—without running afoul of the ADEA.

In March, Judge Brody, respond-

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INTERNATIONAL NEWS

CRISIS PLANS

Risk managers should revise strategies in light of the London bombings.

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Canadian government refuses to drop ban on big bank/insurer deals.

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AIG sues SICO for control of shares

The insurer is seeking control of shares held by its former affiliate.
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Top broker executives say contingents should go

Aon, Marsh, Willis execs say contingents create a conflict of interest.
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Health costs to increase further in 2006

Employer-sponsored health plans will likely see a 7.6% cost increase next year.
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'Erie County' controversy may be nearing end

Judge's ruling allowing federal agencies to interpret law is welcome, an editorial says.
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Online poll - [9/26-9/30]

Has your organization made any changes to its risk management plans as a result of Katrina and Rita?



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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

Business Insurance (ISSN 0007-6864) Vol. 39, No. 40, is published weekly by Crain Communications Inc., 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to Business Insurance Circulation Department, 1155 Gratiot Ave. Detroit, Mich. 48207-2912. \$5 a copy and \$97 a year in the U.S. \$130 in Canada and Mexico (includes GST). All other countries, \$230 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 40012850, GST No. 136760444, Canadian return address: 4960-2 Walker Road, Windsor, ON N9A6J3. Printed in U.S.A. Copyright © 2005 by Crain Communications Inc.

RenaissanceRe could face SEC charges

Regulators issue 'Wells' notice to reinsurer; CEO already targeted

By RUPAL PAREKH

PEMBROKE, Bermuda—Probes into accounting practices for finite risk transactions could lead to a civil action against RenaissanceRe Holdings Ltd. by U.S. securities regulators.

Last week, Pembroke, Bermuda-based RenaissanceRe disclosed that it received a so-called "Wells" notice from the Securities and Exchange Commission in connection with its recent earnings restatement.

The notice indicates a widening of the SEC's ongoing investigation into the reinsurer, as similar notices previously were issued to RenaissanceRe's chief executive officer and another executive, though not to the company itself.

Wells notices signal that SEC officials are planning to recommend that the agency levy

charges of violating federal securities laws. They are customarily issued to allow recipients the opportunity to explain alleged improprieties and argue that civil charges are unwarranted, before a formal recommendation is made.

The possible SEC enforcement actions against RenaissanceRe and its current and former officers stem from inquiries into the company's announcement in February that it would restate three years of its earnings. That decision was made largely because of problematic finite reinsurance transactions RenaissanceRe entered into with Inter-Ocean Holdings Ltd., a Bermuda-based finite risk reinsurer that entered runoff earlier this year (BI, April 7).

RenaissanceRe acknowledged in its 2004 10-K filing that two contracts it had booked

as insurance failed to transfer enough risk to meet general accounting standards.

As a result of the restatement, RenaissanceRe's 2001 and 2003 net income increased by \$20.6 million and \$1.3 million, respectively, while its 2002 net income was lowered by \$21.9 million, the company reported in the filing.

RenaissanceRe is one of several firms in the insurance industry to restate results amid inquiries into finite risk products.

However, the company is believed to be the only one other than New York-based bond insurer MBIA Inc. to be notified of potential civil action arising from the SEC's recent probe of accounting for nontraditional insurance.

RenaissanceRe's most recent Wells notice is

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WellPoint expands in Northeast region with WellChoice buy

By GLORIA GONZALEZ

INDIANAPOLIS—Large national employers are expected to benefit from WellPoint Inc.'s acquisition of WellChoice Inc. because the deal gives them another option for health care coverage.

The acquisition of fellow for-profit Blues insurer WellChoice will allow Indianapolis-based WellPoint to gain a foothold in the key New York market, allowing the company to pursue accounts with the 17% of Fortune 500 companies located in WellChoice's service region.

"National accounts have been a very important strategic focus for us," said Larry C. Glasscock, president and chief executive officer of WellPoint. "It's an extraordinary opportunity."

The acquisition, valued at \$6.5 billion, also will allow WellChoice to more effectively compete with such major national players as UnitedHealth Group Inc., which acquired Trumbull, Conn.-based Oxford Health Plans Inc. last year to boost its Northeast presence, as

well as with Aetna Inc. and CIGNA Corp. After the transaction is completed, WellChoice will become part of a newly combined northeast region of WellPoint.

"WellChoice will do well competing in its core New York market against UnitedHealth with the backing of WellPoint," said Shelle Stoddard, an analyst with Standard & Poor's Corp. in New York.

For large employers, the WellPoint/WellChoice deal adds another competitor to the mix when discussing national vendors, said Mike Taylor, a principal with Towers Perrin's human resources services division in Boston. "Competition for these national accounts is going to be very fierce," Mr. Taylor said.

In addition, employer clients of a combined WellPoint/WellChoice could benefit if the combined company gains more leverage in rate negotiations with providers.

"I think any stronger health

See DEAL/page 19

Senate committees reach compromise on pension reforms

By JERRY GEISEL

WASHINGTON—Legislation stiffening pension funding rules is headed to the Senate floor for a vote, possibly as soon as this week, with passage nearly certain, setting the stage for House action.

Last week, the legislation cleared a key hurdle when leaders of two Senate panels—the Finance Committee and the Health, Education, Labor and Pensions Committee—reached a bipartisan agreement on a compromise bill that will go to the Senate floor. The two panels, each of which has jurisdiction on pension legislation, had earlier passed somewhat different bills.

At the same time, some House Republican leaders sent out signals last week that they think the House will consider pension funding legislation as a standalone bill, rather than bundling it with a highly controversial package to overhaul the Social Security program. Such an approach could increase the likelihood of passage.

Indeed, benefit lobbying groups and legislators say Congress is moving in the direction of passing a funding reform bill.

"There is a strong desire to get something done. Politics is about momentum and the momentum now is to pass a bill," said James Klein, president of the American Benefits Council in Washington.

"Passage seems likely now that we have a bipartisan consensus from the two committees of jurisdiction," said Sen. Charles Grassley, R-Iowa, chairman of the Finance Committee.

A consensus already has emerged in Congress on the core elements of a final bill. Both the bill to be taken up by the Senate and one passed earlier by the House Education and the Workforce Committee include the same or similar provisions: require faster funding of pension liabilities; tie to plan demographics the interest rate used by employers to value plan liabilities; restrict the ability of employers with underfunded plans to improve benefits; and increase by more than 50% the base premium employers pay the Pension Benefit Guaranty Corp.

But there are many issues for which a consensus is not yet in sight, the most significant being cash balance plan rules. The measure, for



PHOTO: RON SACHS / CNP

"Passage seems likely now that we have a bipartisan consensus from the two committees of jurisdiction."

Sen. Charles Grassley
R-Iowa

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AIG sues Starr International for control of shares

Suit pits insurer against former chief in wrangle over \$15 billion

By RUPAL PAREKH

NEW YORK—American International Group Inc. last week filed a lawsuit seeking to gain control over billions of dollars worth of AIG shares currently held by Starr International Co., a private firm formerly affiliated with AIG that is led by Maurice R. Greenberg, the insurer's former chief executive officer.

AIG filed the suit in a New York federal court, in the form of a coun-

terclaim to a July complaint brought by SICO against AIG. That complaint sought to acquire property allegedly belonging to SICO—including a \$15 million art collection—from AIG.

SICO currently controls approximately 12% of outstanding AIG common stock, according to court documents. AIG in its lawsuit estimates those holdings to be worth "well over \$15 billion."

Mr. Greenberg—who, amid a

mounting probe of the insurer, resigned as chief executive officer of AIG in March and from the insurer's board in June—continues to serve as chairman of SICO's board.

In its suit, New York-based AIG contends that SICO should forfeit control of its AIG holdings under "agreements and understandings" whereby it "promised to use its AIG stock to fund a deferred compensation program for AIG employees."

The program it refers to is a

decades-old—and recently eliminated—compensation plan operated by SICO, through which senior AIG employees were entitled to post-retirement payments in the form of AIG common stock and cash, provided on top of base salaries and bonuses paid by AIG (*BI*, July 4).

SICO, the suit charges, "recently indicated its intent to discontinue SICO's Deferred Compensation Program for AIG employees, and to use approximately 270 million of the approximately 290 million AIG shares subject to the Deferred Com-

pensation Program for the benefit of SICO and certain current SICO directors, officers and other individuals associated with SICO."

SICO as of March had awarded a total of about 33.1 million shares of AIG stock to AIG executives via the deferred compensation program since the plan's inception, and more than 22 million have yet to be distributed to the roughly 700 employees that participate in the plan, AIG alleges in its complaint.

A SICO spokesman, who also rep-

See **SICO** / page 6



Top brokerage execs say contingent commissions cause conflicts of interest

By GLORIA GONZALEZ

MONTREAL—Accepting a contingent commission creates an inherent conflict for brokers, according to top executives of the world's three largest brokerages, who said the practice should be abolished across the insurance brokerage industry.

Michael G. Cherkasky, president and chief executive officer of New York-based Marsh & McLennan Cos. Inc.; Patrick G. Ryan, executive chairman of Chicago-based Aon Corp.; and

are recommending a placement cannot be audited if they have a profit motive to give business to an underwriter, Mr. Cherkasky said. "You have to be able to rely on (your broker's advice) and I'm telling you, no matter how transparent, no matter how much you have a relationship, it's a bad practice if that person is taking a contingent," he said. "It's not auditable that they are doing it for your best interest and therefore, we cannot allow it."

He apologized for Marsh & McLennan's role in the current insurance industry crisis and for causing risk managers to question whether Marsh was acting in their best interests. "We're ashamed at Marsh that, in fact, we allowed that question to be raised," he said. "We're ashamed of a few people who in fact betrayed the trust of our clients."

MMC earlier this year agreed to pay \$850 million in restitution to settle charges of bid rigging and steering leveled by New York Attorney General Eliot Spitzer. Aon and Willis soon followed suit, settling charges and concerns by state authorities that they steered business to insurers paying the highest contingent commissions. The settle-

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More RIMS Canada coverage on page 12

Joseph Plumeri, chairman and CEO of London-based Willis Group Holdings Ltd., all spoke of their opposition to the continued acceptance of contingent commissions during the 30th annual Canadian Risk Management Conference in Montreal.

The practice should be discontinued because the subjective judgment of brokers while they

Health care costs to increase 7.6% next year: Survey

The cost of employer-sponsored health care will increase by 7.6% in 2006, bringing the cumulative increase over the past 10 years to 140%, according to a survey by Towers Perrin.

Average annual costs will increase by \$597 per employee to \$8,424 in 2006, according to the survey.

But that increase is tempered somewhat by employers' cost-control efforts, according to Towers Perrin's "2006 Health Care Cost Survey."

If not for employer efforts to aggressively manage program performance through vendor selection and performance management, prescription drug expenditures, care management, employee engagement and other initiatives, health care costs would have grown by as much as \$750 per employee, the survey reported.

Employers continue to shoulder most of the burden for the increase, the survey found. While employees will pay on average \$155 more in 2006 for their health care benefits, employers will pay an average of \$442 more, absorbing 74% of the total annual cost increase. Overall, employers will pay 80% of premium costs, while employees will pay 20%, the survey found.

The survey was conducted in August and September 2005 using per capita premium costs for insured health

Price hikes

Average 2006 monthly health care costs and cost increases by covered group

	Employee/ retiree only	Family	Average increase from 2005
Active employee	\$355	\$1,033	8%
Retirees under age 65	\$562	\$1,408	10%
Medicare-eligible retirees	\$279	N/A	7%

Source: Towers Perrin

and dental plans and premium equivalents for self-insured plans. Participants, whose benefit costs total around \$24 billion annually, included 204 of Fortune 1000 companies.

For more information about the survey, visit www.towersperrin.com/hrservices.

—By Joanne Wojcik

Bermuda says its regulations are changing with the times

By RUPAL PAREKH

SOUTHAMPTON, Bermuda—Lawmakers and regulators in Bermuda say they will adapt the domicile's regulatory environment to ensure that it keeps pace with changes in the worldwide insurance market.

Building on its existing reputation as a well-regulated but flexible jurisdiction, Bermuda should continue to attract captives and other insurers, but it must react to developments elsewhere, including changes in regulations and laws in other jurisdictions, they say.

Speaking at a session during the inaugural Bermuda Captive Conference held last month in Southampton, Bermuda Premier W. Alexander Scott noted that the growth of captive insurers in other jurisdictions is creating competition for Bermuda's share of the captive business. The island currently is home

to 30% of the worldwide captive market, but competition is "intense," and "some in recent years have closed the gap," he acknowledged.

In that environment, "compla-



cy is not an option" for the Bermuda market, said Paula Ann Cox, Bermuda's minister of finance. Bermuda must "seek to raise the bar," she said, and "continue to be productive and improve upon what we have as a jurisdiction."

Furthermore, said the officials, Bermuda intends to protect its reputation as an effectively supervised and regulated domicile in the international insurance market, regardless of the so-called "offshore" status attached to companies housed there.

The island in the past has chosen to turn down business regarded as a risk to the Bermuda market's reputation internationally, Ms. Cox noted, adding that regulators are prepared to continue doing so.

The Bermuda Monetary Authority is also in the process of strengthening laws governing the insurance marketplace and is bolstering regulatory staff, said Jeremy Cox, Bermuda's supervisor of insurance. Recent changes include amending the island's Insurance Act and issuing guidance for all insurers and service providers, in order to leave "no gray area" about such topics as corporate governance, market conduct and auditing procedures, Mr. Cox said.

Additionally, the BMA is also conducting more onsite inspections of insurance entities, he said, and the insurance department has

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Call for Nominations

Risk Manager of the Year™ Risk Management Honor Roll™

Nominations for the Risk Manager of the Year and Risk Management Honor Roll are now being accepted by *Business Insurance*.

The Risk Manager of the Year Award was created in 1977 by *Business Insurance* to increase recognition of the risk management profession and to recognize outstanding performance in the practice of risk management. The Risk Management Honor Roll was added in 1980 as a way to recognize worthy risk managers and risk management programs in industries not represented by the annual Risk Manager of the Year award winner.

Executives anywhere in the world who are involved in risk management for a corporation, not-for-profit institution or government entity can be nominated.

The nominations will be judged by a panel of executives representing all aspects of risk management and the commercial insurance industry.

Honorees are announced and profiled in the annual Risk Manager of the Year feature published by *Business Insurance* which is distributed at the RIMS annual Conference and Exhibition each spring. Awards will be presented at a special luncheon honoring these risk managers.

**DEADLINE FOR NOMINATIONS:
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For nominating forms and instructions, call 312-649-5319 or e-mail: ktucker@BusinessInsurance.com or visit

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SICO: AIG sues over shares held

Continued from page 4

resents Mr. Greenberg's legal team, said that AIG's lawsuit is without merit and denied the charges set forth in the complaint.

"It was a lawsuit that was merely filed to satisfy potential future liti-

gation," the spokesman said. "SICO, after providing this tremendously valuable asset to AIG for so many years, is now being criticized for having done so."

gation," the spokesman said. "SICO, after providing this tremendously valuable asset to AIG for so many years, is now being criticized for having done so. There was never a contract, agreement or understanding that SICO had to participate in this (program) forever," the spokesman said. "Furthermore, AIG is the one that said this program should be ended," he said.

AIG's board earlier this month approved a new deferred compensation and profit-participation plan to replace the prior SICO-operated plan, according to an 8-K report filed with the Securities and Exchange Commission last week.

AIG's claim for a declaratory judgment seeks to require SICO to create a trust fund for the nearly 290 million deferred compensation AIG shares currently controlled by SICO, operated solely for the benefit of current AIG employees. The insurer also contends that a majority of the SICO board must consist of current AIG employees. Charging SICO with breach of contract and violation of fiduciary duty, among other things, AIG seeks punitive damages and legal fees.

A spokesman for the insurer said "AIG is bringing this case for the benefit of our shareholders and employees," but he declined to comment further.

Starr International Co.

Bermuda: Domicile changing

Continued from page 4

grown its staff to nearly 30 employees.

Case by case

While those overseeing the island's insurance market said they are in favor of increased oversight, they also stressed the importance of avoiding a heavy-handed approach that would subject insurance companies—and especially captives—to over-regulation.

"Our stance has consistently been to insist on knowing the customer and taking a case-by-case decision as to the persons and types of business we allow to operate within our shores," Ms. Cox said. A successful model for regulation involves a partnership between government authorities and the business sector, in which "the doors of communication and dialogue are open," she said.

With regard to captive operations, which make up the majority of insurance companies in Bermuda, the same level of regulation will not be imposed upon captives as is imposed on other types of insurance companies, the officials said. Of the 1,424 active insurance companies on the island, 954 are captives, according to an Aug. 31 report, Ms. Cox said.

BMA Chairman Cheryl Ann Lister told attendees that regulators will continue to enforce rules using a "risk-based approach," with the level of regulation varying based upon the risk level of the entity.

Bermuda captives are not considered as much of a risk to the marketplace as are larger commercial market insurers, the regulators said.

Despite strengthening oversight of the island's insurance market, under the BMA's approach, Class 1 and Class 2 insurers on the island—

single-parent captive companies and multi-owner captives, respectively—will not be subjected to standards as stringent as Class 3 and Class 4 insurers, which are large commercial companies and underwriters of direct excess liability insurance or property catastrophe reinsurance.

300 attend Bermuda's first conference on captives

The first-ever Bermuda Captive Conference, held Sept. 12-14 in Southampton, attracted nearly 300 attendees from the island and abroad.

Of that number, more than 100 were captive owners and risk managers interested in launching captive operations, conference organizers reported.

Health care-related panel discussions were the focus of the opening day of the event, which took place at The Fairmont Southampton hotel. Topics discussed over the following two days ranged from captive reinsurance to rent-a-captives and the challenges of fronting.

The 2006 conference, scheduled for Sept. 18-20, also will be held at The Fairmont Southampton. For additional information, visit the conference Web site at www.bermudacaptive.bm.

Visit our all new website at www.worldcaptiveforum.com for a complete schedule, a list of current registrants, and to register online.

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- Employee Benefits Track featuring keynote speaker Randall Moon, VP Human Resources, Archer Daniels Midland Company
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Editorial

Court right to follow EEOC retiree health benefits rule

IF EVER THERE WAS an example of how slowly the wheels of justice turn, it is the legal controversy that has enveloped retiree health care plans for more than five years.

In August 2000, the 3rd U.S. Circuit Court of Appeals, in what has become known as the Erie County case, ruled that retiree health care plans are subject to the Age Discrimination in Employment Act.

That ruling was a bombshell as it had been long thought that the ADEA applied to employee benefit plans, and not retiree health benefit plans.

The practical implication of the ruling was obvious: to escape age discrimination charges, employers either would have to provide the same health care benefits or spend the same amount on the benefits for younger retirees as they do for Medicare-eligible retirees.

Employers, don't provide the two groups with the same level of benefits because of the availability of Medicare when retirees reach age 65. Since younger retirees aren't eligible for Medicare, it is understandable that employers provide them with richer coverage than those eligible for Medicare.

And it is just as understandable that if employers have to equalize health care costs or benefits of the two groups, the result will be less coverage for younger retirees. With many employers unable to afford the retiree health care programs they have, they are hardly going to upgrade benefits for older retirees.

While the Equal Employment Opportunity Commission—the federal agency in charge of enforcing the ADEA—was slow to grasp the disastrous health policy consequences flowing from the Erie County ruling, eventually common sense prevailed.

Last year, the EEOC proposed a final rule, which has the real world effect of allowing employers to continue providing a two-tier health care benefits program for retired workers.

The AARP, however, filed suit earlier this year to block the EEOC rule, arguing that the EEOC lacked authority to issue it.

U.S. District Court Judge Anita Brody initially honored the AARP's request, saying essentially the 3rd Circuit Court's decision of five years ago pre-empted the EEOC's rule. Now, though, Judge Brody has taken another look at the issue and come out, as we report on page 1, with a very different ruling. Simply put, in situations where federal law isn't clear—and she believes the ADEA is such a case—courts are bound to follow the interpretation of law by federal agencies, so long as the interpretations are reasonable, which Judge Brody says is the case with the EEOC's rule.

Judge Brody has it exactly right. If federal agencies can't interpret law—filling in gaps if necessary—then who should?

Finally, this controversy and uncertainty may be nearing an end and employers offering retiree health care plans can do so without fear of being sued.

Quick commissions settlement would benefit Marsh's clients

IT LOOKS LIKE another legal battle—the fight over compensation for the collection of contingent commissions—is going to last a lot longer than initially anticipated.

As we report on page 1, not all eligible insurance buyers have accepted their share of Marsh & McLennan Cos. Inc.'s total \$850 million settlement offer. While Marsh says that most larger policyholders have accepted their settlement offers, a significant number of other Marsh clients appear to be either holding out for more or unwilling to sign the waiver that accompanies the settlement.

In addition, Marsh faces additional charges from the Connecticut attorney general, which means that the brokerage likely won't achieve a quick resolution to its problems.

While a final resolution with a chastened

brokerage would, we think, be in the best interests of most risk managers and the market in general, it is hard to argue with policyholders that are unwilling settle just yet.

Policyholders whose trust was abused by bid rigging and other misdeeds at Marsh, are unlikely to settle for anything less than they think they deserve. And no policyholder should have to waive its right to sue over issues outside of the brokerage compensation scandal, as some believe is the case with the waiver that Marsh has requested.

But, for the sake of all participants in the insurance buying process, we hope Marsh and its clients can soon resolve these issues. Doing so will allow Marsh brokers to get on with what the majority of them have always done, that is, providing quality service to their clients.

Schillerstrom



Write Us

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Letters

Disaster highlights importance of expert risk management

To the editor: To Mark A. Hofmann's Sept. 26 Commentary on the need for a U.S. risk manager, amen! Risk managers have not done nearly enough to blow their collective horns, but the Federal Emergency Management Agency's former head, Michael Brown, and the mess in New Orleans are classic examples of the difference between quality in risk management and the other stuff.

The gap probably extends to numerous levels in New Orleans. Once they dry out, it would be interesting to see a story about disaster recovery plans that worked and the con-

sequences of those that didn't. I'd like to see *Business Insurance* include some commentary on insurance coverage gaps and performance.

My own observation is that some entities lost a day or two and put up with some inconvenience, whereas others are probably gone for good. I don't suppose many had the theoretically optimum recovery where everyone ends up safe and dry and doing business in a satellite location—just getting one's spouse and kids relocated would militate against that—but survival is the ultimate success story.

Mary Cannon Veed
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ADVERTISING: Boston: 617-292-4856; Chicago: 312-649-5276; Irvine CA: 949-255-5355; New York: 212-210-0133

SUBSCRIPTIONS: Detroit: 888-446-1422

Business Insurance is published by Crain Communications Inc.

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Published weekly at 360 N. Michigan Ave., Chicago, Ill. 60601-3806, Fax: 312-280-3174, biweb@crain.com. Offices: 711 Third Ave., New York, N.Y. 10017-5806, Fax: 212-210-0704; 7121 Minkler St., Abita Springs, La. 70420; Fax: 985-871-4006; Suite 814, National Press Building, Washington, D.C. 20045-1801, Fax: 202-638-3155; 6500 Wilshire Blvd., Suite 2300, Los Angeles, Calif. 90048-4947, Fax: 323-655-8157; 967 Bermuda Court, Sunnyvale, Calif. 94086-6750, Fax: 408-774-1155; 34 Southwark Bridge Road, London SE1 9EU, Fax: +44-(0)20-7457-1440; 8157 N. Torrey Place, Tucson, Ariz. 85743, Fax: 520-579-3476; 1746 Cole Blvd., Suite 150, Golden, Colo. 80401, Fax: 303-733-9941; 12524 Acuff Ct., Olathe, KS 66062, Fax: 312-280-3174. 77 Franklin St., Suite 809, Boston, Mass. 02110-1510; Fax: 212-210-0704. 4 Executive Circle, Suite 185, Irvine, CA 92614-6791. \$5 a copy and \$97 a year in the U.S., \$130 in Canada and Mexico (includes GST). All other countries, \$230 a year (includes expedited air delivery). Kevin Scott, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, *Business Insurance*, 711 Third Avenue, New York, N.Y. 10017-5806. Microfilm copies available: University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48103. Microfiche copies: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For reprints or reprint permission: Karen Brown Tucker, *Business Insurance*, 360 N. Michigan Ave., Chicago, Ill. 60601-3806, 312-649-5319, Fax: 312-280-3174.

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By Elliott M. Kroll

Perspectives

Troubled waters in Mississippi

Bid to force insurers to pay flood losses raises concerns

Mississippi Attorney General Jim Hood has initiated a complaint and a motion for a temporary restraining order in the Chancery Court of Hines County, Miss., against several major insurers, accusing all of the defendants with intentionally causing injury to Mississippi policyholders by wrongfully refusing to pay water damage claims emanating from Hurricane Katrina.

While we recognize the serious hardships that Mississippi residents and businesses face in attempting to restore their lives and their livelihoods, it is difficult to reconcile this litigation with the law, the contracts and the facts.

The insurance industry has generally avoided providing coverage for flood. Flood damage of the nature experienced after Katrina has been excluded from policies for decades. In 1968, the federal government enacted the National Flood Insurance Act, providing flood insurance for the first time. The National Flood Insurance Program, however, is not a panacea. It only provides limited insurance on buildings and contents in flood-prone areas on either an actual cash value or replacement value basis.

Following the horrific flooding in the Midwest in 1993, Congress passed the 1994 Reform Act to motivate homeowners to purchase flood insurance, because participation remained relatively modest, averaging at about 25% in flood-prone areas. The Act requires that federally regulated lenders mandate the purchase and maintenance of flood insurance for any property in areas such as the Gulf Coast.

Litigation

Mr. Hood's complaint alleges that the defendants sold policies

providing coverage for hurricanes and windstorms and that the property owners purchasing the policies had a "reasonable expectation that these policies would provide coverage" for "any damage" that could possibly result from hurricanes in the Gulf of Mexico.

The complaint contends that the flood exclusions are ambiguous, contracts of adhesion, oppressive to policyholders, that the language is unreasonably complex and difficult to understand and "deprived the policyholders of meaningful choice of coverage." The complaint also contends the exclusions are void and unenforceable as violative of public policy in Mississippi, "which mandates that full coverage be provided if the proximate and efficient cause of the damage (i.e. hurricane wind) is covered under the subject policy, even if other "noncovered losses also contributed to the loss."

In the final cause of action alleging irreparable injury to the policyholders, he seeks a temporary restraining order to prevent insurers from disclaiming coverage.

Analysis

Leaving aside for the moment whether Mr. Hood even has standing to bring this action on behalf of any of the policyholders (except perhaps charitable institutions), because all the defendants are solvent, it is difficult to appreciate how equitable relief should be awarded. All policyholders would have an adequate remedy at law for breach of contract.

Most, if not all, of the affected property owners had a "meaningful choice of coverage" to purchase flood insurance from the NFIP. Further, some commercial lines insurers sometimes allowed clients to purchase endorsements deleting

the flood exclusion. Moreover, most of the personal lines policies were compliant with readability requirements generally known as Flesch scoring. Because all federally regulated lenders are sophisticated purchasers of insurance, they should not be able to avoid the clear mandate of Congress requiring the purchase of flood insurance.

Most insurers, sensitive to their clients' needs to resume their trade and their own desire to mitigate business interruption losses, are working diligently to quantify and pay valid losses.

It will be interesting to see how Mr. Hood is able to differentiate those policyholders and lenders that appreciated the need for and purchased flood insurance from those that did not. One should also have no doubt that both regulators and policyholders will turn their attention to the agents and brokers involved in the process. Long before Katrina, the Federal Emergency Management Agency Web site had a section labeled, "Top 10 Things State Insurance Commissioners Can Do," and the first item on the list is, "Encourage licensed agents to sell flood insurance."

We also suggest there is no ambiguity regarding the definition of flood, something that is set forth neatly on FEMA's Web site, providing objective guidance to the court respecting any alleged confusion re-

garding the meaning of the word "flood."

The Mississippi Consumer Protection Act, a rather straightforward consumer statute found in most states, should not play a major role in this case. At the end of the day, we suspect Mr. Hood will have to demonstrate some form of reliance by policyholders on specific misrepresentations.

Perhaps the pivotal issue raised by this complaint is whether there is coverage under a policy where a loss is occasioned by two different perils, one of which is excluded. This is referred to as an "efficient, proximate cause."

The Mississippi state courts have not adopted the efficient, proximate cause doctrine. If an unambiguous exclusion is clearly applicable, coverage should be barred regardless of whether the initial cause of the loss would have been covered. It would not be surprising to see Mississippi law develop rapidly on this point.

These issues will pose serious challenges to the commercial lines insurance and reinsurance markets. Realistically, "main street" businesses on the Gulf Coast have suffered staggering losses comparable to the personal lines arena, and similar regulatory responses should be expected. Most commercial lines insurers, sensitive to both their clients' needs to resume their trade and their own desire to mitigate business interruption losses, are working diligently to quantify and pay valid losses.

Reinsurers, many of whom weathered similar difficulties in the 1991 Oakland Hills, Calif., fires where primary insurers waived limits of liability, will now have to balance long-term professional relationships and follow-the-fortunes language with a harsh economic re-

ality of having never received premium for flood perils. This may well spark a wave of disputes with reinsurers, particularly as the cash flow requirements of insurers peak.

Shortly after stating that policyholders were aware of the flood exclusion, Mississippi Insurance Commissioner George Dale issued a statement noting that, in situations where "very little or nothing is left of the insured structure...the insurance company must be able to clearly demonstrate the cause of the loss. I expect and believe that where there is any doubt, that doubt will be resolved in favor of finding coverage on behalf of the insured. In instances where the insurance company believes the damage was caused by water, I expect the insurance company to be able to prove to this office and the insured that the damage was caused by water and not by wind." There should be little doubt that this statement reflects the political reality in Mississippi.

Conclusion

Mr. Hood's suit will serve as a catalyst to the plaintiffs' bar. The New York Times quoted one well-known plaintiff lawyer who said, "I'm not going to sit still for this. I'm going to bring every organizational and legal skill I possess to make these guys do the right thing under their policies."

Hopefully, the regulatory response to the Hurricane Katrina losses will be balanced, tempering the immediate needs of the residents of the impacted communities with the recognition of the reasonable expectations of lenders, agents, insurers and reinsurers.

Elliott M. Kroll is a partner at Herrick, Feinstein L.L.P. in New York.

How to submit a Perspective article to BI

Business Insurance accepts articles from experts in commercial insurance, risk management and employee benefits management for publication in its Perspectives section.

The section is intended to be a forum for readers' opinions and a forum for the discussion of technical topics that do not lend themselves to a news story. Therefore, Perspectives articles should take a point of view, offer advice and/or explain a technical subject. They should not present case studies or promotional information.

All articles for the Perspectives page should address the concerns of the corporate buyer of insurance; i.e., the risk management or employee ben-

efits manager. Material written for only the concerns of brokers or underwriters is not appropriate.

To submit an article for the Perspective section:

- Send us a letter describing the topic you would like to address. You might want to suggest alternative topics. For each topic, briefly describe what you want to say and accomplish in the article.

- You will receive from us an acceptance or declination of your article idea.

- If accepted, we will respond with comments and request the full article, which generally should be 800 words in length.

- All articles are to be accompanied by a black-and-white

photograph of the author and a brief biography.

- We will notify you of any questions we have about your article or any substantial editing that BI editors think is necessary.

All authors must assign the copyright on the article to Business Insurance.

Because of the volume of Perspective submissions we receive, we cannot guarantee a date in which an article will appear. For the same reason, we will not run more than one article in a calendar year from the same author.

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"Passive, uninvolved, unknowledgeable, undemanding risk managers simply are more likely to be taken advantage of."

Michael G. Cherkasky
Marsh & McLennan Cos. Inc.

"My personal belief is that if you take a contingent commission, then you're really an agent for the underwriter."

Patrick G. Ryan
Aon Corp.



"Anytime that you have 20% or 30% of your profits that come from some place other than your client, it is impossible to always do the right thing."

Joseph Plumeri
Willis Group Holdings Ltd.



Commissions: Contingents create conflicts

Continued from page 4

ments by all three brokerages total more than \$1.0 billion.

While settlements reached with MMC, Aon and Willis call for the elimination of contingent commissions, another major brokerage's recent settlement sanctions such commissions for its agency business. Glen Allen, Va.-based Hilb, Rogal & Hobbs Co.'s settlement with Connecticut Attorney General Richard Blumenthal allows HRH to keep contingents when it acts as an agency but not when it places business as a broker.

The fact that some brokers continue to accept contingent commissions has created an unlevel playing field, Mr. Plumeri said. "Anytime that you have 20% or 30% of your profits that come from some place other than your client, it is impossible to always do the right thing," he said. "You've got to have an inherent conflict because it's so much a part of your bottom line."

Mr. Ryan said contingent commissions should be abolished for all brokers. "My personal belief is that if you take a contingent commission, then you're really an agent for the underwriter. You're not a broker," he said.

Aon is forced to do business with underwriters who are still paying contingent commissions to brokers and agents who accept them, Mr.

Ryan noted. "We don't have the luxury, because of market capacity issues, to say that we won't do business with an underwriter that pays contingent commissions," he said. "As a matter of fact, I would think the regulators would not allow us to do that in that we have a settlement agreement to go out and get the best terms, like we always did anyhow. And they may come from an underwriter that pays contingent commissions."

Aon has made a conscious decision not to allow underwriters to pocket any funds that were previously paid to the brokerage as a contingent commission, Mr. Ryan said. "We are very diligent in negotiating terms that keeps them from in effect increasing their profitability by recovering what was paid as a contingent commission," he said.

Ellen Vinck, president of the Risk & Insurance Management Society Inc. and vp-risk management, benefits and safety for United States Marine Repair Inc. in San Diego, agreed with that stance. "I personally, as a risk manager, would like to see a reduction in my premiums equivalent to the contingent commissions that were being paid," she said. "And I think that's fair."

Mr. Plumeri suggested that all the contingent commissions not being paid by insurers to brokers should

be used to create technology so insurers can issue insurance policies and pay claims more quickly. "They've got billions of dollars at their disposal to do it," he said.

While stressing that he was not shifting the blame for the contingent commission crisis, Mr. Cherkasky encouraged risk managers to be more involved with the placement of insurance. "A broker is simply an adviser, not a decision maker," he said. "Passive, uninvolved, unknowledgeable, undemanding risk managers simply are more likely to be taken advantage of."

During the question-and-answer period, the brokers were asked about a wide range of other topics, including the impact of Hurricane Katrina on the insurance industry.

Mr. Ryan said underwriters have been informed that brokers and regulators are viewing losses suffered due to Hurricane Katrina as wind-driven losses, which would make policyholders eligible for reimbursement.

"So to be hiding behind flooding, saying it's not covered, is going to be a very difficult position to take," Mr. Ryan said. "So we are encouraging them to be aggressive and assume the responsibility. That's our position; it's not necessarily going to be the underwriter's position."

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Risk managers should play key role when companies merge

By **GLORIA GONZALEZ**

MONTREAL—In a business environment where mergers and acquisitions are commonplace, risk managers have a vital role to play in helping ensure that such deals do not create problems for their organizations.

In particular, risk managers' responsibilities include analyzing the risks of the company being acquired and developing plans to ensure that their own organizations are protected from these risks, experts said at a session of the recent Canadian Risk Management Conference in Montreal.

The first thing risk managers need to know is why their company

is acquiring another business, said Pascale Samson, manager of risk management and insurance for Bombardier Recreational Products Inc. in Verdun, Quebec.

"The better you know why the transaction is happening, the better it will help you to put together a complete report to management," said Ms. Samson, who has been involved in M&A activity.

It is crucial for risk managers to get involved early in the process, because there is a great deal of information to collect, she said. And risk managers need to be persistent about gathering as much information as possible, even information that the other company may be reluctant to provide, Ms. Samson said.

"There's probably a good reason why they're not offering it first, so you just have to dig a little bit more," she said.

Establishing a direct line of communication—particularly with the risk manager of the other company, if it has one—is extremely important, she stressed. "It's not always feasible, but if you can, definitely it will save you some time," she said.

"One of the pitfalls, obviously, is people working in silos and not communicating with each other," said Kevin Kyte, a partner with law firm Stikeman Elliott in Montreal.

The risk manager needs to identify and assess the risks in terms of severity, probability, timing and the changing probability over time, and then develop risk mitigation plans, speakers said.

"You want to know whether the business is insurable," Mr. Kyte said. "You want to know what the claims history is. That will be the indicator as to whether or not there could be problems in the future."

A key risk management discussion will revolve around how risks

Tips on M&A risks

- Get involved early on.
- Establish communications with the target company's risk manager.
- Gather information on the target's claims history and risk management program.

are presently covered in the acquired company's insurance program and how to integrate the coverage with the acquiring company's own program. The risk manager should validate his or her analysis with the company's broker, who can help verify the inclusion of new risks in the existing program and confirm the existence of coverage before the transaction date, Ms. Samson said. "Your broker should be contributing to this process," she said.

Risk managers need to examine the potential consequences of a

change in control of the company on existing coverage, particularly in key lines of insurance such as directors and officers liability insurance, Ms. Samson said.

"Make sure that when the transaction date happens, you won't have any gaps in your coverages," she said. "All coverages granted in the past should be covered, unless it is a voluntary decision to not renew the coverage."

Risk managers should also explore the previous insurance program to ensure that the merger or acquisition target had the proper coverage.

Often, a purchasing company will also require that the seller maintain particular lines of coverage, such as product liability or D&O insurance, to ensure that the seller will be able to defend itself against claims involving past acts.

"If it's not in a position to defend itself, then inevitably the plaintiffs will go after the purchaser as someone with deep pockets," Mr. Kyte said.

The risk manager's report to

management should highlight a number of factors, including the post-acquisition insurance costs and any specific items requiring additional funding, Ms. Samson said. It should also confirm the readiness of coverage by the transaction date.

Once a deal is done, the risk manager should aggregate the risks and determine the revised risk profile of the newly combined company, said Trevor Mapplebeck, director, corporate risk consulting, with Mercer Oliver Wyman in Toronto.

The risk manager should also assess deductibles/retention levels to determine whether the organization can comfortably retain more risks, he added.

"You want to understand the new risk appetite within the company," he said. "It has potentially changed, so we should look at changes in the consolidated company's appetite for risk as well," Mr. Mapplebeck said.

Andre Lepage, a partner with law firm Nicholl Paskell-Mede based in Montreal, moderated the session.

RIMS Canada draws 1,600 to Montreal conference

MONTREAL—More than 1,600 attend the 30th annual Canadian Risk Management Conference in Montreal.

The conference, which was sponsored by the Canadian arm of the Risk & Insurance Management Society Inc., featured sessions on corporate governance, executive risk insurance, enterprise risk management and insurance market trends and issues.

Next year's RIMS Canada conference will be held Sept. 17-20 in Calgary, Alberta.

For more information, visit <http://rimscanada.rims.org>.

—By Gloria Gonzalez

Enterprise risk approach challenging to implement

By **GLORIA GONZALEZ**

MONTREAL—Companies that have implemented enterprise risk management programs have faced challenges along the way, but their efforts have produced a more robust approach to managing their organizations' various exposures.

When putting an ERM system in place, risk managers must develop a coherent framework for identification, analysis, prioritization and management of risks, risk managers attending the recent Canadian Risk Management Conference in Montreal were told by peers who had implemented ERM programs within their organizations.

Sun Life Financial's ERM framework establishes processes and requirements for risk management and worldwide practices. It provides oversight for the risk management activities within the organization and is designed to provide discipline and consistency to the practice of risk management in all business units, said Susan Meltzer, assistant vp-insurance and risk management for the Toronto-based company.

Sun Life's risk philosophy states that "the company is in the business of accepting risks for appropriate return and will take on risks that meet the objectives of the organization," the company notes in its annual report.

"Our risk philosophy is going to be very different than yours," she said. "It's something that you have to build in conjunction with people in the organization and depending on what your company does."

The company's ERM framework specifies four key objectives: avoid risks that could materially impact

the value of the company, contribute to sustainable earnings, take risks that the company can manage in order to increase returns and provide transparency of the company's risks through internal and external

ERM is "about getting business people and risk people in a room together talking about risks."

**Susan Meltzer
Sun Life Financial**

reporting, she said.

Sun Life started its ERM process in 1998, the year the organization established a board-level risk review committee, Ms. Meltzer said. The committee is responsible for ensuring the identification of major areas of risk facing the organization and developing strategies to manage those risks, reviewing compliance with risk management policies and reviewing reports related to compliance with legal and regulatory matters.

"It's about getting business people and risk people in a room together talking about risks," she said.

An important feature of a sound ERM program is developing a method to prioritize risks, one panelist said.

Mike Maida, corporate risk manager and leader of ERM initiatives for Winnipeg, Manitoba-based AgriCore United, said his organization developed a scoring system. The system ranks risks based on their potential impact to the organization on a scale ranging from low

impact (\$25,000 and under) to severe impact (greater than \$25 million). It also evaluates risk based on the likelihood of the risks occurring on a scale that ranges from "remote" to "almost certain." The system allows the organization to filter down risks that are less important and aggressively address those that are more important, he said.

For his organization, getting senior management involved was an important part of the development of its ERM program, Mr. Maida said.

"I think it's a real critical success factor—getting that support from the top down," said Mr. Maida, whose corporate risk management committee is chaired by the chief executive officer and features other senior management officials.

There are, however, a variety of challenges to implementation of a successful ERM program, speakers said.

Nowell Seaman, manager of risk management and insurance services at the University of Saskatchewan, said his organization faced the challenge of "institutional fatigue," competing with other projects for attention and resources. Getting senior university leaders involved in the process helped to overcome this problem.

Another key challenge is to maintain the momentum of the ERM process and continue incorporating risk management into all the company's processes, Mr. Maida said. "It's definitely not a one-off process," he said. "We have to create a culture where risk management is inherent in all our businesses."

Eugene Hoeven, a consultant with Eugene Hoeven & Associates in Beaconsfield, Quebec, moderated the session.



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Between the Lines

Compiled by Joanne Wojcik

From broker to vintner

Wine has many health benefits, so it makes sense for a California health insurance broker to moonlight as a vintner.

While Henry Loubet, senior vp and chief strategy officer at Torrance, Calif.-based Keenan & Associates, claims it's only a hobby, he's been an oenophile since he was introduced to wine back home in New Jersey. He joked that in those days, Boones Farm and Mateus were the finest wines available.

"You should try my wine," he urged during a recent interview with *Business Insurance*.

"It's more fun than health care sometimes. But, after you drink it, health care becomes more fun," he said.

The first release of 2003 Napa Valley Loubet Cabernet may only be 50 cases, but next year it will grow to 125 cases and the year after that Loubet Vineyards plans to produce 300-400 cases, according to Mr. Loubet. The winemaker of Loubet Cabernet is viniculturist Art Finklestein, who founded Whitehall Lane Winery in 1979.

A health insurance industry veteran, Mr. Loubet's resume includes positions at UnitedHealth Care, Health Net, Foundation Health and DrugEmporium/HealthCentral.

For more information about Loubet Vineyards, visit www.loubetvineyards.com.



Henry Loubet, a senior vp with Keenan & Associates, runs a vineyard as a sideline.

Credit where it's due

Some might call it "the American way."

Kaiser Permanente Hawaii is soliciting its members to sign up for a Kaiser-branded credit card that will make it easier for them to buy their medical services now and pay for them later.

The card is administered by GE Consumer Finance, which also issues private-label credit cards used by department stores. And, like most department store cards, the Kaiser credit card's use is limited. It can only be swiped at Kaiser facilities and by select network providers.

The Oakland, Calif.-based HMO began offering the Kaiser Permanente Membership CarePay Credit Card, which is a combination identification/credit card, last December to members who have the most cost-sharing built into their health plans.

But using the card is not exactly painless. Although there is no annual fee, the card carries a variable 24.24% annual percentage rate after an introductory 9.9% APR for the first 12 months on purchases of \$50 or more.

'The Night of the Gecko' perhaps?

GEICO is holding a talent contest to find the Steven Spielberg of insurance advertising.

The Washington-based auto insurer is asking aspiring amateur filmmakers to submit a 15-second movie trailer dramatizing their video concept to the "Golden Gecko" competition. Special effects are encouraged, and just about any genre—drama, comedy, animation, action and "other"—is welcome, as long as the clips star GEICO's trademark Gecko character.

"The Gecko is already an award-winning cultural icon," Jess Reed, GEICO's chief information officer, said in a press release announcing the competition. "We want to further develop his character and take him to the next level. To do so requires the creative participation of the best up-and-coming filmmakers in the country."

For more information, visit www.goldengecko.com.



GEICO is seeking filmmakers for its 'Golden Gecko' competition.

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

COMINGS & GOINGS - INDUSTRY



Mr. Bundschuh



Mr. Collings



Mr. Maher

Insurers

Carl L. Bach has been appointed executive vp of ACE Global Solutions in Philadelphia. Previously, he was president of ACE Europe.

Also at ACE, Paul Ramsey has been named executive vp to lead the ACE USA claims unit. Previously, he was senior vp, claim field operations, for the St. Paul Travelers Co.

New York-based HCC Credit Group, a unit of Houston-based HCC Insurance Holdings, has named three new senior vps: Brian E. Duffy, Carl R. Nelder and Mark P. Rickert. All joined from Trade Underwriters Agency, a business they founded in 1993.

GE Insurance Solutions in London has named Peter Elliott U.K. and Middle East business leader, life and health. Previously, he was head of sales for the region.

Richard J. Law Jr. has joined Schaumburg, Ill.-based Zurich North America as president of Zurich Small Business, the insurer announced. Mr. Law, who replaces the retiring Ray Thomas, will work from the company's Baltimore office. Before joining Zurich, Mr. Law served as vp in the risk management division of The Hartford Financial Services Group.

American International Group Inc. has named Elias F. Habayeb chief financial officer of the New York-based company's Financial Services Group. Mr. Habayeb, who previously was partner in the capital markets group

of Deloitte & Touche L.L.P., succeeds Ronald A. Latz, who was named a vp at AIG Financial Products Corp.

Managed care

San Francisco-based United Behavioral Health has named Dr. David Whitehouse as chief medical officer, strategy and innovation. Before joining UBH, he was corporate medical director for quality and account service for CIGNA Behavioral Health.

Agents/Brokers

Washington-based Ames & Gough Inc. has named two equity partners to establish an office in Atlanta. Gregg Bundschuh was formerly a managing director for Marsh Inc. and Dave Collings was North American marketing director for Marsh.

Willis Group Holdings Ltd. has named Ronald L. Alexander president and managing partner of the broker's Knoxville, Tenn., operations. Previously, he was executive vp and chief operating officer.

Colemont Insurance Brokers has named Bob Maeyama senior underwriter in the Dallas office. Before joining Colemont, he was regional underwriting manager for Universal Underwriters Insurance Co.

Glen Allen, Va.-based Hilb, Rogal & Hobbs Co. has appointed Michael Dinkins executive vp and chief financial officer. Mr. Dinkins, who previously was vp-global control and re-engineering for Guidant Corp., succeeds Carolyn Jones, who recently an-

nounced her plans to retire. Manhasset, N.Y.-based NIF Group Inc. has named Mark P. Maher as president. Mr. Maher will continue in his role as president of NIF Services of New York.

Reinsurance

Cooper Gay & Cashman in Minneapolis has appointed Brian K. Engel executive vp and professional liability practice leader. Previously, he was senior vp and national health care practice leader for Benfield Inc.

GE Insurance Solutions has named Peter Elliott as leader of the U.K., Irish and Middle-Eastern business of GE's European Life & Health Operations in London. Mr. Elliott previously worked in GE Insurance Solutions' U.K. primary insurance operations.

Other providers

Dick Dyer has been named a senior consultant in the Boston office of Andrew Robinson International Risk Management Consultants Inc. Previously, he was a vp for Aon Risk Services Inc.

Administration Resources Corp. has named Kathy Brunner as director of sales and head of the company's new office in Milwaukee. Before joining Coon Rapids, Minn.-based ARC, she was regional sales consultant with HCap Strategies.

Business Insurance would like to report on senior-level changes at commercial insurance companies and service providers. Please send news of recently promoted, hired or appointed senior-level executives to: Joe Walker, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; jwalker@businessinsurance.com.

Photos should be sent to: Kathy Barnes, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; kbarnes@businessinsurance.com.

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London bombings show need for crisis plan updates

By SARAH VEYSEY

LONDON—Risk managers should revise their crisis management plans in light of the terrorist attacks on the London transportation system earlier this year, a panel of experts said.

The attackers' focus on harming people rather than destroying property should lead to changes in security measures and tighter controls on property access, they said.

In addition, companies should plan for alternative communication measures in emergencies, given the problems encountered with communications systems immediately after the attacks.

Risk managers should also review their insurance coverage to ensure that it will respond to business interruption claims following any similar future attacks, the experts said last week at an Assn. of Insurance & Risk Managers seminar in London.

The attacks of July 7, 2005, in which three bombs exploded on separate London Underground trains and a fourth detonated on a bus, killed 56.

In the wake of those attacks, risk managers should review their organizations' contingency plans, said Chris Rigby-Smith, a partner in JLT Risk Solutions Ltd.'s business interruption insurance and business continuity management practice.

JLT Risk Solutions, a London-based unit of Jardine Lloyd Thompson Group P.L.C., hosted the

AIRMIC-organized seminar.

The nature of the attacks—suicide bombings—has not been experienced before in the United Kingdom, he said. As a result, companies should review their own vulnerability to such tactics. Companies should consider their security policies and how they allow people access to their buildings, Mr. Rigby-Smith said.

In addition, risk managers should establish alternative methods of communicating with staff,

he said. There was considerable congestion on mobile phone networks and the Internet immediately following the attacks.

Other problems arising for companies out of the attacks on the transportation system included the difficulty that staff had getting to and from work and security cordons in the areas around sites preventing access to companies'

See CRISIS / next page



Terrorist bombings this July in London destroyed a bus and damaged underground trains, killing 56 and injuring hundreds. The bombings caused widespread disruptions in the city lasting days after the attacks.

Updates

MMC merges U.K. benefits units

Marsh & McLennan Cos. Inc. has combined its U.K. employee benefits operations into one unit. All the business will now be contained within Mercer Human Resource Consulting, according to a statement by the London-based unit of Mercer. Previously, Marsh Ltd. had handled several employee benefits lines of business, such as insured pensions, health care, employee communications and executive financial advisory services.

Converium gets fronts for aviation pool

Converium Holding Ltd. has entered into a fronting arrangement with two companies, enabling the reinsurer to continue participating in the Global Aerospace Underwriting Managers Ltd. aviation insurance pool. Zug, Switzerland-based Converium said the move was necessary because of its current financial strength ratings. Converium is rated BBB+ by Standard & Poor's Corp. and B++ by A.M. Best Co.

QBE purchases marine insurer

QBE Insurance Group has acquired London-based specialist marine insurer British Marine Holdings Ltd.—which offers protection and indemnity insurance, and hull and machinery coverage for small ships—for an undisclosed sum. In 2004, British Marine reported gross written premiums of \$130 million and a combined ratio of 77.9%. British Marine will operate as a stand-alone business unit and will retain its management

Atrium reports drop in profits

Atrium Underwriting P.L.C. reported a pretax profit of £13.7 million (\$24.4 million) for the first six months of 2005, down 12.7% from restated figures for the same period last year. Nick Marsh, CEO of Atrium, said that the group's profit for the first half of 2004 had been "exceptional" and that results for the first half of this year had declined because of softening rates prior to hurricanes Katrina and Rita.

Willis names CEO of Indian operations

Willis Group Holdings Ltd. has named a chief executive for its operations in India. Ashok Dhawan, who will be based in Mumbai, previously was chief operating officer of Intelenet, a joint venture of Barclays Bank P.L.C. and the Housing Development Finance Corp. Ltd., an Indian mortgage bank.

Canada keeps bank/insurer merger ban

OTTAWA—The Canadian government has decided against issuing new guidelines on large bank/insurer mergers, keeping its ban on such deals in place.

The Department of Finance Canada had been reviewing its policy on several issues relating to bank merger applications, including whether to remove the restriction on so-called "cross-pillar" mergers—those involving different types of financial institutions (*BI*, April 12, 2004).

A decision was expected in June 2004, but the review was delayed several times due to last year's federal elections and an ongoing government scandal.

Following those delays, Canadian Minister of Finance Ralph Goodale last week decided to forgo issuing the guidelines after consulting with leaders from Canada's major political parties.

"After reviewing the responses, I do not believe it would be appropriate to bring forward guidelines on such an important issue in this environment, where it runs the risk of being politicized," he said in a statement.

The government's ban on cross-pillar mergers has been in place since 1999. It stems from legislation enacted that year that allowed federally incorporated mutual life insurers to demutualize into stock companies, which made them potential targets for acquisition. The issue of whether the ban should continue came to the fore in 2002, when reported merger talks between Toronto-based Manulife Financial Corp. and the Canadian Imperial Bank of Commerce stalled because of the government ban.

—By Gloria Gonzalez

European property rates expected to hold steady at January renewals

By SARAH VEYSEY

Most European corporate insurance buyers believe that property insurance rates will soften next year, according to a study by Aon Corp.

The study was carried out before hurricanes Katrina and Rita struck the United States, but, the broker says, European buyers still should not expect rate increases at the Jan. 1, 2006, renewals.

Aon in July received responses from 38 corporate insurance buyers and 44 insurers based in 19 European countries.

According to the study, two thirds of the buyers surveyed said they thought rate reductions for property coverage would continue next year, while the remaining respondents said they believed rates would likely remain unchanged.

Oliver Schofield, director in the global property practice of Aon in London, said European corporate insurance buyers should not experience rate increases at the upcoming renewals, except for U.S. property risks directly exposed to hurricanes.

While reinsurance costs likely will increase as a result of the hurricanes, primary insurers may absorb the extra costs as part of client retention efforts, Mr. Schofield said. In addition, primary insurers will likely take higher retentions in a bid to curb reinsurance spending, he said.

The study also found that buyers plan to seek broader coverage terms at renewal and many said they would give greater priority to expanded coverage than price reductions.

For example, half of all the buyers of property coverage surveyed said they would forego rate reductions in return for more comprehensive business interruption coverage, according to the survey.

Another trend highlighted by the survey was the increased demand from underwriters for more detailed risk information from buyers.

A majority of the buyers surveyed—70%—said that by providing more risk data to insurers, they had obtained better pricing and greater capacity.

In addition, 58% said they had been granted broader coverage as a result of providing more information to underwriters, and 31% said they had benefited from higher sublimits as a result.

Aon also questioned buyers and underwriters about general liability coverage and directors and officers liability coverage.

Almost half of the buyers said that they used a risk retention vehicle, such as a captive or cell in a protected cell company, to retain some of their liability risks, while a further 25% of respondents said they would consider doing so. More than half of the buyers said they would consider increasing liability retentions in 2006.

Almost all—97%—of the buyers of general liability cover said the protection provided for their liability exposures by general liability insurance was adequate or above average.

Aon surveyed 35 insurers about general liability business.

Of those, 73% reported that rates fell or remained flat during 2005. And 62.5% of the general liability underwriters questioned cited "sustained underwriting profitability and rating adequacy" as their biggest challenge.

The survey also asked buyers about directors and officers insurance—a class of insurance that is now growing in importance in Europe, according to Aon's Mr. Schofield.

More than half of the buyers—55%—said that the key decisions in their organizations about buying D&O coverage were taken at board level.

And just over half of the buyers reported that rates for such cover fell last year.

But D&O claims appear to be on the rise in Europe, according to the study.

Aon surveyed 34 D&O underwriters, and only 10% said that claims fell last year.

Copies of the report, "2005 European Property, Liability and D&O Report—The Dynamics of Choice" are available at www.aon.co.uk or by e-mailing sally.taylor@aon.co.uk.

Wells: RenRe may face charges

Continued from page 3

the third the SEC has issued as part of its probe into the reinsurer's three-year restatement. Previously, the SEC had served its CEO, James N. Stanard, with a Wells notice, and separately, it served such a notice to Michael W. Cash, formerly senior vp-specialty reinsurance (BI, Aug 6).

Mr. Stanard continues to serve as the company's chief executive, but Mr. Cash resigned from the company in July, after his refusal to comply with an SEC subpoena seeking his testimony in the agency's probe. Mr. Cash has previously denied any breaches of U.S. securities laws.

A spokesman for RenaissanceRe declined to comment on the matter, but noted that the company intends to continue cooperating fully with the SEC and other governmental agencies in their ongoing investigations.

In addition, RenaissanceRe has indicated that it is working with the agency to end the probe.

Following the company's announcement last week that it had received a Wells notice, Oldwick, N.J.-based A.M. Best Co. placed RenaissanceRe's financial strength and debt ratings under review with negative implications, pending an end to the probe.

Chicago-based Fitch Ratings also said last week RenaissanceRe's ratings will remain under review with negative implications.

Fitch also said that the company's ratings may be downgraded if the RenaissanceRe's management structure undergoes adverse changes related to the Wells notices, as the agency "believes that there is a material possibility that Mr. Stanard may not be able to remain in his position in the long term."

Crisis: Bombings show need for plan updates

Continued from previous page

buildings, Mr. Rigby-Smith said.

Risk managers should also review their insurance coverage in light of the attacks, said Adrian Brennan, a claims consultant at Echelon Claims Consultants, a JLT subsidiary.

The July 7 attacks differed from many of the U.K. bombings by the Irish Republican Army, as the attackers "wanted to focus on soft targets—people—and create fear rather than cause a direct economic loss," he said.

But the disruption that the bombings caused did have economic effects, he said.

Even though there was little insured property damage caused by the bombings, retail, leisure and transportation companies and organizations were affected, Mr. Brennan said.

It is not clear, though, whether

any financial losses suffered by those organizations would be covered by business interruption insurance, he said.

In addition, he noted, "denial of access" coverage may or may not apply.

Many business interruption policies specify a radius from an event that applies in such cases, he said, but others state only that they will apply to businesses within "the vicinity" of an event. Such a definition is subjective, he said.

In addition, he said, some risk managers purchase so-called "loss of attraction" coverage, to pay out if an event causes an area to become less attractive to visitors.

Loss adjusters have debated whether such policies would apply to the London attacks, he said, and, while some have concluded that the transportation network may

not constitute an "attraction," certain underground stations are of architectural interest and so such coverage may apply.

Risk managers should carefully review what they intend their business interruption policies to cover, Mr. Brennan said.

"Do you have denial of access and loss of attraction cover? And if so, is your coverage as broad as possible?" he said. "Are the limits adequate for your exposures?"

Risk managers should also regularly assess their business interruption exposures, particularly contingent business interruption risks, he added.

The threat of further terrorist attacks should "not be underestimated when looking at one's business interruption and business continuity exposures," said Matthew Strong, a partner in JLT's financial solutions unit.

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LEGAL NOTICE

IN THE SUPREME COURT OF BERMUDA
CIVIL JURISDICTION
2005-NO. 232
IN THE MATTER OF BELVEDERE INSURANCE
COMPANY LIMITED (IN LIQUIDATION)
AND IN THE MATTER OF THE
COMPANIES ACT 1981

NOTICE IS HEREBY GIVEN that, by an order dated 26 September 2005 made in the Supreme Court of Bermuda in the matter of Belvedere Insurance Company Limited ("the Company"), a meeting has been ordered to be summoned of Scheme Creditors (as defined in the scheme of arrangement referred to in this Notice) of the Company, for the purpose of considering and if thought fit, approving (with or without modification) a scheme of arrangement ("the Scheme") proposed to be made between the Company and its Scheme Creditors pursuant to section 99 of the Companies Act 1981.

The meeting is to be held on 1 December 2005 at KPMG, Crown House, 4 Par-la-Ville Road, Hamilton HM08, Bermuda at 10.00 am (Bermuda time).

The Chairman of the meeting will address Scheme Creditors generally on the Scheme and on issues relevant to voting at the commencement of the meeting.

Scheme Creditors may attend and vote in person at the meeting or they may appoint another person, whether or not such person is a Scheme Creditor, as their proxy to attend and vote in their place. Scheme Creditors which are corporations may attend and vote by a duly authorized representative or by proxy. Scheme Creditors are requested to complete the Proxy Form and Voting Claim Form, found at www.belvedere-liquidation.com, and return it to the Liquidators at belvedere-liquidation@kpmg.bm or at KPMG, Crown House, 4 Par-la-Ville Road, Hamilton HM08, Bermuda (marked for the attention of James Makin) or by fax to fax number +1 441 295 8280. Each Proxy Form should be received by 5:00pm (Bermuda time) on 30 November 2005, although, if not so returned, it may be handed in between 9.15 am and 9.45 am on the day of the meeting at the place fixed for the meeting.

Each Scheme Creditor or his proxy will be required to register his attendance at the meeting prior to its commencement. Registration will commence at 9.15 am.

A copy of the Scheme, the Explanatory Statement to the Scheme, a Proxy Form for use at this meeting and a Voting Claim Form can be downloaded from the Liquidation Website, www.belvedere-liquidation.com. Additionally, these documents are available from KPMG in Bermuda at Crown House, 4 Par-la-Ville Road, Hamilton HM08, Bermuda (Tel: +1 441 294 2652; fax: +1 441 295 8280) or by request to belvedere-liquidation@kpmg.bm.

By the order, the Supreme Court of Bermuda has appointed Michael Morrison, or failing him Malcolm Butterfield, to act as chairman of the meeting and directed the chairman to report the result of the meeting to the Court.

The Scheme will be subject to the subsequent sanction of the Supreme Court of Bermuda.

Dated 26 September 2005
Attride-Stirling & Woloniecki
Crawford House
50 Cedar Avenue
Hamilton HM11
Attorneys to Anthony McMahon
and Malcolm Butterfield
Liquidators of the Company

LEGAL NOTICE

IN THE SUPREME COURT OF BERMUDA
COMPANIES (WINDING-UP)
2000: No. 172
IN THE MATTER OF THE COMPANIES ACT 1981
AND IN THE MATTER OF
**TRA INSURANCE COMPANY
LIMITED**
- IN LIQUIDATION

NOTICE TO CREDITORS AND
CONTRIBUTORIES OF LIQUIDATORS'
INTENTION TO APPLY FOR RELEASE

NOTICE IS HEREBY GIVEN that the Liquidators of the above-named company, intend to apply to the Court for their release, and further take notice that any objection you may have to the granting of the release must be notified to the Court within twenty-one days of the date hereof.

Dated 21 September 2005
PETER C B MITCHELL Joint Liquidator
PricewaterhouseCoopers, Dorchester House,
7 Church Street, Hamilton HM 11, Bermuda

LEGAL NOTICE

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CONSOLIDATED AMERICAN INSURANCE
COMPANY, IN LIQUIDATION

On March 21, 2005, the South Carolina Department of Insurance placed the South Carolina Insurance Company and the Consolidated American Insurance Company into liquidation. The final date for filing a claim with the estate of either company is 11:59 pm EDT on December 31, 2005.

Proof of Claim forms are available by contacting:

Office of the Special Deputy Liquidator
South Carolina Insurance Company, in
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Consolidated American Insurance
Company, in Liquidation
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Deal: WellPoint expands reach in the Northeast with purchase of WellChoice

Continued from page 3

plans, properly focused, are good for employers because they can negotiate more effectively with hospital and outpatient services, which frankly are our biggest cost problem right now," said Helen Darling, president of the National Business Group on Health in Washington.

"I think any stronger health plans, properly focused, are good for employers because they can negotiate more effectively with hospital and outpatient services, which frankly are our biggest cost problem right now."

Helen Darling
National Business Group on Health

WellPoint is already the largest health insurer in the United States, with 28.8 million members and New York-based WellChoice has 5 million members.

"There will be pressure on the providers to give them a really good

deal," Mr. Taylor said.

Ms. Darling said she hoped the combined entity would also expend resources on improving health information technology. "We, the employers, the purchasers, want to get to a more robust situation in terms of technology," Ms. Darling said. "We can move to the best technology and eliminate the mediocre technology."

A WellPoint acquisition of WellChoice was a merger openly discussed for more than a year by health insurance analysts who say the deal makes sense from a strategic point of view because WellPoint had only 15,000 members in the key New York market. And while Mr. Glasscock said the company was not responding to the actions of other health insurers, it became clear after UnitedHealth's Oxford acquisition that WellPoint needed to make a strong push to enter the market, analysts said.

"They needed to bolster their presence in the Northeast," Ms. Stoddard said.

The WellChoice acquisition is just another sign that the health care insurance market will continue to consolidate, analysts say. In the past 18 months, WellPoint finalized its merger with the former Anthem Inc. while Minneapolis-based UnitedHealth acquired Oxford and is awaiting final approval to acquire Cypress, Calif.-based PacifiCare Health Sys-

tems Inc.

The consolidation trend is expected to continue on a somewhat smaller scale as the big health insurers focus on regional, specialty or technology acquisitions. While Mr. Glasscock said his company is focused on the acquisition at hand, WellPoint still has the ability to make smaller targeted acquisitions, along the lines of its purchase earlier this year of Lumenos Inc., the Alexandria, Va.-based provider of consumer-driven health care plans, Ms. Stoddard said.

Analysts are particularly interested

in how Hartford, Conn.-based Aetna Inc. and Philadelphia-based CIGNA Corp. respond to the acquisitions made by their two larger rivals in the Northeast. "Aetna and CIGNA are certainly both companies to watch in terms of acquisitions," Ms. Stoddard said. "They both have quite a bit of free cash."

Stephen Zaharuk, vp and senior analyst for Moody's Investors Service Inc. in New York, said he does not believe that the big health insurers will pursue any more acquisitions in the region. "I don't see any need for

the four major players to do anything more in the New York market," he said.

While not yet a major concern, observers noted that the continued consolidation of the market does raise the important question of how much consolidation within a sector is too much. "I think there is a concern you're always going to the same four," Mr. Taylor said.

Employers want more than one strong health plan in every market, Ms. Darling said. "The key is the balance," she stressed.

Northeastern nonprofits to merge

In an attempt to compete with large national managed care players in their core Northeast market, not-for-profit health plans Group Health Inc. and HIP Health Plan of New York have decided to merge.

The combined entity will have a membership of more than four million people and combined revenues of more than \$7 billion. GHI operates mainly in New York, while HIP also has operations in New Jersey, Connecticut and Massachusetts.

Despite the addition of another large national player in the New

York market through WellPoint Inc.'s acquisition of WellChoice Inc. (see related story), GHI and HIP were not responding to that specific transaction as the companies were in merger talks for weeks, said Arthur Byrd, vp, investor relations and treasurer, for HIP.

He noted, though, that "consolidations throughout the sector had an impact on our decision. This merger, in creating a stronger, healthier local plan...positions GHI and HIP to better compete with the large, well-financed national plans."

The merger will not directly impact HIP's status as a not-for-profit entity, said Mr. Byrd. Earlier this year, HIP held conversations with New York state officials regarding a possible conversion to for-profit status (*BI*, April 11). The merger with GHI does not necessarily take a conversion off the table, said Mr. Byrd. If legislation allowing such a conversion were passed, the board would consider the appropriateness of a conversion, he said. "The merger with GHI really has no impact on conversion itself."

—By Gloria Gonzalez



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AFTER THE STORMS

Hurricane Rita packs punch, but not as hard as feared

By MARK A. HOFMANN

Insurers already reeling from Hurricane Katrina's record damages can expect to pay out as much as \$7 billion in additional losses from Hurricane Rita, according to estimates by the three major catastrophe modeling firms.

The damage estimates, though, are sharply lower than feared last month as the storm appeared to be headed toward the Texas cities of Galveston and Houston. But the hurricane, a category 3 storm packing maximum sustained winds of about 120 miles per hour when it made landfall before dawn on Sept. 24, passed to the east of the two cities and quickly dissipated, although not before it caused considerable damage to the Beaumont, Texas, area and other points inland.

The storm's late change of direction meant buyers and underwriters alike "dodged a huge bullet," said Alexandra Glickman, area vice chair and managing director-practice leader of Gallagher Real Estate and Hospitality Services, a unit of Arthur J. Gallagher & Co. in Glendale, Calif.

"It's a normal hurricane, and when you have a normal hurricane, you have significant damage," said

Tom Crawford, president of adjuster Crawford & Co. in Atlanta. Insured losses should "lean a little more to the personal side" than the commercial side, he said.

He pointed out that Rita did not cause the kind of huge storm surge and high inland winds that Katrina did. Also, Rita struck a less densely populated area than Katrina did, he said, and loss estimates of \$5 billion to \$7 billion in insured damage projections likely will be accurate.

Mr. Crawford said that the proximity of Rita to Katrina has added challenges to the adjustment process.

"You've got people living between New Orleans and Houston taking up most of the (hotel) rooms adjusters normally would go into. That just adds to the uniqueness of how adjusters normally work," he said. Normally, they can stay relatively close to the damaged area, and begin working a day or two after the storm strikes. In the case of Rita, they are having to stay farther away and travel longer distances, he said.

"It's a little bit more of an obstacle on the adjusting process," he said. As of late last week, Crawford was working out of Houston and planned to set up operations in

Beaumont as soon as possible, he said.

"The majority of the heavy damage is in the Beaumont/Port Arthur area, going up to Orange (Texas), as well as further north," said Hart Hubbard, assistant vp-catastrophe services in the Columbia, S.C. office of GAB Robins North America Inc. He said that the hurricane caused heavy damage to a "lot of small communities."

Authorities began allowing adjusters into the hardest hit areas last week, said Mr. Hubbard.

"We've gotten a lot of claims already off Galveston Island," said Mr. Hubbard, noting that they represented both commercial and personal lines losses. "We've actually got adjusters in Beaumont now," he said.

He added that certain areas may remain blocked off until infrastructure repairs can be made.

"It was challenging, but we are responding. Every time the Houston office needs additional assistance, we are supplying it," said Mr. Hubbard.

Even before adjusters began their work, catastrophe modelers were projecting that Rita—while costly—would cause nowhere near the damages attributed to Katrina—up

to \$60 billion in insured property damage according to some models.

Risk Management Solutions Inc. estimated on Sept. 25 that insured losses from Hurricane Rita likely would be between \$4 billion and \$7 billion.

The Newark, Calif.-based cat modeler said that the storm likely caused about \$3 billion to \$5 billion in onshore insured damage from wind, storm surge and rainfall.

In addition, RMS said the storm caused between \$1 billion and \$2

billion in property damage and business interruption losses for the offshore energy industry.

"Hurricane Rita is comparable to last year's Charley in that its damage is spread across a low population density region of agricultural and fishing-related industries," Kyle Beatty, meteorologist at RMS, said in a statement.

Meanwhile, EQECAT Inc. said that insured losses from Rita likely

Continued on next page



Lake Charles, La., was inundated by rain from Hurricane Rita, but insured damages from the storm were lower than expected prior to landfall.

PHOTO: GAMMA PRESSE

Market: Rita unlikely to add significantly to market changes caused by Katrina

Continued from page 1
risk mitigation.

Katrina-related losses alone were already expected to reverse softening in the reinsurance market and lead to significant rate increases across several lines of coverage at year-end renewals, and the impact of Rita should add relatively little to the equation, say observers.

Donald Thorpe, senior director, insurance at Fitch Ratings in Chicago, said, "If it were the only storm that happened this year, it would be a significant event, but it's kind of dwarfed by Katrina in terms of the loss to the insurance industry." Just bumping up Katrina's estimated losses by 10% is "equal to the whole of Rita," said Mr. Thorpe.

Observers note that unlike Katrina, Rita followed the more common hurricane pattern of not striking heavily commercial areas.

"It doesn't seem at this point that Rita has had the effect that Katrina did on the commercial market," said Bob Howe, New York-based managing director, global property placement, at Marsh Inc. "If it had, it would have been an extremely damaging blow to the commercial marketplace."

Standard & Poor's Corp. last week said that it has a negative outlook on the reinsurance sector following Katrina and Rita. The outlook means that ratings downgrades are expected to outnumber upgrades for the rest of this year, although the number of downgrades is expected to be modest, S&P said.

Last week, the New York-based ratings agency lowered its rating on

Bermuda-based PXRE Reinsurance Ltd. and U.S.-based PXRE Reinsurance Co. to A- from A, citing PXRE Group Ltd.'s estimated exposure to Katrina of \$235 million to \$300 million.

Oldwick, N.J.-based A.M. Best Co. also downgraded the reinsurer's financial strength rating to A- from A on Friday.

Following the S&P downgrade, PXRE on Friday announced that it plans to raise \$100 million through a share offering and to put the proceeds into PXRE Reinsurance Ltd. PXRE also said it would raise another \$375 million in a private placement.

More downgrades

In addition, S&P on Friday downgraded Oil Insurance Ltd. to A- from A+, noting that it believes the Bermuda-based energy mutual's "share of Hurricane Katrina losses will reach the \$1 billion maximum aggregation limit for any one occurrence."

S&P Analyst Mohammed Ashab said in a statement that the company's expected losses from both hurricanes "demonstrated the volatility of its liabilities, which is exacerbated by its relatively aggressive investment strategy."

S&P also put New York-based Transatlantic Reinsurance Co. and Bermuda-based IPCRe Ltd. and their affiliates under review with negative implications following Rita, citing the potential combined effect of this year's hurricanes on the companies' capital positions. The

Transatlantic Re units have an AA financial strength rating, while the IPCRe units have an A+ rating.

In addition, Best last week placed the A financial strength rating of Bermuda-based Western General Insurance Ltd. under review with negative implications, citing the company's risk-based capital position.

Prior to that move, Tony Diodato, vp with Best's property division, said, "Most likely there'll be more companies going under review" as a result of the storms.

Jeffrey Berg, an analyst with Moody's Investors Service in New York, which has not taken any ratings actions since Rita, said, "From a credit aspect, obviously it adds incremental pressure to companies, particularly those that were under stress after Katrina and other things, but we still don't see widespread ratings action as a result of this."

"It does not appear to be the market-changing event that Katrina will end up being," said Peter C. Streit, an analyst with Williams Capital Group in New York. "It may add a little bit more to the severity or the magnitude of the changes that may occur," but "not to any great extent. I would probably think only marginally."

Gary Ransom, managing director at Fox-Pitt Kelton Inc. in Stamford, Conn., said that while Rita "will add pressure" to the market, had it been the only significant hurricane loss this year, "I'm not sure we'd be talking about as much change."

There is a fear component, though, said Brian Meredith, senior property/casualty insurance analyst

with Banc of America Securities in New York.

Rita will heighten reinsurers' awareness of potential losses and "their need to get their price increases," he said. "It's just going to instill discipline in the market. It keeps reminding people there are some big potential catastrophe losses."

Less impact on reinsurers

Observers note that Rita penetrated reinsurance layers less deeply than did Katrina, if at all. Pembroke, Bermuda-based Endurance Specialty Holdings Ltd., for example, reported estimated net Rita losses of \$85 million vs. \$375 million to \$450 million for Katrina.

The two hurricanes may have used up some primary insurers' reinsurance capacity, said S&P director Damien Magarelli. But Rita "in and of itself was not an extremely large event, so in all likelihood there's still remaining capacity that primary companies have."

"Rita is going to be a bigger issue for primary carriers than it is for reinsurers. That is the bottom line," said Bert Golinski, Bermuda-based managing director in Guy Carpenter & Co. Inc.'s property specialty practice.

Primary insurers were looking to purchase reinstatements prior to Hurricane Rita, said Roderick P. Thaler, executive vp and national director at reinsurance intermediary Willis Re in New York. He said he convinced one client to buy a reinstatement on the Friday before Rita

became a hurricane.

"Other companies waited until Monday morning" and were told reinsurers were excluding Rita because it was an active hurricane, said Mr. Thaler.

"We have seen a number of people requesting quotes for backup covers," said Mr. Golinski. Some have bought them, "but it's a little early at this stage for people to really know where they stand" in terms of losses, he said.

There are many "testing the waters" insofar as reinstatements are concerned, said Gregory Doyle, executive vp at reinsurance intermediary BMS Vision Re in Shelton, Conn. "I would say probably the most direct impact that Rita has had on the backups is that it's caused the pricing to be pretty rich," he said.

"The pricing is probably representative of the amount of hurricane activity that we've had this year," Mr. Doyle said, noting also that "it's not available in the quantity we've seen backups available in prior years."

"The issue is how important it is to have the backup when the price is taken into consideration," Mr. Doyle said.

"What buyers are assessing is, 'I've got three months left in the year, I guess one month left in the hurricane season, technically, and how much of a price would it make sense' to pay vs. keeping the exposure net. As a result, 'the ratio of people actually buying them is less than what we've seen to this point in prior years,' said Mr. Doyle.

AFTER THE STORMS

Continued from previous page

will be between \$3 billion and \$6 billion.

The Oakland, Calif.-based modeling company previously had predicted that the storm could cause insured losses of \$9 billion to \$18 billion, but issued a revised estimate of insured losses on Sept. 24 after the storm weakened "relative to earlier forecasts" and moved eastward of earlier projections.

AIR Worldwide Corp. estimated on Sept. 24 that Hurricane Rita could cause anywhere between \$2.5 billion and \$5 billion in insured

damages.

Damage in Houston, which suffered rain, wind and power outages despite avoiding the full brunt of the storm, appeared minimal, according to risk managers.

"We certainly have significant presence in Houston. However, given the direction of the storm, we had no damage," said Richard Vance, vp-risk management for Hines Interests, a Houston-based global real estate services firm.

"We have seven commercial properties in the Houston area, and we sustained no damage of any sig-

nificance," said Laurie E. Findley, risk manager for Transwestern Investment Co., a commercial real estate firm in Chicago.

Recovery throughout the affected area appeared to be moving much more swiftly than had been the case with Katrina.

For example, New Orleans-based Entergy Corp., which provides power to the area struck by both Rita and Katrina, reported midday Sept. 29 that it had restored power to nearly 417,000 of the more than 766,000 who lost power because of Rita.

A spokeswoman for Bentonville, Ark.-based Wal-Mart Stores Inc., said on Sept. 28 that the retail giant initially closed 155 of its stores in Rita's path but had reopened all but 14 of them by Sept. 28. She added that as of the middle of last week, 12 Wal-Mart Stores still remained closed because of Hurricane Katrina.

Richmond, Va.-based CarMax Auto Superstores Inc. said in a statement issued Sept. 26 that it expected Rita to "have a minimal effect" on sales and earnings and that it expected to reopen its four Houston

stores in about a week.

Deerfield, Ill.-based Walgreen Co. said that as of Sept. 26, 27 of its stores remained closed because of Rita, mostly in the Beaumont/Port Arthur, Texas, and Lake Charles, La., areas, because of lack of power. "Structural damage to stores resulting from Hurricane Rita, if any, was minimal. The company plans to reopen these stores as soon as electricity is restored," the company said in a statement. Walgreen added that nearly 80% of its Houston stores were open "the day after the hurricane hit."

Storms slap energy sector with losses as high as \$8 billion

By MICHAEL BRADFORD

Energy insurers are facing a storm of claims from refineries and rig owners with property damaged or demolished by hurricanes Katrina and Rita.

Catastrophe modelers estimate insured property and business interruption losses to offshore oil and gas property will reach as much as \$8 billion from the storms. Insurers also will be hit with an undetermined amount of claims from onshore refineries that were closed because of damage or in preparation for the storms.

Pipelines in the Mississippi delta region may also have been damaged by mudslides from Katrina's storm surge, said Kyle Beatty, a meteorologist with Risk Management Solutions in Newark, Calif. "It takes time to determine the extent of that pipeline damage."

Insurers for the most part will be off the hook for the cleanup of millions of gallons of spilled oil and gas from Louisiana refineries, however, as most major oil companies self-fund that risk, sources say. One New Orleans-area refinery, though, is expected to tap insurance to fund a cleanup.

Katrina, which came ashore on the Mississippi Gulf Coast on Aug. 29, dealt the initial blow to offshore oil platforms and onshore refineries.

Rita, the storm that made landfall on Sept. 24, followed up in an oil-rich area of the gulf, badly damaging a number of rigs but largely sparing onshore refineries.

Around 10 rigs were damaged or destroyed by Rita, according to Bruce Jefferis, Houston-based managing director of Aon Natural Resources, a unit of Aon Corp., but only a couple were hit by Katrina. Drilling platforms, though, were more heavily targeted by Katrina, with one company losing eight in that storm.

Oil production in the Gulf remained nearly completely shut down last week, according to the federal Minerals Management Service. The region normally produces 1.5 million barrels of oil a day but was managing only about 1.4% of that amount.

The MMS said operators in the region were producing around 20% of the normal daily amount of natural gas.

Oil and gas operators will feel the impact of the storm in the form of higher premiums as insurers recoup their losses from a harsh hurricane season.

Nick Marsh, chief executive officer of Lloyd's of London-based Atrium Underwriting P.L.C., said rate hikes on some business in the Gulf of Mexico could reach as much as 300%.

Rate increases of about 50% or more are being seen on Gulf of Mexico energy risks, said Rod Smith, director of natural resources at broker Heath Lambert Group in London. Offshore risks outside the Gulf are seeing rates rise by between 25% to 50%, he said.

Julian Taylor, a board member and director of the energy/global asset and consulting business units of London-based broker Miller Insurance Services Ltd., pointed out that underwriters are trying to plug gaps in their reinsurance programs and reinsurers are trying to get reinstatements for their retrocessional cover, which makes it difficult for underwriters to offer offshore energy cover.

Market impact

Windstorm protection will be available for energy risks but will be much more costly than before the hurricanes struck, noted Mr. Taylor.

"A lot of people are just beginning to discuss how it will affect premiums and availability," said Mr. Jefferis. The storms set the market on edge, he said, coming on the heels of Hurricane Ivan in 2004, which "was the worst hurricane, from an energy perspective. It caused the most damage ever seen. To have Katrina come in and cause comparable, and probably a greater amount of damage, will be an eye-opener to the energy market."

Rita subsequently roared through a portion of the gulf heavily populated with drilling operations, Mr. Jefferis pointed out, piling damages onto an already jittery insurance market.

Oil Insurance Ltd., the Bermuda-based mutual, is expecting a particularly heavy hit. The insurer has upped its reserves by \$1 billion as it becomes clear that some of its policyholders have extensive damage.

OIL said in a statement last week that its members will see significant rate hikes to help offset heavy losses

in 2005.

A number of energy companies that sustained damage from the storms are OIL members. The insurer writes per-occurrence property, pollution liability and other coverages to limits of \$250 million. While there is no annual aggregate for each insured, the company is protected by the \$1 billion cap on claims from a single event.

OIL would not discuss specific damages to its member companies, but among the policyholders listed as OIL members on the insurer's Web site, Chevron Corp., BHP Billiton Petroleum (Americas) Inc., Marathon Oil Co., and Apache Corp., have reported extensive damage to offshore rigs and platforms.

Apache Corp., a Houston-based energy company, lost eight of its production platforms in Hurricane Katrina.

Apart from property coverage, the company said it carries up to \$150 million in business interruption insurance to pay for the loss of revenue from the 7,158 barrels of oil and 12.1 million cubic feet of gas that the platforms were producing a day before the storm.

Apache did not respond to calls seeking information on the loss.

Chevron and BHP Billiton are co-owners of the deepwater Typhoon oil platform, which was severed from its mooring during Hurricane Rita and severely damaged. A spokeswoman for BHP Billiton said the two companies shared the \$256 million cost to develop the platform.

The spokeswoman said business interruption costs will be covered by insurance, but she declined to give specifics of the coverage. BHP Billiton is listed as a member of sEnergy Insurance Ltd., a sister company of OIL that provides \$200 million in excess property insurance above OIL's \$250 million layer and \$200 million in business interruption limits.

Houston-based Marathon Oil Co. said three of its platforms sustained major damage from Hurricane Rita that may take months to repair. The platforms generated 1,500 barrels of oil and 7.5 million cubic feet of gas a day. The company's land-based facilities in Venice, La. that process oil and gas were also heavily damaged, Marathon said in a statement.

Energy companies with coverage



Oil storage tanks in Cameron, La., were heavily damaged by Hurricane Rita.

in other markets are totaling their damages.

Diamond Offshore Drilling Inc. had one rig severely damaged by Katrina and two others hit by Rita. The rigs were ripped from their moorings and the Houston-based company said two were found around 100 miles from their original locations. Another was 66 miles from where it had been anchored.

Diamond said the rig torn away by Katrina was insured for around \$50 million above the company's deductible. Damage to the rigs from Rita was still being assessed last week.

GlobalSantaFe Corp. in Houston said it has a hull and machinery insurance policy with a \$10 million deductible that will help pay for damage to four rigs damaged by Katrina and two others hit by Rita. The company also has coverage that will pay up to 270 days of lost revenue per rig after a 60-day waiting period.

Rowan Companies Inc., based in Houston, said one of its jack-up rigs sank in 155 feet of water during Hurricane Katrina and the company was assessing damage to four other rigs that were in Rita's path.

The cost of repairs to the rig damaged by Katrina is expected to exceed Rowan's \$5 million deductible,

the company said. It said it does not have coverage to pay for the \$210,000 in estimated daily lost revenue from the rigs knocked out by Rita.

Dealing with pollution liability claims from the storm may be a simpler chore for insurers.

"In general, the major oil companies don't buy pollution coverage," said Joe Boren, chairman and chief executive officer of AIG Environmental in New York, a unit of American International Group Inc. "By and large, these guys are on their own. Environmental cleanup will be excluded from any other coverage they have."

Smaller oil companies generally do buy the coverage, though, according to Mr. Boren.

Industry sources say it is likely that Murphy Oil Corp., based in Meraux, La., a community in the New Orleans area, does have coverage to deal with the pollution created by a crude oil spill caused by Katrina. The United States Coast Guard said 819,000 gallons were discharged at the plant, with more than 80% of it cleaned up by late last week.

Murphy Oil did not return calls seeking information on the spill.

Sarah Veysey contributed to this report.

Marsh: Settlement offers draw divided response from brokerage's clients

Continued from page 1
 resulted in contingent commissions or overrides paid to MMC, had until Sept. 20 to decide whether to opt into the settlement. By participating, clients signed a waiver releasing MMC from further claims.

risk and benefits at Denver Water, the \$25,000 settlement offer from Marsh was sufficient. The water authority received about \$5,000 back from Marsh relating to the placement of its boiler and machinery policy, which is

"I think Marsh made the decision that without trying to determine which portion of any commission on the life insurance was a contingent or an override, they would just return the entire amount," he said.

Weighing their options

John Phelps, director of risk management for Blue Cross & Blue Shield of Florida Inc. in Jacksonville, also decided to accept Marsh's offer.

"The fact that they are returning a pretty significant amount of the contingency fees to us, I don't think in any way detracts from the value we've received over the years," he said. "But we'll gladly welcome a

with opted to participate because "they didn't want their CFO and CEO to be subject to depositions in the context of a trial." But others, according to Mr. Inwald, said, "We have constituents...for us to accept this amount that we have reason to believe is grossly inadequate is a breach of our job responsibility."

At least two major Marsh clients allegedly victims of bid rigging have rejected the settlement offer and are taking their chances in court.

Piscataway, N.J.-based American Standard Cos. Inc. sued Marsh late last month in U.S. District Court in New Jersey over allegations that Marsh rigged bids and collected undisclosed contingent commissions on the company's placements. It is seeking restitution and disgorgement of all the revenue Marsh generated from its alleged illegal conduct, plus monetary and punitive damages for breach of contract and fraud, a spokeswoman said.

Lincolnshire, Ill.-based Fortune Brands Inc. sued Marsh in May in U.S. District Court in Chicago, over similar allegations. It is seeking the return of \$4 million in fees, \$800,000 in contingent commissions and damages reflecting the higher premiums it allegedly paid as a result of Marsh's conduct.

According to Ken Adams, a partner in the Washington office of Dickstein Shapiro, Morin & Oshinsky L.L.P., Marsh's \$850 million settlement was not designed to compensate those clients whose placements were the subject of the illegal conduct alleged to have taken place at Marsh's global broking operation.

"In our meetings with the folks at Marsh and our clients, they were quite clear about the fact that this

settlement...was designed for the no-fault situation where Marsh collected contingent commissions on the business, and rather than litigate that issue, they agreed to make a partial rebate of those commissions," he said.

Mr. Adams, whose firm was counseling roughly 25 Marsh clients on the issue, said that about 50% of them rejected the settlement offer.

Giving up too much?

While many rejected Marsh's offer as inadequate, that was not the only concern expressed by clients, attorneys say.

"Some of our clients were concerned with the scope of the mandatory release that had to be signed in order to access the funds," said James Wagner, a partner in the Washington office of Howrey L.L.P., which is advising more than a dozen Marsh clients (see box).

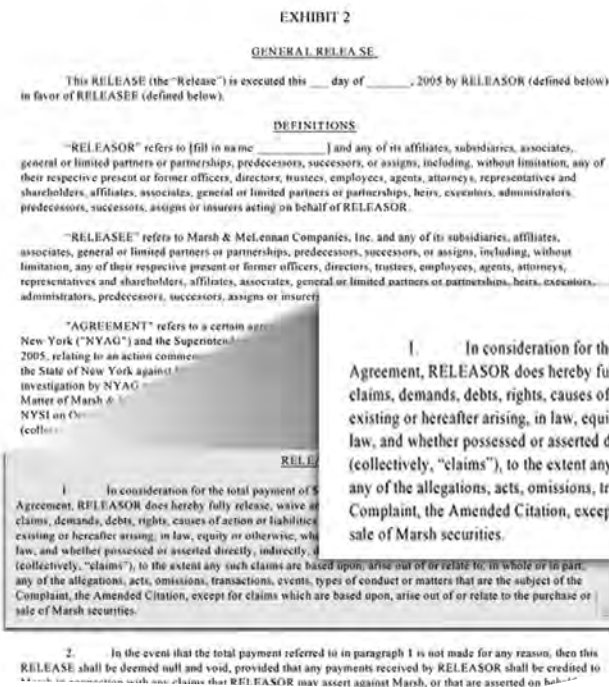
"Some clients decided not to accept the settlement on that reason alone. And it was, in our opinion, a wise decision, because with brokers you can have malpractice or errors and omission claims that could have been covered by the scope of the release," he said.

"As drafted, the E&O related to any of the policies included in the (release), so you have some of these clients with four years of policies on all lines of insurance, so the concern is they would be releasing Marsh unwittingly or maybe unintentionally," Mr. Wagner said. Marsh hasn't taken that position, he noted, "but they weren't willing to change the scope of the release either."

Continued on next page

Releasing rights

Marsh required settling clients to sign a broad release agreement.



Source: New York Attorney General

In most cases, the decision of whether to accept the settlement came down to the size of each client's claim relative to what Marsh offered, according to consultants and attorneys advising Marsh clients about their options.

For James E. Crockett, manager of

what "we thought the total recovery would be," Mr. Crockett said. But it received a second letter indicating it was eligible to receive an additional \$20,000 from Marsh regarding the placement of its group term life policy, which, Mr. Crockett admitted, "surprised us."

check from Marsh."

But Joseph M. Inwald, who is president of Inwald Consulting Services Inc. in Farmington Hills, Mich., said that most of the dozen or so Marsh clients he advised rejected the settlement. He said that the estimated damage figures he came up with for his clients were 100 times to several hundred times more than what Marsh offered.

Mr. Inwald noted that one "fairly large" private company he worked

Pensions: Senate committees reach compromise on pension reform measures

Continued from page 3
 example, to be taken up by the Senate, would require employers converting traditional plans to cash balance arrangements to give all plan

participants a choice of staying in the old plan or opting for the new cash balance plan, among other options.

By contrast, the House commit-

tee bill would clarify that all cash balance plans set up in the future would not be considered age discriminatory as long as older employees received at least the same benefit and interest credits provided to younger employees, a standard that could be easily met.

Neither the House panel measure, nor the bill before the Senate, would, provide any special age discrimination protection for the roughly 1,500 cash balance plans that employers have set up over the past two decades. Rep. John Boehner, R-Ohio, who chairs the House Education and the Workforce Committee, said earlier he will continue to press for retroactive protection.

Another key difference is whether pension-funding rules should be relaxed for the financially battered commercial airline industry. The House panel lacks such a special interest protection, while the Senate bill would give commercial airlines double the time—compared with other employers—to fund pension liabilities and more flexibility to set interest rate assumptions to value liabilities.

Though final passage of the legislation is not in sight, some experts worry about its impact.

While many requirements for offering pension plans would be stiffened, experts say legislators aren't offering any incentives to continue plans.

"There is not a lot of encouragement for employers to maintain plans," said Anne Waidmann, a director with PricewaterhouseCoopers HR Services in Washington.

"What worries me is that there could be a tipping away from defined benefit plans," said Alan Glickstein, a senior consultant in the Dallas office of Watson Wyatt Worldwide.

Others are concerned about the broader implications of imposing benefit mandate requirements on future cash balance plan conversions, as the Senate bill would do.

"If Congress is inclined to impose significant restrictions on an employer's ability to shift to a pension plan that distributes benefits more equitably to an increasingly diverse work force, what other restrictions will they impose next on other defined benefit plan amendments?" asked Larry Sher, director of retire-

ment policy at Buck Consultants Inc. in New York.

On the other hand, say Bush administration officials, if the legislation boosts plan funding and, as a result, reduces the PBGC's exposure to big losses from failed pension plans, that could shore up the PBGC's financial base, reducing the need for future PBGC premium increases.

Pension reform

After Senate leaders reached an agreement on proposed pension reforms last week, the full Senate is expected to take up a compromise bill soon. The key provisions of the measure are:

- Pension plan liabilities would have to be amortized over seven years, considerably faster than current law requirements.
- Three different interest rates—all based on corporate bond yields—would be used to value liabilities. One rate would be used to value liabilities projected to be paid in five years, the second rate for benefits to be paid in five to 20 years and the third rate for benefits projected to be paid in more than 20 years.
- Employers could make tax-deductible contributions to their plans until the plans were 180% funded.
- Employers whose plans are less than 80% funded could not increase benefits, while plans less than 60% funded would be frozen with no new benefit accruals allowed.
- The base PBGC premium would be raised to \$30 per plan participant from the current \$19 level.
- Employers converting traditional plans to cash balance plans would have to choose from a number of options, such as giving plan participants a choice between staying in the old plan or enrolling in the new one, in order for the conversion to pass muster.

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"The release was probably the broadest release most of us had ever seen," Mr. Adams said. "We actually had a few clients whose view was, 'For the amount of money they're offering to pay me, I would never sign a release like that. I may be releasing claims that are worth tens of millions of dollars.'"

Attorneys say that they are now counseling their clients who rejected the settlement about their options going forward.

"Clients have expressed to me a willingness to sue if they don't get

an adequate settlement" from Marsh, Mr. Inwald said, noting that he is working with three law firms that are interested in taking on his clients' cases.

"We'll look at all of our options and probably attempt a negotiated settlement first," Mr. Wagner said.

"All we know right now is that the amount of money offered to these companies was not acceptable, so they didn't sign the release," Mr. Adams said. "We'll see what Marsh wants to do next."

If the clients that rejected the settlement opt to sue MMC in federal

court, their cases will most likely be consolidated in the District of New Jersey with a number of other putative class actions that have been brought against the company.

According to the settlement agreement, MMC can use the approximately \$100 million remaining in the compensation fund to satisfy any pending or other claims asserted by policyholders relating to these matters.

If any funds remain as of June 20, 2008, they will be distributed on a pro rata basis to the participating policyholders.

EEOC: Agency can issue rules on retiree benefits

Continued from page 1

ing to a suit filed by the AARP, blocked the EEOC from finalizing and enforcing its rule. In that decision, the judge said she was bound by an August 2000 decision by the 3rd U.S. Circuit Court of Appeals that held that basing the level of retiree health care benefits on age is barred by ADEA.

"Unfortunately for the EEOC, the 3rd Circuit Court of Appeals has already ruled that allowing employers to give retirees 65 or older health care benefits that are inferior to the health benefits to retirees who are younger than 65 is illegal under the ADEA," Judge Brody wrote in her March decision.

But just a few months after handing down that ruling, Judge Brody decided to re-examine the decision in light of a subsequent U.S. Supreme Court decision handed down in late June.

In that high court ruling—*National Cable & Telecommunications Assn., et al vs. Brand X Internet Services, et al*—which involved the cable television industry, the justices said a federal court is required to defer to a federal agency's interpretation of law, even if it differs from what the court believes to be the best interpretation. Also, the particular statute must be within the agency's authority to administer, must be ambiguous on the point of contention and the agency's interpretation must be "reasonable."

Using that Supreme Court deci-

sion as a marker, Judge Brody said the "plain text" of ADEA is not clear on whether the age discrimination law applies to retiree benefits or prohibits Medicare coordination of retiree health care benefits.

"Thus the question becomes whether this is a reasonable way for the EEOC to fill the gap that Congress has left in the ADEA. I conclude that it is," Judge Brody wrote in her Sept. 27 decision.

A step forward

Benefit experts welcomed the latest ruling as moving a step closer to putting to an end the long-running uncertainty about the legality of the design of mainstream retiree health care plans.

"There may finally be some light at the end of the tunnel," said John Piro, an attorney in the Norwalk, Conn., office of Hewitt Associates Inc.

But the litigation still has at least one more round to go.

The AARP, which said it was disappointed by Judge Brody's ruling, will appeal it to the 3rd Circuit, said Laurie McCann, a senior attorney for the Washington-based organization.

EEOC Chair Cari Dominguez believes the final court outcome will be favorable.

"We are confident that we will prevail on appeal and the court will allow the rule to go into effect," she said in a statement.

Ever since the 3rd Circuit ruled in

what has become known as the *Erie County* case, benefits experts have warned that subjecting retiree health care plans to ADEA would have disastrous consequences for retirees.

Under longstanding ADEA rules—rules that, prior to the *Erie County* ruling, many thought only applied to active-employee benefit plans—employers either would have to equalize health benefits offered to younger and older retirees or spend the same amount of money for the benefits provided to the two groups of retirees.

Given the high cost of retiree health care coverage, such a mandate would result in the paring back or even elimination of health care coverage for all retirees, experts say.

The other compliance approach—boosting benefits of Medicare-eligible retirees to equalize those of younger retirees—is something employers cannot afford to do, said Susan Relland, health policy legal counsel for the American Benefits Council in Washington.

Indeed, Pennsylvania's Erie County, which was sued in September 1998 by older retirees over the design of its health care program, agreed prior to settling the case to charge younger retirees a monthly premium for their health care plan equal to the Part B Medicare premiums paid by older retirees.

At the time the suit was filed, younger retirees did not pay anything for the coverage provided by Erie County.

Late News

Continued from page 1

the time of the case's 1985 filing—as opposed to the current terms—applied. That makes PwC liable for the entire \$119.9 million a jury awarded in August, even though its predecessor company was found only 40% at fault.

St. Paul subpoenaed over workers comp

St. Paul Travelers Cos. Inc. has received a subpoena from New York Attorney General Eliot Spitzer seeking information on its reporting of workers compensation premiums, the company said in a statement. The insurer said it intends to cooperate fully with the request. Earlier this month, Hartford, Conn.-based Hartford Financial Services Group Inc. reported receiving a similar subpoena seeking information about how it reports workers comp business, in addition to other matters.

Boeing, machinists reach labor pact

Boeing Corp. machinists won't have to pay higher health plan premiums or deductibles under an agreement the aircraft manufacturer reached with the International Assn. of Machinists and Aerospace Workers, which represents approximately 19,000 Boeing workers. Also under the agreement, which the union members approved last week, newly hired workers would continue to qualify for retiree health benefits, something Boeing had sought to eliminate. In addition, pension payouts for union members also would increase. To help pay for these benefits, the machinists have agreed forgo raises for the next three years, but the pact calls for "ratification bonuses" equaling up to \$11,000 over three years. The pact ended a strike that began on Sept. 2.

Former Buck CEO to head Segal

Veteran employee benefit consulting executive Joseph A. LoCicero has been named chief executive officer of The Segal Co. Mr. LoCicero will join New York-based Segal next month, and on Jan. 1, 2006, he will succeed Segal President and CEO Howard Fluhr, who will become chairman. Mr. LoCicero began his consulting career in 1970 when he joined Buck Consultants Inc., rising to become president and CEO in 1995. He retired in 2003 but continued in retirement to work with Buck—now part of Dallas-based Affiliated Computer Services Inc.—on consulting projects.

Fairfax to raise \$300M in share offering

Fairfax Financial Holdings Ltd. said it is raising \$300 million in a share offering. The insurer said in a statement that the proceeds of the offer, expected to close in mid-October, will be used to "augment its cash, short-term investments and marketable securities held at the holding company level." Earlier this

month, Fairfax estimated its pretax losses stemming from Hurricane Katrina in the range of \$175 million to \$220 million.

Mich. gay marriage ban doesn't bar benefits

Michigan's ban on gay marriage doesn't preclude public employers from providing domestic partner benefits to the partners of same-sex couples, a judge has ruled. "Health care benefits for a spouse are benefits of employment, not benefits of marriage," Ingham County Circuit Court Judge Joyce Dragonchuk ruled. The ruling comes in response a lawsuit seeking a declaratory judgment filed by the American Civil Liberties Union on behalf of 21 same-sex couples whose domestic partner benefits were threatened. In November 2004, Michigan voters approved an amendment to the state's constitution barring gay marriage.

Crowley named HRH president

Hilb Rogal & Hobbs Co. said last week that it has named F. Michael Crowley president of the Glen Allen, Va.-based brokerage. Mr. Crowley was formerly vice chairman of Palmer & Cay Inc. before joining HRH in 2004 as its executive vp and national director for property and casualty. He succeeds Robert B. Lockhart, who resigned from the brokerage in May following the Connecticut Insurance Department's investigation—since settled—into certain placements or attempted placements of professional liability insurance.

Briefly noted

The **Spencer Educational Foundation Inc.** last week named the 34 students who will receive scholarships totaling \$212,000 from the foundation this year. The foundation, which is affiliated with Risk & Insurance Management Society Inc., has also awarded \$145,000 in grants in 2005....President Bush has signed into law legislation that will allow **Hurricane Katrina victims** to take distributions from their retirement plans without paying penalty taxes. Under H.R. 3768, participants in affected areas taking a pre-retirement distribution of up to \$100,000, such as a hardship withdrawal from a 401(k) plan, will not be assessed the 10% penalty tax that normally would apply, among other changes.

At BusinessInsurance.com

New Online Poll: Is the insurance industry over the worst of its problems with regard to industry investigations/prosecutions?

Items in the Late News column originally appeared in *BI's Daily News* feature on www.businessinsurance.com. Visit the BI Web site to sign up to receive BI's Daily News by e-mail.

BI Stock Index [9/26 - 9/30]

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Percentage change of BI Stock Index vs. key indicators

BI Stock Index

2673.87



Dow Jones

10568.70



S&P 500

1228.81



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

Largest gains

Vesta Insurance Co.	11.41%
United Fire & Casualty Co.	9.20%
HCC Insurance Holdings	8.36%
WellChoice Inc.	7.49%
AEGON N.V.	7.35%

Largest losses

PXRE Corp.	-15.61%
SCPIE Holdings Inc.	-13.75%
Zenith National	-5.35%
RenaissanceRe Holdings	-4.29%
Arthur J. Gallagher & Co.	-2.73%

Weekly change by market segment

Brokers	0.14%
Insurers/Reinsurers	2.05%
Managed Care Organizations	2.95%