

Business Insurance

October 17, 2005

www.businessinsurance.com

\$5

Late News

Jeffrey Greenberg to form insurance fund

Former Marsh & McLennan Cos. Inc. Chairman Jeffrey Greenberg and a private equity firm are trying to raise \$1 billion to fund Aquiline Capital Partners L.L.P., a new insurance investment vehicle. Mr. Greenberg and New York-based Venturion Capital are planning to raise the money in a private placement. A Venturion official declined to comment on Aquiline's investment plans. Mr. Greenberg resigned the top post at MMC in October 2004 after New York Attorney General Eliot Spitzer filed a fraud and antitrust complaint against the company. MMC agreed to an \$850 million settlement of those charges earlier this year.

AstraZeneca seeks funding permission

The U.S. affiliates of U.K. pharmaceutical giant AstraZeneca P.L.C. are asking the Department of Labor for permission to fund the benefit risks of their employees through a Vermont captive. AstraZeneca wants to use its Vermont captive

See **LATE NEWS**/page 19



PHOTO: GETTY IMAGES

Losses resulting from property damage caused by Hurricane Katrina and other storms has led some insurers to cut back the amount of property business they will write.

Insurers curb capacity as storm losses mount

By RUPAL PAREKH

Shaken by record hurricane losses, some property insurers and reinsurers are taking steps to reduce their catastrophe exposures—some by ceasing to write new business—until confidence in profitability for those risks is restored.

The moves come on the heels of hurricanes Katrina and Rita, expected to lead

to between \$34 billion and \$60 billion in insured losses, and the 2004 heavy storm season.

Profitability woes prompted Chapel Hill, N.C.-based excess and surplus lines insurer, James River Group Inc., to fully withdraw from the property marketplace in the wake of Hurricane Katrina, which is

See **PROPERTY**/page 23

Pension reform battle looming

Hopes for quick approval derailed after objections

By JERRY GEISEL

WASHINGTON—A tussle involving several provisions in pension funding reform legislation that earlier this month blocked Senate consideration of the measure dims but does not eliminate the chances of Congress enacting a comprehensive bill this year, Washington observers say.

Backers of a compromise bipartisan bill—a merger of portions of measures earlier approved by two Senate panels—had hoped for quick Senate floor action just before legislators adjourned for Congress' traditional one-week Columbus Day recess.

The backers, led by Finance Committee Chairman Charles Grassley, R-Iowa, and Health, Education, Labor and Pensions Committee Chairman Mike Enzi, R-Wyo., wanted to use a legislative procedure—known as unanimous consent—that would allow the Senate to consider the measure under a fast-track schedule, provided there were no objections.

But that strategy fell apart when two members—Sens. Mike DeWine, R-Ohio and Barbara Mikulski, D-Md.—raised objections over one provision that would effectively require employers that lack investment-grade credit ratings to funnel extra contributions to their plans and a second provision that would mandate the use of a new methodology to measure plan liabilities.

Recognizing that the bill could not proceed using the unanimous consent procedure, Senate Republican leaders decided against consideration of the bill before the recess.

That decision fueled speculation that the Senate leaders, recognizing that a tough battle may lie ahead at a time when legislators face many other pressing issues, including a slew of appropriations bills and the nomination of a new Supreme Court justice—would scuttle consideration of the funding bill, at least until next year.

But benefit lobbyists, acknowledging that consideration of the legislation will be delayed, say speculation that the bill is dead is premature. Indeed, they say that both congressional staffers and members are working hard to develop a new consensus to permit the passage of reform legislation that would stiffen pension funding requirements.

"The bill is still on the table. Staffs are talking to each other and so are members, while we are being asked for our positions. I can't imagine the bill being dead," said Lynn Dudley, vp and senior counsel at the American Benefits Council in Washington.

"The bill is still on the table...I can't imagine the bill being dead."

Lynn Dudley
American Benefits Council

See **PENSIONS**/page 23

Inside



SENTENCING SEGAL

Near North owner ruled fit for sentencing.

PAGE 3

WORDS ON WORDS

Ruling prompts changes in benefit plan language.

PAGE 3

London market aims at contract certainty

Market executives urge commitment

By SARAH VEYSEY

LONDON—Senior executives at insurers and brokers must strive to achieve contract certainty on policies issued in the London market and ensure that their companies' boards of directors are committed to the process, said Lloyd's of London Chief Executive Nick Prettejohn.

The U.K.'s insurance regulator will review the market's effort to achieve contract certainty by the end of 2005, he said in a letter to London market insurers and brokers. To satisfy the regulator, which

has threatened to impose additional regulations if market participants do not achieve contract certainty, the market should achieve certainty on at least 30% of contracts early next year, he said.

The Market Reform Group, which Mr. Prettejohn heads, also issued a code of practice and checklist to aid insurers and brokers in their efforts. The group comprises representatives from Lloyd's companies, London company market insurers and brokers.

See **CONTRACT**/page 22

FERMA COVERAGE



LISBON 2005
Biennial forum looks at opportunities for risk management.

PAGE 10



NEW LEADER
Marie-Gemma Dequae takes the helm as FERMA president.

PAGE 10

Inside

Investment adviser suing insurers over fraud defense

Firm facing fraud charges is seeking coverage from units of AIG and Chubb. **Page 4**

TRIA expiration raising concerns about economy

Symposium discusses concerns about the loss of a backstop for terrorism risks. **Page 4**

World Captive Forum offers educational credit

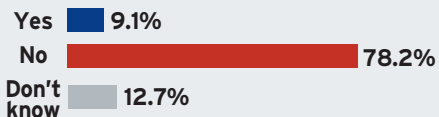
The 15th annual forum will provide a broad curriculum on captive insurance. **Page 6**

Industry getting back to business

After a tumultuous year, insurers and brokers have a renewed focus on doing business, one of this week's editorials says. **Page 8**

Online poll - [10/10 - 10/14]

Do you think the continuing consolidation among health care plan providers will be beneficial for employers?



Participate in BI's online polls at www.businessinsurance.com.

Departments

Advertiser Index	22
Between the Lines	16
Business Resources	16
Comings & Goings	16
International	17
Opinions	8
Professional MarketPlace	18
Ticker	23
World Updates	17

REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

Business Insurance (ISSN 0007-6864) Vol. 39, No. 42, 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.

Ruling may force change in plan wording

Employers advised to review authority of administrators

By **DAVE LENCKUS**

CHICAGO—Employee benefits plan sponsors may have to modify their plan documents to re-establish the discretionary authority they want claims administrators to have over coverage issues as a result of a federal appellate panel's decision.

A 3-0 ruling by a 7th U.S. Circuit Court of Appeals panel reverses two of the court's earlier decisions and embraces a third on the kind of plan document language that constitutes adequate notification to plan participants that claims administrators' decisions are largely shielded from court review.

The Sept. 20 ruling should prompt self-insured plan sponsors as well as benefits insurers to immediately review their plan language and, when necessary, issue modifications that incorporate the 7th Circuit panel's suggested plan language, benefits experts advise.

Otherwise, well-reasoned coverage determinations that previously would have been rubber-stamped by courts will be highly susceptible to judicial review that would not give any deference to claims administrators, benefits experts say.

The ruling applies to plan sponsors in the 7th Circuit, which covers Illinois, Indiana and Wisconsin. Illinois, though, is one of

"If you're going to give the plan administrator discretion... don't beat around the bush by throwing in other words."

J.D. Piro
Hewitt Associates Inc.

three states that bar insured plans from giving discretionary authority to claims administrators. The other two states are California and Montana.

But plan sponsors and insurers that write coverage elsewhere also should comply with the decision, experts advise. The court is the leading jurisdiction on the issue because of the amount of attention it has paid to the matter,

and other courts nationwide likely would weigh its decision heavily, experts explain.

In its ruling in *Hugo Diaz vs. Prudential Insurance Co. of America*, the 7th Circuit panel has gone further than any other federal appellate court in describing the language plan documents should include to insulate coverage decisions from court review, experts say.

The case involves a Chicago-based Bank One employee who said he could not return to work after surgery in February 2002 to relieve back pain. Doctors determined the surgery had been successful, but the employee said pain persisted in his back and legs.

Mr. Diaz filed a long-term disability claim in July 2002 with Prudential Insurance Co. of America, Bank One's insurer. Mr. Diaz submitted notes from several doctors who determined that the employee's condition would allow him to sit for only 15 to 20 minutes before he would need to rest.

The claim is for nearly \$3,000 per month in benefits from August 2002 through March 2016, according to Mr. Diaz's attorney, Mark D. DeBofsky, a partner at Daley, DeBofsky & Bryant P.C. in Chicago.

Prudential denied the claim in August

See **RULING**/page 20

Chaplains ministering to workplace needs

Employers cautioned as movement grows

By **SALLY ROBERTS**

While chaplains have long been a fixture in the military and in hospitals, more are making their way into mainstream American business today, addressing employee concerns that range from marital and family problems to job stress to illness and death.

In some cases, these "corporate chaplains" coordinate with existing employee assistance programs, while in other cases, a corporate chaplain program will actually act as the EAP itself.

One of the advantages of having such a program, experts say, is that some employees are more apt to visit a chaplain than a counselor for help, and it is the chaplain who can encourage employees to use the EAP or seek outside help. Use of corporate chaplain programs is voluntary, though, and the chaplains refrain from promoting any one religion or from proselytizing.

Legal liability issues remain, though, and employers need to make sure they do not cross the line into religious harassment or discrimination by offering a chaplaincy program, attorneys say.

Experts say growth in corporate chaplaincy is partly a byproduct of the Sept. 11, 2001, terrorist attacks, but also an outgrowth of employers increasingly recognizing the spiritual needs of their employees.

"It used to be that we couldn't get an appointment to talk to anyone about this. We were the laughing kid on the street. But since 9/11...and all that is going on in the world to-

day, the role of chaplaincy is becoming more acceptable," said Gil Stricklin, founder and president of Dallas-based Marketplace Ministries Inc., which employs 1,750 workplace chaplains that serve nearly 270 companies in 35 states.

"It's definitely a growing movement," said Dudley C. Rochelle, a labor attorney who has counseled a number of employers looking to add corporate chaplaincy programs. And the

Cost of chaplains vs. EAPs

Fees for an outsourced chaplaincy program are more expensive than traditional employee assistance programs.

Dallas-based Marketplace Ministries and Wake Forest, N.C.-based Corporate Chaplains of America, for example, charge an average of \$10 per employee per month for their services. In contrast, EAPs charge between \$2 and \$5 per employee per month.

While it may seem expensive, it's a good deal from a utilization perspective because anywhere from 55% to 75% of employees will use a chaplain during the year, according to Gil Stricklin, founder and president of Marketplace Ministries.

Put another way, "it's less than the coffee service that a company provides," said Dwayne Reece, associate vp with Corporate Chaplains.

reasons for offering the programs are not what one might initially think, she said.

"You would kind of expect, 'Oh, well, I believe everybody ought to be religious, therefore I want to bring my chaplain in the workplace to convert people.' That's really not it. That's not what I hear," said Ms. Rochelle, who specializes in workplace religious issues at Littler, Mendelson P.C. in Atlanta.

Instead, Ms. Rochelle said, business owners want to establish chaplaincy programs because



Mr. Segal

Near North owner to face sentence

By **SALLY ROBERTS**

CHICAGO—After several postponements, convicted Near North National Group Inc. owner Michael Segal has been found mentally competent to be sentenced.

Since his June 2004 conviction on federal charges of fraud, racketeering and mishandling nearly \$30 million in insurance premium trust funds at Near North, Mr. Segal has been held at a federal facility in Chicago awaiting sentencing.

Mr. Segal, who was considered a flight risk, has sought release from jail to seek medical treatment for various ailments including a skin condition. His sentencing was delayed earlier this year in part due to a psychiatric evaluation that found Mr. Segal suffered from attention-deficit disorder. The hearing was delayed once again in June pending another psychiatric evaluation.

Judge Ruben Castillo of the U.S. District Court for the Northern District of Illinois on Wednesday ruled that Mr. Segal has the mental competency needed to be sentenced.

A sentencing hearing was set for Nov. 30. Mr. Segal could face more than 20 years in prison.

During the six-week trial that began in

See **CHAPLAINS**/page 22

See **SEGAL**/page 23

Investment firm sues for cover for alleged fraud

Adviser to comp bureau seeks defense from AIG, Chubb units

By DOUGLAS McLEOD

PITTSBURGH—An investment management firm accused of losing \$215 million for the scandal-plagued Ohio State Bureau of Workers Compensation is suing two of its liability insurers for allegedly refusing to defend it against fraud charges.

Pittsburgh-based MDL Capital Management Inc. filed suit in federal court in Pittsburgh last week against American International Specialty Lines Insurance Co., a unit of

American International Group Inc.; and Chubb Corp.'s Federal Insurance Co. AISLIC provided \$10 million in investment advisors professional liability and directors and officers liability coverage, while Federal provided \$5 million in overlapping errors and omissions and D&O coverage, MDL's complaint says.

Ohio Attorney General Jim Petro sued MDL in June for fraud, negligence and breach of contract, charging that the advisor misled the state workers comp bureau while losing nearly all of its \$225

million investment in a government bond fund.

While the fund's private placement memorandum said it could leverage up to 150% of its assets, MDL actually leveraged the fund by 1,900% or more in a series of losing bets on interest rate movements, the suit alleges. Mark D. Lay, MDL's chairman and chief executive officer, also falsely claimed that the workers comp bureau had approved changes to the fund's placement memorandum allowing greater leveraging, the complaint charges.

The MDL fund produced an amendment stating that leveraging of government securities "has been and will continue to be significantly higher than 150%," the suit notes. The workers comp bureau never approved the amendment, though, and Mr. Lay and other fund officials proposed it only after MDL had already exceeded the leverage limit, the complaint charges.

MDL has moved to dismiss the

See FRAUD/page 6



Ohio Attorney General Jim Petro sued MDL in June for fraud, negligence and breach of contract.



Rescue workers in Islamabad search for survivors after the Oct. 13 earthquake that devastated the region. But according to Swiss Re, the destruction is unlikely to lead to significant insurance losses.

Deadly quake caused little insured damage

By BARBARA COCKBURN

MUZAFFARABAD, Pakistan—Authorities in Pakistan-controlled Kashmir are still searching for survivors of Saturday's 7.6 magnitude earthquake.

Damage was largely in rural areas near the Pakistan-India border in the region of Kashmir and northern Pakistan, with more than 40,000 people believed dead, according to news sources.

Despite the widespread destruction, the disaster is not expected to lead to substantial insurance claims.

"The damage has first to be assessed, but the facts of the region are that the density of insurance is low, and, sadly, it is unlikely to be an insurance loss of any magnitude," according to a spokesman for Swiss Reinsurance Co. in Zurich, Switzerland.

Total insurance premiums in Pakistan are \$563 million, he said.

Possible expiration of TRIA raises concerns about economic impact

By MARK A. HOFMANN

WASHINGTON—Failure to have some sort of government terrorism insurance backstop in place if the Terrorism Risk Insurance Act expires will have a negative impact on the U.S. economy.

Such was the common thread of concern among private-sector participants at the National Symposium on Terrorism Risk Insurance, held earlier this month on Capitol Hill. In fact, one prominent reinsurance company executive said the program should not only be extended but sig-

For more coverage of the National Symposium on Terrorism Risk Insurance conference and TRIA, see page 21

nificantly expanded as well.

TRIA, which created a federal financial backstop for insurers facing losses from future catastrophic terrorist attacks, is slated to expire Dec. 31.

"From our perspective, TRIA has worked," said Jacques DuBois, president and chief executive officer of Armonk, N.Y.-based Swiss Re America Holding Corp. "If TRIA is not re-

newed, \$100 billion of backstop reinsurance disappears."

Mr. DuBois said TRIA also should be expanded to cover both group life insurance and losses stemming from domestic terrorism. "TRIA protection should not depend on passports," he said.

The Bush administration, though, opposes the reauthorization of TRIA unless it is significantly scaled back. Neither chamber of Congress has yet to move on legislation that would extend the gov-

See TRIA/page 21

Third parties can pose significant risks for construction projects

Contractors cost business, insurers billions in claims

By MEG FLETCHER

CHICAGO—Companies that hire contractors and subcontractors to build or renovate facilities need to realize that those third parties can present a serious risk to them, experts say.

There are several steps, though, that those companies can take to reduce their liability under property policies for the actions of such third parties, according to two panelists at the recent REBEX 2005 conference in Chicago.

"Losses caused by contractors cost businesses and their insurers billions of dollars each year," said Burton D. Wright, assistant vp and senior general adjuster for Johnston, R.I.-based Factory Mutual Insurance Co., which does business as FM Global.

Mr. Wright said one risk is negligent welding, which can result in fire losses. Other risks include leaving vulnerable interior components exposed to rain and wind damage and doing poor work installing air conditioning systems, windows or roofs. "These practices often result in long-term water damage and mold," Mr. Wright said.

Generally, a contractor is held responsible for correcting the faulty work, but then the contractor may look to the owner or insurer for the repair of water and mold damage. "Disputes will ensue," Mr. Wright

said.

There are several steps that companies can take to limit the disputes and losses related to construction projects, he said.

Companies should begin by clearly defining the scope of work in their contracts and ensuring that contractors understand all exposures.

Risk managers should also verify the qualifications and loss records of contractors before they are hired, obtain evidence of their mem-

berships in professional organizations and ensure that the proper permits are being obtained, he said.

It is also important that a company's project manager read agreements and know what they obligate the company to provide regarding insurance, said Jonathan Mishara, vp and assistant general counsel with FM Global.

Mr. Wright urged any entity considering a construction project to contact its property insurer to make sure that the company's insurance coverage can meet all obligations the company is proposing to assume, he said.

Mr. Wright said companies should learn from the mistakes one city made when it contracted to have a large underground tunnel built and obligated itself to procure builders risk insurance with protection for the general contractor and subcontractors. The city's insurer was never notified of the project, though, and did not write the type of coverage contemplated in the contracts between the city and the third parties. After a tunnel col-

See REBEX/page 20



For more coverage of the recent REBEX 2005 conference, see page 20

Errors & Omissions:

An article on page 23 of the Oct. 10, 2005, issue contained an incorrect 2004 revenues figure for Willis Re. The correct figure is \$550 million.

Forum offers curriculum on captives

AVENTURA, Fla.—The 15th annual World Captive Forum will take attendees from the basic concepts of forming and operating captive insurers to the latest developments that can affect the future of the insurance vehicles.

The forum, scheduled for Nov. 7-9 at the Fairmont Turnberry Isle Resort in Aventura, Fla., features several educational workshops, presentations by captive industry experts, updates on cutting-edge topics and numerous opportunities for networking. The program is organized around three tracks: basic, advanced and benefits-related captive insurance topics.

The World Captive Forum is produced by *Business Insurance*, Quest Insurance Solutions Ltd. and Tillinghast-Towers Perrin. To register, please visit www.worldcaptiveforum.com.

The World Captive Forum wel-

comes the International Center for Captive Insurance Education to this year's conference. All attendees of the forum can participate in a special ICCIE module course—Business Ethics in the Captive Insurance Industry—whether enrolled in the designation program or not.

The ICCIE course will be held Sunday, Nov. 6, from 1:00 to 5:30 p.m. The course is free to ICCIE designation students, and \$650 for others.

On Monday afternoon, following a golf outing sponsored by the State of Vermont, three workshops formally open the forum with an introduction to key captive developments and the basics of funding benefits through a captive, including remarks by a pioneer in the use of captives for benefit financing.

On Tuesday, Ernst Csiszar, president of the Property Casualty Insur-

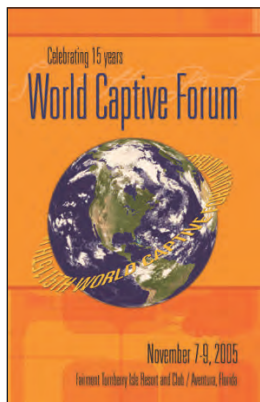
ers Assn. of America, delivers the conference keynote address on the dramatic changes in the insurance and risk financing landscape over the past 12 months.

Tuesday and Wednesday offer multiple sessions in each of the forum's tracks, including such topics as cell captive structures for groups, tax and accounting issues for funding benefits in a captive, health care professional liability case studies, and much more. For a full, detailed agenda for this year's conference, please visit the WCF web site.

Full registration for risk managers and benefit managers is \$975 and \$1,350 for others. For second and subsequent registrants from the same company, the fee is \$975. Captive regulators pay \$495 to attend.

In addition, there is a \$200 fee for those who choose to participate in Monday's golf tournament.

For more information, please contact the World Captive Forum, 4248 Park Glen Road, Minneapolis, Minn. 55416; 952-928-4659, or visit www.worldcaptiveforum.com to register online.



Pensions: Reform efforts blocked

Continued from page 1

"The Senate is a pretty flexible place. If there is a consensus, leaders will fit it in," said Frank McArdle, a consultant with Hewitt Associates Inc. in Washington.

Others concur and are lobbying to influence members on the shape of the bill. "This bill is not dead, and we are working to make it better," said Mark Ugoretz, president of the ERISA Industry Committee in Washington.

Given that the legislation remains under consideration, some lobbying groups say employers need to get involved now.

"My guess is we will see a comprehensive pension bill enacted by the end of the year. Companies need to look at the various proposals now and see what the impact on them would be. If the impact is negative, this is the time to contact your senator," said Bob Shepler, director of corporate finance and tax for the National Assn. of Manufacturers in Washington.

Even if Congress doesn't pass a bill this year, all proposals automatically will carry over next year when the second half of the congressional session begins. In view of the fact that Congress doesn't face an immediate deadline, some experts see action slipping into next year.

"I'm putting the odds against something happening this year. Finding floor time will be a challenge. But, given how much work has gone into the legislation, this isn't something that will go away. It will come back next year," said Kyle Brown, an attorney with Watson Wyatt Worldwide in Arlington, Va.

Others say that if Congress doesn't act on a comprehensive measure this year, legislators instead might enact a stripped-down bill that would raise the insurance premiums employers pay the Pension Benefit Guaranty Corp., whose financial situation continues to deteriorate, while giving the nation's financially stressed commercial airlines extra time to fund their pension plans.

"There could be an airline piece and a PBGC piece," said Aliya

Wong, director of pension policy at the U.S. Chamber of Commerce in Washington.

But if legislators are to pass a comprehensive bill this year, they will have to cover a lot of ground fairly quickly. While the Senate has a bill before it, the House of Representatives is further behind. Only one of the two House panels that share jurisdiction on pension legislation—the Education and the Workforce Committee—has passed a bill. The other panel—the Ways and Means Committee—has yet to produce a bill.

Assuming the Ways and Means Committee does act, its bill and that of the Education and the Workforce Committee would have to be merged for consideration by the House. Ultimately, differences in House- and Senate-passed bills would be resolved by a congressional conference committee.

But before that can happen, the Senate would have to resolve the controversies that blocked consideration of the legislation earlier this month. One such controversy involves a provision that would require employers that lack investment-grade credit ratings to use the most-liberal actuarial assumptions—such as assuming that all plan participants eligible to take lump sum distributions would do so. Such a requirement would have the effect of requiring such companies to kick in additional contributions to their plans.

Supporters of such a requirement say it is needed to ensure an extra level of funding in the plans and to reduce the likelihood of a PBGC loss if a company's financial position were to continue to deteriorate and it later had to jettison the plan.

But business groups say such a requirement would play havoc with employers in cyclical industries, which would have to pump extra money into their pension plans at a time when they could least afford it.

"You unnecessarily jeopardize the business situation of some companies," said Ms. Wong of the Chamber of Commerce.

Fraud: Defense coverage sought

Continued from page 4

lawsuit and says that the Ohio bureau was aware of the fund's risks.

The MDL debacle is only one of the problems to emerge at the workers comp bureau this year. The Ohio bureau also invested \$50 million in two rare coin funds formerly managed by Thomas Noe Inc. that are now being liquidated and from which \$10 million to \$13 million is reportedly missing. Thomas Noe is seeking to dismiss a workers comp bureau lawsuit over the funds.

MDL's coverage with AISLIC ran from May 19, 2004, to May 19, 2005, while the Federal coverage runs for one year starting May 19, 2005, for acts occurring during the 2004 through 2006 policy periods, according to the suit it filed against the insurers last week. The AISLIC policy also provided an additional 30 days beyond the expiration date to report claims.

Mr. Petro filed his suit against MDL on June 10, and MDL notified

AISLIC the same day, the suit says. AISLIC immediately denied coverage, saying the investment firm did not give it timely notice of the claim, MDL contends.

MDL also sought to exercise its option for a one-year extended reporting period for the AISLIC policy, and the insurer responded by demanding a \$10 million premium for the extension, an amount equal to MDL's limit, the suit alleges. AISLIC later offered the extension for \$268,500, but only if liabilities related to the Ohio litigation were excluded, the suit says.

Federal likewise denied coverage improperly, MDL claims.

MDL's suit seeks a declaratory judgment that both policies provide coverage, along with damages for breach of contract against both insurers. The suit also levels bad faith charges against AISLIC.

A Chubb spokesman declined comment. An AIG spokesman said he was not able to comment at press time.

Stability and Flexibility... working for you.



Reliable support. Flexible Service. It's what we offer with every medical stop loss and group life account we underwrite. Our experience – spanning across three decades – gives us the ability to write customized medical stop loss and group life coverage for even hard to place cases. It also allows us to offer our TPA partners coast to coast access to come of our nation's highest regarded carriers:



Flexible stop loss and group life coverage for all industry types, Taft-Hartley groups, government entities, and hospitals.



Call us today! Tel: 866.341.4203

The Old Mercantile Exchange Building • Six Harrison Street, New York, NY 10013 • www.RMTS.net

Editorial

It's back to business, but not business as usual for industry

WHAT A DIFFERENCE a year makes.

In early October 2004, no one who attended the annual Insurance Leadership Forum had yet learned of New York Attorney General Eliot Spitzer's investigations and lawsuits relating to industry business practices. Interestingly, there was hardly any mention of those topics last week, either, as many of the same top executives again gathered at the Greenbrier resort in West Virginia.

That's not because the lawsuits and settlements by major insurance brokers and the ongoing investigations of insurance company accounting have not changed the industry. Far from it. Insurers, reinsurers and brokers are all more open about their practices, and many have placed a renewed focus on improving their relationships with their clients.

This is good news for insurance buyers, because the insurance industry has largely gotten back to business. Concerns this year tended to center on Hurricane Katrina and the effects on market conditions, particularly property rates. There is continuing uncertainty over additional catastrophes, the in-

dustry's need for capital, the fate of a terrorism insurance backstop and possible regulatory developments.

What is next for the insurance industry? The consensus at the Greenbrier was that rates will go up across most lines. They will harden quickest in property business, especially with catastrophe exposures, but casualty rates will be part of renewal discussions, too. One reinsurance executive said a client unaffected by the recent hurricanes asked his reinsurer to put a number on a property rate increase and even though it was 35% higher than last year, "the client stayed in the room."

Among brokers, there was talk of competition increasing. Certainly, startups such as Integro Ltd., are promoting themselves as an alternative to the established large brokers. But even among smaller brokers, there was discussion of enhanced client relationships built around disclosure and agreement on the value of services provided.

For the insurance industry, it's no longer business as usual, and we think that is something buyers should celebrate.

House should approve LARA

THE HOUSE OF REPRESENTATIVES appears likely to approve meaningful tort reform in the next few days. We hope that it will do so by such a margin that the Senate will be compelled to follow suit.

The measure—the Lawsuit Abuse Reduction Act—is straightforward enough, something House members realized when they gave their blessing to an earlier version of the bill in 2004. Basically, LARA would require judges to impose sanctions on attorneys who bring frivolous lawsuits rather than imposing them on a discretionary basis. Such mandatory sanctions had been required until the early 1990s, when a change in Rule 11 of the Federal Rules of Civil Procedure made them voluntary.

LARA's other major provision would rein in a practice that tort reform advocates call "forum shopping." Forum shopping occurs when a plaintiff's attorney looks for the most plaintiff-friendly jurisdiction available in which to file a personal-injury lawsuit, even if the jurisdiction has the most tenuous of connections with the case. LARA sets common-sense requirements that would have to

be met before a personal-injury suit could be filed in a given judicial jurisdiction.

Bipartisan support put LARA over the top in the House last year. Unfortunately, the effort stalled in the Senate, as has so many previous tort reform initiatives. There is reason to hope that this year may be different, though.

That's because earlier this year the Senate, on a bipartisan basis, gave its approval to the Class Action Fairness Act, which is probably the most significant piece of federal tort reform legislation enacted in many years. Senators had previously declined to get involved with the issue of class action reform.

The Senate's passage of CAFA demonstrated that both houses are willing to tackle tort reform under the right conditions. The political conditions for further reform are among the best they have been in recent history—perhaps ever. We hope the House will move swiftly on LARA and give it the overwhelming support that it deserves, a margin of support that will persuade the Senate to move just as swiftly and decisively in approving this common-sense tort reform measure.

Schillerstrom



In an effort to ensure continuing timely coverage of risk management, insurance and benefit-related news, *Business Insurance* has formalized a list of its reporters' assigned beats. This list is not intended to be exclusive but rather to represent core subject areas of importance to *BI* readers. *BI* welcomes ideas and tips from readers on these and other areas. Following is a list of the beats and the principal reporters for each:

Agents/brokers: Sally Roberts.

Asian markets: Michael Bradford.

Aviation/space risks: Sarah Veysey, Barbara Cockburn.

Benefits—health care and ancillary benefits: Joanne Wojcik.

Benefits—retirement savings/pensions: Jerry Geisel.

Canada—risk management and benefits: Gloria Gonzalez.

Captives/alternative risk transfer: Michael Bradford.

Claims management: Meg Fletcher.

E.U. regulatory/legislative: Sarah Veysey.

Employment practices: Judy Greenwald.

Environmental risk management: Sally Roberts.

European benefits management: Sarah Veysey, Barbara Cockburn.

European industry: Sarah Veysey, Barbara Cockburn.

European public entity risks: Carolyn Aldred.

European reinsurance: Sarah Veysey.

European risk management: Sarah Veysey.

Federal regulation/legislation—benefits: Jerry Geisel.

Federal regulation/legislation—risk management: Mark A. Hofmann.

Health care industry operations: Gloria Gonzalez.

Inland marine/transportation: Michael Bradford.

Industry Focus: Rodd Zolkos, Rupal Parekh.

Insurance coverage litigation: Douglas McLeod.

Insurance fraud: Douglas McLeod.

Latin American markets: Roberto Cenicerros.

Marine risks: Sarah Veysey, Barbara Cockburn.

Property/casualty industry operations: Judy Greenwald.

Professional liability: Dave Lenckus.

Property loss control/cat risks: Mark A. Hofmann.

Regulation of insurance: Meg Fletcher.

Reinsurance: Judy Greenwald.

Risk management profession: Dave Lenckus.

Risk securitization/capital markets risk financing: Carolyn Aldred.

Runoffs/receiverships: Douglas McLeod.

Safety/ergonomics: Meg Fletcher.

Surplus lines/wholesalers: Roberto Cenicerros.

Tort reform: Mark A. Hofmann.

Work/life benefits and EAPs: Sally Roberts.

Workers compensation: Roberto Cenicerros.

Business Insurance

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

Editorial Director: Paul D. Winston (Chicago)

Editor: Regis J. Coccia (Chicago)

Editor-at-Large: Jerry Geisel (Washington)

Managing Editor: Gavin Souter (Chicago)

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

News Editor: Matt Scroggins (Chicago)

Senior Editors: Michael Bradford (New Orleans); Roberto Cenicerros (Los Angeles); Meg Fletcher, A.R.M. (Chicago); Judy Greenwald (San Jose); Mark A. Hofmann (Washington); Dave Lenckus (Tucson); Douglas McLeod (New York); Sally Roberts (Denver); Joanne Wojcik (Denver); Rodd Zolkos—Industry Focus (Chicago)

Bureau Chief: Sarah Veysey (London)

Associate Editors: Barbara Cockburn (London); Gloria Gonzalez (New York)

Staff Reporter: Rupal Parekh (New York)

Correspondents: Carolyn Aldred (England); Elizabeth Fry (Australia)

Copy Editor/Graphics: William Murphy (Chicago)

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

Directory Editor: Kevin P. Edison (Chicago)

Assistant Directory Editor: Carrie A. Peinado (Chicago)

Online Editor: Kathy Downing (Chicago)

Online Producer: Amy R. Kepka (Olathe)

Executive Assistant/Reprint Manager: Karen Brown Tucker (Chicago)

Editorial Cartoonist: Roger Schillerstrom (Chicago)

Advertising Director: Kenneth F. Luker Jr. (New York)

Director - Business Development: Robert L. Niesse (Chicago)

District Managers: Laura Booth (Irvine); Ron Kolgraf (Boston); William J. McGuire (Chicago); Robert B. Murray (New York); John L. Phillips (Chicago)

Classified Advertising Manager: Tina Vasilakis (Chicago)

Assistant to the Publisher: Pat Ghazvini (New York)

Advertising Traffic: Monique Murray (New York)

Production Manager: J. Thomas Janka (Chicago)

Circulation Manager: John Azua (New York)

Circulation Coordinator: Craig Bowman (Detroit)

Director of Communications: Ronnie I. Drachman (New York)

Promotion Manager: Michael Ambrosio (New York)

Promotion Coordinator: Barbara O'Brien (New York)

EDITORIAL: Chicago: 312-649-5200; Denver: 303-282-4260; London: 44-207-457-1400; Los Angeles: 323-370-2455; New Orleans: 985-871-1090; New York: 212-210-0100; San Jose: 408-774-1500; Tucson: 520-579-1937; Washington: 202-662-7200

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

SUBSCRIPTIONS: Detroit: 888-446-1422

Business Insurance is published by Crain Communications Inc.

Chairman: Keith E. Crain

President: Rance Crain

Secretary: Merrilee Crain

Treasurer: Mary Kay Crain

Executive Vice President/Operations: William A. Morrow

Senior Vice President/Group Publisher: Gloria Scoby

Group Vice President/Technology, Circulation,

Manufacturing: Robert C. Adams

Vice President/Production & Manufacturing: Dave Kamis

Crain's Corporate Circulation Director: Patrick Sheposh

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

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

S.R. Bernstein Chairman-executive committee (1907-1993)

Published weekly at 360 N. Michigan Ave., Chicago, Ill. 60601-3806, Fax: 312-280-3174, biweb@crain.com. Offices: 711 Third Ave., New York, N.Y. 10017-5806, Fax: 212-210-0704; 71121 Minkler St., Abita Springs, La. 70420; Fax: 985-871-4006; Suite 814, National Press Building, Washington, D.C. 20045-1801, Fax: 202-638-3155; 6500 Wilshire Blvd., Suite 2300, Los Angeles, Calif. 90048-4947, Fax: 323-655-8157; 967 Bermuda Court, Sunnyvale, Calif. 94086-6750, Fax: 408-774-1155; 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.

To subscribe, call 888-446-1422, or 313-446-0450 outside the U.S.



www.businessinsurance.com



Dequae takes helm as FERMA president

Leader to continue promoting risk awareness, communication with industry

By REGIS COCCIA

LISBON, Portugal—As the European Union expands, Marie-Gemma Dequae plans to continue a program of developing risk management practices throughout the region.

The incoming president of the Federation of European Risk Management Assns. said FERMA is helping Eastern European nations adopt risk management practices and build associations. Countries that are in this process include Poland, the Czech Republic and Slovakia, Ms. Dequae said.

"If we have companies in Western Europe and have sister companies or new companies, we can, through our colleagues, try to have them work in risk management as we work," said Ms. Dequae. "Risk management standards follow in business."

Ms. Dequae, who also is corporate risk manager for Kortrijk, Belgium-based wire and steel products maker N.V. Bekaert S.A., succeeds Thierry Van Santen, executive vp in the corporate risk management de-



"Everywhere you have partners, you need confidence. With what happened in the U.S., we lost that confidence."

Marie-Gemma Dequae
N.V. Bekaert S.A.

ferma

partment at the Paris-based food company Groupe Danone, as the head of FERMA. Her objectives as FERMA's new president include networking. "We are trying to have Eastern European countries become risk-aware and members of the FERMA community," she said.

Brussels-based FERMA comprises 12 national risk management organizations across Europe (see box).

Among the challenges for European risk managers are responding to proposed directives on insurance and working with insurers and brokers on business practices, she said.

"One challenge is being a European association within a European Community that is changing," with directives proposed on reinsurance and insurance antitrust, Ms. Dequae said. "We try to work together

with the European Community so what is developed is acceptable to risk managers," she said.

The recent investigations of insurers and brokers are of great interest to FERMA, Ms. Dequae said. "Everywhere you have partners, you need confidence. With what happened in the U.S., we lost that confidence," Ms. Dequae said, referring to New York Attorney General Eliot Spitzer's investigations of brokerage compensation. "What we ask is transparency—that if there is a commission for the brokers, we know it. There is good contact between brokers and FERMA on that point," she said.

During Mr. Van Santen's presidency, FERMA put together a proposed charter on broker transparency that would, among other things, require brokers to disclose all commissions on business placed on behalf of large European corporate buyers of insurance (BI, Oct. 10). According to Mr. Van Santen, FERMA will continue in the coming months to try to persuade brokers to sign the charter.

Global risk programs hard to implement for variety of reasons

By SARAH VEYSEY

LISBON, Portugal—Global insurance programs have several advantages over conventional coverage programs, but they also are sometimes challenging to implement, a panel of experts said.

Although risk managers can cut their costs and improve their coverage by using global programs, it is often difficult to find insurers that are able to offer truly global coverage, they said.

Global insurance programs can be advantageous to risk managers, Andrew R. Bradley, head of group risk services at Vevey, Switzerland-based Nestlé S.A., told delegates at the Federation of European Risk Management Assns.' biennial conference, held in Lisbon, Portugal, earlier this month.

Among the potential benefits to a risk manager of such a program are lower premiums and better integration of a company's insurance coverage, Mr. Bradley said.

A global program can act as a "platform" for managing other

company risks, he said. For example, if a risk manager were to use a captive insurer as part of his or her company's property/casualty insurance program, that captive could also be used to underwrite the company's global employee benefits or disability insurance programs.

In order for a global program to be successfully implemented, a risk manager must have a mandate from the company's management and must ensure that he or she clearly communicates to the company the value and benefits of having such a program, Mr. Bradley said.

There are significant challenges to obtaining establishing a global program, he said, not the least of which is a dearth of insurers with acceptable financial strength ratings that offer global coverage. Mr. Bradley said that insurance buyers are unwilling to accept into their programs insurers with weaker financial strength ratings.

But offering global insurance programs also presents challenges for insurance companies, according to



"Clients want us to be in all the countries they operate in," which means insurers have to weigh their clients' needs against their own costs.

Clive Tobin
XL Insurance



Delegates discussed the merits and challenges of establishing and running global insurance programs at the biennial conference of the Federation of European Risk Management Assns., held in Lisbon, Portugal, earlier this month.

Clive Tobin, London-based chief executive of XL Insurance, a unit of Hamilton, Bermuda-based XL Capital Ltd.

Operating in many different countries and diverse areas requires a great deal of local knowledge, and this can prove "complex and challenging," Mr. Tobin said. Meeting this challenge requires companies to develop widespread resources, which takes time, he said.

Coming to grips with many different languages is another challenge for insurers that offer global programs, Mr. Tobin said. In some areas, insurance regulators can fine insurers if, for example, their information technology systems are not established in the characters of the local alphabet, he said.

Mr. Tobin also noted that "clients want us to be in all the

countries they operate in," which means insurers have to weigh their clients' needs against their own costs. An insurance company must decide at what point it has enough business in a certain territory to justify opening an office there, he said. Until that point is reached, Mr. Tobin said, the insurer has to underwrite using paper issued by local companies, and building a network that enables the company to do this can take time and effort and is "tricky to manage," he said.

Only a few insurance carriers—probably just five—can offer truly global programs, according to Patrick Thomas, European development director at Aon Risk Services, a division of Aon Corp. based in London.

See GLOBAL/page 15

Membership

The Federation of European Risk Management Assns. comprises 13 organizations in a dozen countries across Europe:

AGERS

Asociacion Española de Gerencia de Riesgos y Seguros
SPAIN

AIRMIC

Assn. of Insurance & Risk Managers
UNITED KINGDOM

AMRAE

Association pour le Management des Risques et des Assurances de l'Entreprise
FRANCE

ANRA

Associazione Nazionale dei Risk Manager e Responsabili Assicurazioni Aziendali
ITALY

APOGERIS

Associação Portuguesa de Gestão de Riscos e Seguros
PORTUGAL

BELRIM

Belgian Risk Management Assn.
BELGIUM

BfV

Bundesverband Firmenverbundener Versicherungsvermittler und Gesellschaften e. V.
GERMANY

DARIM

Dansk Industris Risk Management Forening
DENMARK

DVS

Deutscher Versicherungs-Schutzverband e.V.
GERMANY

NARIM

Nederlandse Associatie van Risk en Insurance Managers
NETHERLANDS

RUSRISK

Russian Risk Management Society
RUSSIA

SIRM

Swiss Assn. of Insurance & Risk Managers
SWITZERLAND

SWERMA

Swedish Risk Management Assn.
SWEDEN

Hurricanes serve as wake-up call to underwriters

Full impact of Katrina, Rita likely won't be known until early 2006

By SARAH VEYSEY

LISBON, Portugal—The impact of hurricanes Katrina and Rita on the reinsurance market may not necessarily result in European insurance buyers facing rate hikes at renewal, according to a panel of insurance executives.

But the effect of the losses could stem any rate decreases that European buyers may have been hoping for, delegates to the recent Federation of European Risk Management Assns.' biennial conference forum 2005 in Lisbon, Portugal, were told.

The full impact of the insurance industry's loss from Hurricane Katrina likely will not be known until the first quarter of 2006, according to Alexander Baugh, president and chief executive officer of Paris-based AIG Europe S.A., because of the complexity of some of the legal questions prompted by the loss.

Following Hurricane Katrina, underwriters will look again at the models they use and the way catastrophe insurance business is priced, according to Geoff Riddell, chief executive-global corporate business at

Zurich Financial Services Group based in London and Zurich, Switzerland.

European catastrophe insurance probably was underpriced before Hurricane Katrina struck the United States, and the loss likely will cause underwriters to look again at how they price that business, Mr. Riddell said. In addition, he noted, while the frequency of worldwide property losses from catastrophes may be slowing, the severity of those losses is increasing, which will also give underwriters pause.

Mr. Riddell said he believes, therefore, that "the majority of property accounts in Europe" probably will see no further price reductions at the forthcoming renewals.

He added, though, that he does not believe the effect of Hurricane Katrina losses will "roll over onto the European liability market" or cause any hardening of that market segment.

The extent to which the recent U.S. hurricanes will affect insurance pricing in Europe depends on several factors, noted Axel Theis, CEO of Allianz Global Risks, a division of Mu-



PHOTO: GAMMA PRESSE

Damage from Hurricane Katrina wasn't restricted to wind and flood. This house in New Orleans not only was flooded but also caught fire. The catastrophe is making many underwriters look closer at the risks they take on.

nich, Germany-based insurance giant Allianz A.G.

The impact on reinsurers will depend on the amount of retrocessional capacity available and how much is charged for that capacity, as well as the extent to which reinsurers' balance sheets will be impaired by the losses, Mr. Theis said.

In addition to the hurricanes,

there have also been some large insurance industry losses in Europe this year, he noted, and loss-affected business will probably see a tightening of terms and conditions at renewal.

The prices charged at renewal for European business will be determined on an individual basis, Mr. Theis said, but the hurricanes will

serve as a "wake up call" to underwriters and prompt them to re-examine other possible catastrophe exposures. The potential for losses stemming from flood in the United Kingdom or from earthquake in Italy, for example, will prompt underwriters to "take a different approach" to such exposures, he said.

While the impact of Hurricane Katrina on insurance pricing will be "differentiated" to an extent, the industry is "mutualized" across regions and classes of business, pointed out Martin Albers, head of the European client markets business function at Swiss Reinsurance Co. in Zurich, Switzerland. "So I expect a firm market," he said.

The cost of reinsurance inevitably will increase as a result of the storms, according to Andrew Kendrick, chairman and CEO of ACE European Group, the London-based arm of ACE Ltd. And this, he said, will cause insurers once again to look at their pricing of catastrophe insurance business.

Still, Mr. Kendrick noted losses from four U.S. hurricanes last year did not lead to an increase in pricing for European property business.

The panel was moderated by Herbert Fromme, a journalist with the Financial Times Deutschland in Cologne, Germany.

Once Again, We Have
The Medal To Be The Best.



American Re-Insurance Company would like to thank the insurance industry for ranking us Best Overall Reinsurer in the 2005 Survey of Cedant Perceptions About Reinsurance and Reinsurers* conducted by the Flaspöhler Research Group.

* The Survey of Cedant Perceptions about Reinsurance and Reinsurers is conducted every two years by the Flaspöhler Research Group to measure North American property and casualty reinsurance buyers' views on reinsurers. The 2005 Survey was Flaspöhler's 7th biennial survey of the United States market.



AMERICAN RE
A Member of the Munich Re Group



555 College Road East, Princeton, NJ 08543, www.amre.com

Proven crisis management needs testing in advance

By REGIS COCCIA

LISBON, Portugal—Crisis management is critical to the survival of a business, according to a panel of European risk experts.

Speaking at the Federation of European Risk Management Assns.' Biennial conference in Lisbon, Portugal, earlier this month, the panelists outlined the steps companies should take to cope with disasters before, during and after they occur.

"Large companies face a crisis every four or five years. All companies require business continuity plans and need to prove that they work,"

said Juan Garcia Gay, managing director of risk consulting at Marsh Risk Consulting in Barcelona, Spain.

"What is a crisis? It's a decisive moment or turning point that can affect the existence of an organization," Mr. Gay said. Key elements of a crisis include a high degree of urgency, uncertainty in decision-making and insufficient resources to respond to the event, he noted. "If the worst factors combine, we're in a serious crisis," he said.

Business continuity is fundamental to good management, Mr. Gay said. It's important for companies

to have plans in place, he said. Risk managers should evaluate the risk following a crisis, set recovery deadlines and ensure they "cover all the bases," he suggested. "Ensure that training, training, training is behind all the steps you take," he said.

Julio Saez, director of risk and insurance management for the Madrid, Spain-based department store operator El Corte Ingles, offered a dramatic lesson in how a disaster for one organization can create crises for others.

In February, an office building adjacent to El Corte Ingles' flagship store in Madrid became an inferno,

forcing El Corte Ingles to implement its own crisis management plan.

"There comes a time when you have to put to the test whether your crisis management plan is up to snuff," Mr. Saez said. "The main obstacle we faced to recovery was resistance from local authorities. We didn't know whether the Windsor tower was going to collapse," he said, referring to the adjacent office building.

The retailer's crisis plan called for controlling the imminent risk of fire to the store, protecting installations and electrical systems and pre-

serving central data processing operations, he said.

Communication also was important. The risk management department issued standards and communicated its needs, while the human resources department issued messages to the company's 2,200 employees "to calm everybody," he said. Meanwhile, El Corte Ingles' external public relations firm prepared communications with media that emphasized that the company had the crisis under control, Mr. Saez said.

"When the building finally fell, it fell away from El Corte Ingles, which was a complete relief," he said. But the crisis management didn't end there. The retailer still needed to complete its recovery, which meant bringing customers back into the affected area. "We were able to deal quickly with the authorities and made them aware of the need to act as quickly as possible to normalize the area," Mr.

"There comes a time when you have to put to the test whether your crisis management plan is up to snuff."

Julio Saez
El Corte Ingles

Saez said. "We managed to project an image of efficiency, and most of our customers came back very quickly."

A lesson for risk managers, Mr. Saez said, is to understand the emergency procedures and public safety protocols wherever their businesses are. Had the fire occurred near an El Corte Ingles store outside Spain, Mr. Saez said, his company might have had a worse outcome. "You need to look at laws, infrastructures, suppliers, etc. A contingency plan has to take account of local authorities and needs," he said.

In July 2004, a fire damaged pipelines at a Galp Energia refinery in Leca, Portugal. The accident not only limited Galp's refining capacity but also hurt its reputation, as adverse publicity led to questions about the company's safety practices, explained its risk manager, Rufino Ribeiro. The day after the fire, Galp held a press conference to discuss the accident and announced an internal investigation. Results were released to the government two weeks later, along with a new corporate safety program, he said.

"Even small accidents can have important consequences for a company, as a result of public opinion and how that changes," Mr. Ribeiro said.

Eduardo Romero Villafranca, first vp of AGERS, the Spanish association of risk and insurance management, and formerly corporate risk manager of Spain's Dragados Group, moderated the session.



WHAT DOES A TRADITIONAL BANKER REALLY KNOW ABOUT HEALTH CARE?

YOU GET ONE CHANCE TO MAKE HEALTH SAVINGS ACCOUNTS WORK. MAKE SURE TO LAUNCH THEM IN A WAY THAT IS SIMPLE, SEAMLESSLY INTEGRATED AND MOST IMPORTANTLY, CONSUMER FRIENDLY. DO YOU REALLY WANT TO TRUST THIS TO A BANK WITH LITTLE OR NO HEALTH CARE EXPERIENCE? EXANTE FINANCIAL SERVICESSM HAS BEEN AN EXPERT IN HSAs EVER SINCE THERE WAS SUCH A THING AS HSAs. AND BECAUSE WE ARE DEDICATED EXCLUSIVELY TO HEALTH CARE, NO OTHER COMPANY UNDERSTANDS THE COMPLEXITIES OF THIS BUSINESS THE WAY WE DO.



Now you can.

HEALTH SAVINGS ACCOUNTS | PAYMENT CARD TECHNOLOGY | BANKING AND FINANCIAL SOLUTIONS
ELECTRONIC CLAIM PAYMENTS | PRINT AND FULFILLMENT SERVICES

EXANTEFINANCIALSERVICES.COM | 1-800-717-5360

©2005 EXANTE FINANCIAL SERVICES

Global: Insurers reluctant to offer programs

Continued from page 10

Mr. Thomas said that many risk managers have responded to the shrinking number of insurers able and prepared to offer global programs by setting up captives, and he noted that the number of captives in use worldwide is on the increase.

"The perceived wisdom is that global programs are complicated and expensive to manage," he said, and this is one reason why some insurers are reluctant to continue to offer global programs.

And, as the number of insurers offering global coverage shrinks, so too does the number of underwriters who are "globally trained," he noted.

Mr. Thomas outlined his "wish list" for global insurance programs. Included on this list were: for underwriters to realize that global programs can be profitable; for a return to broader coverage terms above "sensible" deductibles; and for underwriters to offer more long-term policies to introduce greater stability into the market.

The session was moderated by Goetz Deecke, former head of risk and insurance services for the Geneva, Switzerland-based Maus Frères Group who is now retired and an honorary member of the Swiss Insurance & Risk Management Assn.

FERMA forum draws 1,030 to Portugal

The Federation of European Risk Management Assns.' biennial forum was held Oct. 2-5 in Lisbon, Portugal, and attracted 1,030 attendees.

The conference, themed "Europe, the World and the Future—Opportunities for Risk Management," also incorporated the International Federation of Risk & Insurance Management Assns. Inc.'s fourth annual conference.

At the end of the conference Thierry Van Santen, executive vp in the corporate risk management department at Paris-based food company Groupe Danone, who has held the post of president of Brussels, Belgium-based FERMA for the past four years in an extended term, handed over the presidency of the association to Marie-Gemma Dequae.

Ms. Dequae, who is president of the Belgian risk management association BELRIM, is corporate risk manager for Kortrijk, Belgium-based wire and steel products maker N.V. Bekaert S.A.

The next FERMA conference will be held in Geneva in October 2007.

Next year's IFRIMA conference will be held April 23-27 in conjunction with the Risk & Insurance Management Society Inc.'s annual conference in Honolulu.

NYC Council overrides grocer health benefit veto

By JERRY GEISEL

NEW YORK—The New York City Council voted last week to override Mayor Michael Bloomberg's veto of legislation to require grocery stores and other retailers to make a substantial contribution toward their employees' health insurance coverage costs.

The legislation, scheduled to take effect in July 2006, applies to grocery stores with at least 35 employees or other retail stores with 10,000 square feet of food products.

Covered employers would be required to contribute an amount

equal to the prevailing employer contributions New York City grocers now make toward their employees' health insurance coverage.

New York City would conduct surveys to determine this amount. The Brennan Center for Justice, a public policy think tank in New York, estimates that amount at about \$2.50 to \$3.00 per employee per hour.

Employers covered by the mandate would have broad flexibility in how they make the contributions. For example, employers could contribute the funds to employees' health savings accounts or reim-

burse employees for their medical claims.

It remains to be seen whether the measure will go into effect or face legal challenges. In his veto message, Mayor Bloomberg said the measure, while well intentioned, had several flaws, "the most significant being that it is pre-empted by the federal Employee Retirement Income Security Act."

ERISA pre-empts state and local laws that relate to employee benefit plans, though courts have differed on the breadth of ERISA pre-emption.



Mr. Bloomberg

GE Insurance Solutions



There's not only strength in numbers. There are results, too.

Insurance is about so much more than numbers. It's about the strong, lasting relationships with experts who understand your business needs. It's about the confidence and security that come from working with some of the best underwriters in the industry. At GE Insurance Solutions, it's also about results. What else would you expect from a company that's dedicated to delivering unsurpassed customer service?

www.geinsurancesolutions.com



Primary insurance products underwritten by Coregis Insurance Company, Employers Reinsurance Corporation, First Specialty Insurance Corporation, Westport Insurance Corporation. © 2005 Employers Reinsurance Corporation



Between the Lines

Compiled by Joanne Wojcik

The employee rest room redefined

It's hard to imagine a group of insurance industry employees sitting cross-legged on the floor of a dimly lit room listening to George Winston music while sharing a collective "Ohhhmmmm."

But the employees of Blue Cross & Blue Shield of Florida in Miami, West Palm Beach, Fort Lauderdale and Orlando are free to take time out from their hectic schedules to spend a few minutes becoming "centered" in any one of the insurer's four "serenity rooms."

While meditation may not be everyone's thing, employees are free to bring anything "serenity-like"—magazines, books, CDs—into the converted meeting room in which the office furniture has been replaced with loveseats, end tables and a CD player, according to Maria Baluja, chairwoman of the insurer's wellness committee.

"We've dimmed the lights," and "there is silence," Ms. Baluja described. "The only thing that you can have in there is the soft music. No cell phones, no talking, no meetings."

Workers are permitted to stay for 10 or 15 minutes after receiving manager approval to enter, but some employees use

part of their lunch hour to de-stress before returning to work.

"It's very well received by the employees," Ms. Baluja said. "Even our medical director uses it to get away from the commotion of his busy day."

BCBS of Florida's first two serenity rooms were opened in the summer of 2003 in Miami and West Palm Beach, after the insurer's wellness committee did a study that identified stress, anxiety and depression among the top conditions affecting BCBS of Florida employees. The Fort Lauderdale and Orlando serenity rooms opened sometime later, according to Ms. Baluja.

Chubb best employer for alternative lifestyles

Not only is Chubb Corp. considered the best property/casualty insurer by the readers of *Business Insurance*, it also has been named one of the best companies for gay and transgender employees to work.

For the third year in a row, the Human Rights Campaign Foundation has given Chubb a 100% rating on its Corporate Equality Index on the treatment of gay, lesbian, bisexual and transgender (GLBT) employees. The Human Rights Campaign Foundation rates Fortune 500 and other major companies on several indicators of fair treatment for GLBT employees, including policies prohibiting discrimination based on sexual orientation and gender identity as well as equal health care benefits.

As part of Chubb's commitment to GLBT employees, it has introduced a leadership program tailored for the company's high-potential GLBT employees and joined a coalition of corporate and non-profit organizations that support the end of taxation of domestic partner benefits.

Chasing the on-air ambulance chasers

The Ohio Citizens Against Lawsuit Abuse has produced a television ad to counter what it considers deceptive daytime advertising by personal injury lawyers who promise to make the state's elderly and unemployed rich by suing health insurers.

The ad, which can be viewed on the organization's Web site at www.ohiocala.org, shows a fictitious personal-injury attorney on a game show spinning a prize wheel in hopes of reaping such rewards as the ability to file junk lawsuits against doctors or to force medicines off the market.

"This new TV commercial shows that, in lawsuit abuse, it is only lawyers who win. Ohioans lose, and our health care suffers," explains Jeff Longstreth, executive director of Ocala. "You wouldn't take medical advice from a doctor who advertises during the Jerry Springer Show, and I recommend the same for legal advice."

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

COMINGS & GOINGS - INDUSTRY

Brokers:

Willis Group Holdings Ltd. has named **Sean Cogan** senior vp and regional manager of its Japan practice group. Mr. Cogan, who will be based in Dublin, Ohio, was formerly vp and relationship manager for Aon Corp.

Heath Lambert National has named **Donald Morgan** managing director of its office in Leeds, England. Before joining Heath Lambert, Mr. Morgan was the head of the office for corporate clients for Marsh & McLennan Cos. Inc.

senior vp of Countrywide Insurance Services Inc.'s employee benefits practice in Irvine, Calif. Before joining Countrywide, she was executive director for the employee benefits department of PrideMark Insurance Agency.

the retirement practice in St. Louis.

■ **Martin G. Giglio** has been named a director in the communication practice in Pittsburgh. Formerly, he was a senior communication consultant.

■ **Kasey P. Kirschner** is now a principal in the communication practice in Atlanta, after serving as a director of products and services, communication.

■ **Brian P. Lisi** has been promoted to director in the retirement practice in Secaucus, N.J. Formerly, he was a senior consultant.

■ **George C. Madellil** is a new director in the retirement practice in Atlanta. Formerly, he was a senior consultant.

■ **D. Patrick McDonald** is a new principal in the retirement practice in Dallas, after serving as a director and consulting actuary.

■ **Eric L. Miller** has been named a principal in the retirement practice in San Francisco. Previously, he was a director.

■ **Kevin W. Nolan** has been promoted to director in the retirement practice in Berwyn, Pa. Formerly, he was a consultant.

■ **Adrian Robles**, previously a senior consultant, is now a director in the retirement practice in San Juan, Puerto Rico.

■ **Carl Schmitt** is now a principal in the compensation practice in San Francisco. Previously, he was a director.

■ **Scott M. Sheridan**, formerly a director, has been named a principal in the retirement practice in Secaucus, N.J.

■ **John R. Sullivan** has been named a director in the compensation practice in Atlanta. Formerly, he was a senior consultant.

■ **David Wax**, formerly a director, is now a principal in the compensation practice in Chicago.



Mr. Morgan

Other providers:

Chevy Chase, Md.-based Victor O. Schinnerer & Co. has named **John F. Shettle Jr.** president. Mostly recently, Mr. Shettle was CEO of Tred Avon Capital Advisors Inc.

New York-based Buck Consultants Inc. has

made several senior-level changes:

■ **Scott Berger** has been promoted to director in the retirement practice in the Secaucus, N.J., office. Formerly, he was a senior consultant.

■ **Sharon S. Blichfeldt**, a former senior consultant, is now a director in the health and welfare practice in Pittsburgh.

■ **Clare Connors** has been named a director in the health and welfare practice in San Francisco after serving as a senior consultant.

■ **Jan Cummings** is a new principal in the health and welfare practice in Detroit. Previously, she was a director. She is the health and welfare practice leader in Buck's Detroit office.

■ **Monica DeGraff**, a former senior consultant, has been named a director in the health and welfare practice in Denver.

■ **Edward G. DeLuryea** has been named a principal in the retirement practice in Atlanta. Before his promotion, Mr. DeLuryea was a director.

■ **Stephen C. Fernstrom**, a former senior consulting retirement actuary, has been named a director in

Reinsurance:

Shelton, Conn.-based BMS Vision Re has named **R. Ray Pate Jr.** executive vp for its health care team. Previously, Mr. Pate was president and CEO of NCRIC Group Inc.

Insurers:

Patrick J. Mitchell has been named chief financial officer for Atlanta-based Builders Insurance Group. Previously, he was chairman and chief executive officer of Ascent Assurance Inc.

Philadelphia-based ACE USA has made two senior-level appointments:

■ **William Hazelton** has been appointed senior vp and underwriting manager for ACE Environmental Risk. Previously, he was vp and director of field operations for Quanta Capital Holdings Ltd. He will be based in New York.

■ **Mitchell Schmidt**, formerly Western zone manager within ACE Casualty Risk, has been promoted to senior vp and underwriting manager for ACE USA's custom casualty unit. He will be based in Philadelphia.

Coralee Talmage has been named

Business Resources

To place your ad, contact **Tina Vasilakis** at (312) 649-5340 / fax: (312) 649-7937 / E-mail: tvasilakis@BusinessInsurance.com
Business Insurance, Business Resources, 360 N. Michigan Ave., Chicago, IL 60601-3806.

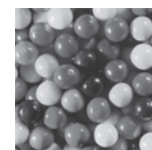
CPCU® AIC, ARM, IIA, CLU/ChFC, and CIC candidates

You'll learn more faster and you'll pass the first time or your money back. Guaranteed!

www.BurnhamSystem.com

Call 1-888-BURNHAM Now!

Some things just work better in color.



Like your BUSINESS RESOURCES ad in *Business Insurance*. Contact Tina Vasilakis at 312-649-5340.



Make an Impact!

Advertise in *BI's Business Resources*

Call (312) 649-5340

BI's Market SourceBook 2006

Closing: Nov. 7

Call now to reserve your ad space!

Tina Vasilakis
(312) 649-5340

Business Insurance
www.BusinessInsurance.com

Finite risk disclosure regs proposed

FSA seeking insurer comments on 'principles-based approach'

By CAROLYN ALDRED

LONDON—U.K. insurers, including Lloyd's of London syndicates, would be required to make fuller disclosure of financial reinsurance contracts in regulatory filings under proposals published last week by the Financial Services Authority.

"We believe that there is sufficient concern about the potentially improper use of financial reinsurance that changes in our require-

ments should be made," according to a quarterly consultation document from the FSA.

After preliminary discussions with the insurance industry, though, the regulator concluded "that it would be difficult to establish clear and effective prescriptive rules in relation to the definition of financial reinsurance," and so it instead has adopted "a principles-based approach, looking at the eco-

nomics substance of the transaction."

The FSA is seeking comments by Dec. 7 on the proposed regulations, which would apply to ceding insurers' filings prepared at year-end 2006.

"Whilst there can be perfectly legitimate reasons for using financial reinsurance, its use should be properly disclosed. The proposed rules will provide greater clarity about firms' use of financial reinsurance," David Strachan, the FSA's sector leader for insurance, said in a statement.

The FSA has been examining the use of financial reinsurance for

some time, but that its "research has shown that its use is not widespread" among U.K. companies, Mr. Strachan said.

Nonetheless, "our work has identified a small number of contracts that warranted further examination," he said, noting that "where we find firms have made improper use of such contracts or not made a full disclosure of financial reinsurance contracts or arrangements, we will take action."

The FSA would not comment on the current investigations or whether the small number of con-

See FSA/page 18

U.K. alters formula for pension levies

By SARAH VEYSEY

LONDON—The Pension Protection Fund will take into account the special cash contributions made by employers to address deficits in their occupational pension plans when calculating levies on employers, the U.K. guaranty fund said.

The PPF, which was set up to meet the unfunded obligations of insolvent employers with defined benefit pension plans, began operations in April and currently is funded by a flat-rate charge on employers.

From April 2006, the PPF will charge a risk-based levy that will take into account the level of underfunding of an employer's pension plan, the risk of insolvency of the sponsoring employer and the amount of benefits that the fund would have to pay if the pension plan were accepted into the PPF.

The PPF in July published proposals on how the risk-based levy would likely be calculated, which included assigning employers to various bands based on the likelihood of insolvency, and it initiated a public comment period on the proposals.

The PPF last week said that, as a result of feedback received during the public comment period, it would include the special contributions made by employers into their pension plans in its calculation of pension plan underfunding. In addition, the PPF said it would also take into account the use of contingent assets—such as letters of credit—used by employers seeking to address their pension funding deficits.

The PPF also said it would extend until March 31, 2006, a deadline for employers to provide the PPF board with their valuations of pension fund assets and liabilities and information about the structure of their pension plans.

The London-based Confederation of British Industry, which represents employers in the United Kingdom, welcomed the PPF's statement.

"It is vital, when calculating the levy, that the PPF takes into account the additional forms of security which companies are able to provide against their pension scheme liabilities," the CBI said in a statement.

"We also welcome the PPF's decision to include companies' special contributions when considering their valuations," the CBI said.

Consulting firm Hewitt Associates said in a statement that the changes "recognize more fairly the risk that a pension scheme poses to the PPF and also reduce the administrative burden on U.K. pension schemes."

But the CBI noted that some employers had expressed concerns about the methods used to calculate the insolvency risk of sponsoring employers, and it urged the PPF to consider these concerns. The CBI said some employers were worried that credit scores generated by Dun & Bradstreet Inc., the company chosen by the PPF to calculate employers' insolvency risk, could differ greatly from credit risk scores produced by other rating agencies.



An increase in aviation hull losses, bringing the total for 2005 so far to \$331 million, is not expected to sharply raise rates. But observers believe losses from the recent hurricanes will keep aviation rates from declining.

Storms likely to temper aviation rate declines

By SARAH VEYSEY

A spate of aviation losses this summer will likely not affect rates to any great extent, though the recent hurricanes in the United States will serve to slow the decline in rates for aviation insurance during the market's main October to December renewal season, according to a report by Aon Corp.

For the first six months of 2005, aviation hull losses totaled about \$125 million, according to the report, and liability losses about \$2.7 million. This compares with a combined total of about \$264 million for hull and liability losses for the first six months of 2004, according to the report.

But a series of six serious losses in August and September—including an Air France Airbus A340 that burst into flames on landing at Toronto's Pearson International Airport in early August—has increased the total of aviation hull losses to date this year to \$331 million.

The size of liability losses arising from

those recent incidents is not yet fully known, the report noted. These losses, though, were expected to have a "minimal" impact on aviation insurance rates, according to the report.

For the year to date, rates for aviation hull insurance have fallen by an average of 15%, while the average decrease for liability rates being seen is 13%.

But the report's authors noted that the recent hurricanes in the United States are expected to temper this decline.

While the hurricanes had little direct impact on the aviation insurance market, "the internal competition for capital within underwriting units...will undoubtedly bring pressure onto the aviation community to halt the slide in premium and provide comparable returns to those being achieved in other markets," the report said.

Copies of the report, "Airline Insurance Market Review: January to August 2005," are available from marcus.allan@aon.co.uk.

Updates

Hurricane losses will keep European prices level

Losses to the global insurance industry from hurricanes Katrina and Rita will cause European insurers to at least maintain their current pricing levels, according to a report by the ratings agency Standard & Poor's Corp. in London. The report said the recent hurricanes "will force insurers to re-examine net retentions, limits and reinstatement positions," and it added that, "at this point in the nonlife cycle, (such) large events will help the insurance sector maintain harder pricing before competition has eroded margins to or even below technical prices."

FSA fines Goshawk for syndicate risk exposure

Goshawk Syndicate Management Ltd. has been fined £220,000 (\$387,178) by the Financial Services Authority for failing to manage its underwriting agreements properly during 2002 and 2003. According to the FSA, Goshawk—the manager of Lloyd's of London syndicate 102, which closed to new business in 2003—"signed a number of binding authorities permitting third parties to take on risks and/or settle claims without properly vetting the third parties or monitoring their operation. This exposed the syndicate to unnecessary risk and contributed to significant losses on these binding authorities."

Kiln says rates to rise in wake of hurricanes

Kiln P.L.C. expects its combined losses from hurricanes Katrina and Rita to be between £42.5 million (\$74.8 million) and £52.2 million (\$91.9 million). The Lloyd's of London company, which operates London managing agency R.J. Kiln & Co. Ltd., said that, following the hurricanes, rate increases are being seen across several lines of business—particularly for catastrophe reinsurance—and that average rate increases of 12.5% are expected for 2006. Kiln said it plans to increase its underwriting capacity to £803 million (\$1.41 billion) in 2006 from £704 million (\$1.35 billion) in 2005.

RSA buys Chile-based insurer

Royal & SunAlliance Insurance Group P.L.C. has acquired Compañía de Seguros Generales Cruz del Sur S.A., a general insurer in Santiago, Chile, in a deal worth \$109 million. Cruz del Sur specializes in property insurance. In 2004, its gross written premiums were \$195 million and its combined ratio was 95.8%. If the deal meets regulatory approval, London-based RSA says it will have a 22% market share in Chile.

FSA: Regulations for the disclosure of finite risk transactions proposed

Continued from page 17

tracts has a material impact on any of the companies concerned. A spokesman stressed that the FSA had been looking into financial reinsurance before New York Attorney General Eliot Spitzer's investigations into finite reinsurance.

The FSA first consulted the insurance industry about a new regulatory approach to companies' use of financial engineering in 2002. Several prominent collapsed insurers were found to have ceded finite reinsurance policies. The new approach included guidance notes on finite reinsurance and proposals for nonlife and life insurance companies to provide additional information in their regulatory filings.

The proposals for requesting information from life insurance firms became rules in December 2002, but the remaining proposals were not implemented at the time.

"However, we have now revised and replaced these proposals, to take into account the comments received from consultees, as well as subsequent market developments," according to the FSA.

"Recently, there has been considerable public and media attention on 'financial reinsurance' because of the interest the U.S. authorities have shown in such transactions by U.S. firms," according to the FSA. U.S. investigations into finite transactions between American International Group Inc. and General Rein-

surance Corp. have prompted financial restatements and triggered probes of other companies.

"While much of this interest may stem from the particularities of U.S. GAAP accounting, there are some common underlying themes. For instance, there is the potential use of side letters or other agreements with the reinsurer to change the economic effect of the reinsurance agreement or to introduce unexpected risks or other contingencies. There is also the potential for such transactions to mask the firm's true financial position," the FSA pointed out.

The FSA wrote to the chief executives of all large and medium-sized U.K. nonlife insurance companies in March, seeking further information about their financial reinsurance arrangements. The responses helped the FSA formulate its current proposals, a spokesman confirmed.

What may be required

The FSA's proposed new rules and guidance would require nonlife insurance companies and Lloyd's to disclose in their filings the existence of and relevant information about financial reinsurance and transactions in which the credit the firm has taken is not commensurate with the level of risk transferred and the economic value added. The FSA's principles-based approach does not prescribe or define a specific amount of

risk that must be transferred.

Companies will also be required to disclose information about reinsurance contracts in which there are terms or foreseeable contingencies other than the insured event—for example, a right to cancel the contract in some circumstances—that could have a material effect on the value attributed to the contract.

Firms may take account of an appropriate amount of risk to reflect

The Financial Services Authority wrote to the chief executives of all large and medium-sized U.K. nonlife insurance companies in March, seeking further information about their financial reinsurance arrangements. The responses helped the FSA formulate its current proposals, a spokesman confirmed.

the nature and level of risk transferred, and may take into account any credit or legal risk associated with a transaction when assessing the economic value of the transaction to see whether disclosures are required, according to the FSA.

Companies must take full account of the effect of any related agreements or side letters when assessing the financial effect of each reinsurance transaction, according to the FSA.

If a company decides that certain transactions should be disclosed,

the information that the FSA would expect to be disclosed includes:

- When the contract was first reported.
- Enough information to provide a full and proper understanding of the nature and purpose of the contract.
- A statement of the financial effect of the contract on the company's financial health.
- The amount of any undis-

charged obligation of the insurer under the contract and a brief description of the conditions for discharging such an obligation.

No disclosures would be required where the financial effect of the reinsurance agreement on the firm's capital resources is not material—that is, when the financial effect on the value of both assets and liabilities is less than 1% of the total reserves.

The FSA's proposed rules will apply only to reinsurance ceded to other firms, and not to reinsurance

assumed, "as this is the area where most concerns in the past have arisen," the regulator noted.

Jeremy Casson, London-based insurance partner at consulting firm Deloitte, believes the FSA's investigation into financial reinsurance and the new guidelines will help insurers understand the importance of controls and disclosure in relation to such contracts. He noted, though, that the guidelines are regulatory requirements, not an obligation for companies to disclose the contracts in their annual financial statements.

Mr. Casson also pointed out that the disclosure requirements would be triggered only if the financial effect of the reinsurance contract were greater than 1% of reserves. "This may be appropriate for a regulatory point of view as a contract less than that would not have a material impact on a company's capital resources and solvency. But such a contract could have a material impact on the company's profit and loss account for the year," he explained.

Details of the proposed new rules can be found in Chapter 3 of the Quarterly Consultation (No. 6) 05/14, available at www.fsa.gov.uk. Comments on the proposals should be sent by Dec. 7 to William Hewitson, Wholesale & Prudential Policy Division, Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS, e-mail: Cpo5_14@fsa.gov.uk.

Professional MarketPlace

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

LEGAL NOTICE

IN THE HIGH COURT OF JUSTICE (ENGLAND)

CHANCERY DIVISION
COMPANIES COURT
No. 6363 of 2005

IN THE PETITION OF:

DAP Holding N.V. (formerly known as Verzekeringmaatschappij de Nederlandsche Luchtvaartpool N.V. and Verzekeringmaatschappij de Nederlandse Luchtvaartpool N.V.); Achmea Schadeverzekeringen N.V.; AEGON Schadeverzekering N.V.; Allianz Nederland Schadeverzekering N.V.; Amev Schadeverzekering N.V. (now known as Fortis ASR); Atradius Credit Insurance N.V.; AXA Schade N.V.; Delta Lloyd Schadeverzekering N.V.; Fortis Corporate Insurance N.V.; GENERALI Schadeverzekering Maatschappij N.V.; Goudse Schadeverzekeringen N.V.; N.V. Maatschappij van Assurantie, Discontering en Beleening der Stad Rotterdam Anno 1720 (now known as Fortis ASR); N.V. Nationale Borg-Maatschappij; Nationale-Nederlanden Internationale Schadeverzekering N.V.; Nationale-Nederlanden Schadeverzekering Maatschappij N.V.; N.V. Noordhollandse van 1816, Algemene Verzekeringmaatschappij; Vereenigde Assurantiebedrijven "Nederland" N.V.; N.V. Verzekering Maatschappij De Noord-en Zuid-Hollandse Lloyd;

For an order sanctioning a scheme of arrangement under section 425 of the Companies Act 1985 of Great Britain

NOTICE IS HEREBY GIVEN that, by an order dated 26 September 2005 made in the High Court of Justice in England and Wales in the above matters, the schemes of arrangement to be made between each of the Scheme Companies and their respective Scheme Creditors (as defined in the Scheme) pursuant to section 425 of the Companies Act 1985 (the "Scheme"), which were voted on and approved by Scheme Creditors during the meetings held concurrently on 15 September 2005, were sanctioned. A copy of the order sanctioning the Scheme was delivered for registration to the Registrar of Companies in England and Wales on 30 September 2005, and the Scheme became effective on that date.

Scheme Creditors are required to submit completed Claim Forms in respect of their Scheme Liabilities (as defined in the Scheme) to the Scheme Manager in signed hard copy form, or by fax or email to the Scheme Manager, provided that such fax or email copies are legible on receipt. Completed Claim Forms should be sent to DAP Holding N.V. Hoogoordeed 54E, P.O. Box 23320, 1100 DV Amsterdam Z.O., The Netherlands, facsimile +31 20 312 83 90; email: dapscheme@assurpools.nl marked for the attention of the General Manager as soon as possible and by no later than 4pm (London time) on the Claims Submission Date namely 30 March 2006, 6 months after the Effective Date.

Where no completed Claim Form in respect of a particular Scheme Liability is returned by or on behalf of a Scheme Creditor to the Scheme Manager by 4pm London time on the Claims Submission Date, such Scheme Creditor will not be entitled to any payment under the Scheme in respect of such Scheme Liability (except in relation to Agreed Claims). For these purposes, all references to claims being "agreed" shall mean only claims that are specifically agreed for payment under the Scheme by or on behalf of DAP Holding N.V. Therefore, Scheme Creditors are urged to confirm the status of any unpaid "agreed" claims with DAP Holding N.V. forthwith.

Information regarding the Scheme is available from the Scheme Manager on the Scheme Helpline below.

Should you have any questions regarding this Notice, or wish to obtain a copy of the Scheme or a Claim Form, you may contact the Scheme Manager at the above address, or by email: dapscheme@assurpools.nl; telephone +31 20 312 83 93; or facsimile +31 20 312 83 90.

LEGAL NOTICE

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:) In a Proceeding
Petition of Catherine Geraldine) Under Section
Regan, as Foreign Representative) 304 of the
of RIVERSTONE INSURANCE (UK) Bankruptcy Code
LIMITED.)
Subject of a Foreign Proceeding.) Case No.
05-12678 (RDD)

In re:) Jointly
Petition of Catherine Geraldine) Administered
Regan, as Foreign Representative)
of SPHERE DRAKE INSURANCE)
LIMITED, formerly Odyssey Re)
(London) Limited.)
Subject of a Foreign Proceeding.)

NOTICE OF EFFECTIVE DATE OF U.K. SCHEME

PLEASE TAKE NOTICE THAT, pursuant to the July 26, 2005 Order (the "Order") Giving Full Force and Effect to a transfer under Part VII of the Financial Services and Markets Act 2000 in England (the "U.K. Scheme") under Section 304(b) of the Bankruptcy Code entered by the United States Bankruptcy Court for the Southern District of New York, the Effective Date of the U.K. Scheme in respect of the US Requirements Business (as defined in the U.K. Scheme) occurred on October 1, 2005.

Parties in interest may obtain a copy of such Order and the referenced U.K. Scheme by making a written request to the undersigned attorneys for the Petitioner. Dated: New York, New York • October 6, 2005

DREIER LLP

By: /s/ Norman N. Kinel
Norman N. Kinel (NK0474), Jonathan F. Linker (JL8894), 499 Park Avenue, New York, New York 10022, Tel.: (212) 328-6100, Fax: (212) 328-6101, Attorneys for Petitioner Catherine Geraldine Regan, as Foreign Representative of RiverStone Insurance (UK) Limited and Sphere Drake Insurance Limited (f/k/a Odyssey Re (London) Limited)

**Need to publish a
Legal Notice or RFP**



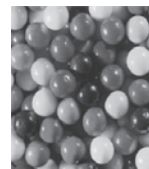
Call Tina at (312) 649-5340

Experienced professionals read
Business Insurance



Use **BI's**
Professional MarketPlace
to reach them.

Contact Tina for advertising details
at 312-649-5340 or email
tvasilakis@BusinessInsurance.com



Some things just work
better in color.

Like your PROFESSIONAL MARKETPLACE ad
in *Business Insurance*. Contact
Tina Vasilakis at 312-649-5340.



With the proper team in place, closing old comp claims possible

Experts advise maintaining advantageous loss reserve history

By MEG FLETCHER

CHICAGO—It is never too late to take control of old workers compensation claims, panelists say.

The key is assembling the right team—including an aggressive claim reviewer and medical overseer, a proactive attorney and a settlement specialist—to take control of the process, including analyzing roadblocks and resolving them, according to four panelists who discussed the topic at the REBEX 2005 conference in Chicago earlier this month.

“It is possible to have a high degree of control over your claims destiny, even on some of these moldy oldies that you think are impossible to get rid of,” said Barbara Galluppi, area senior vp at Arthur J. Gallagher Risk Management Services Inc. in Barrington, Ill.

“Our mission is to make sure that insureds maintain the most advantageous loss (reserve) history possible,” she said, asserting that an insured should remember a major tenet of the insurance industry is: “A closed claim is a good claim.”

When taking on an old claim, Ms. Galluppi emphasized that a claims reviewer should first confirm that the worker’s claim is valid. She identified four types of claims that merit special investigations: claims with questionable compensability; allegations of aggravation of a pre-existing condition; any cumulative trauma injury; and claims with high potential exposure.

In addition, she urged employers to help recuperating workers return

to transitional jobs by preparing an analysis of the physical requirements of alternative jobs and presenting that information to treating doctors, which should encourage them to release workers for such jobs.

Many old workers comp claims lack good medical oversight and monitoring, said Nancy Wood, a nurse who is area assistant vp at

“It is possible to have a high degree of control over your claims destiny, even on some of these moldy oldies that you think are impossible to get rid of.”

Barbara Galluppi
Gallagher Risk Management
Services Inc.

Gallagher Risk Services.

To improve medical oversight in an individual claim, a claims reviewer should review the claim adjuster’s documentation of the initial investigation, including a worker’s comments about injury details, and compare those with medical records and documentation, she said. That information should then be compared with the current diagnosis and treatment.

After identifying all medically related obstacles and favorable developments, the information should

be shared with claims handlers and defense attorneys. They should then develop a plan to resolve the claim, with target dates to achieve goals and a status conference every three to four weeks, Ms. Wood said.

If the worker sustained permanent total injuries or if medical care costs remain open for life, she recommends exploring whether the worker’s future medical expenses should be paid through a structured settlement to get it off the books.

“Structured settlements should be considered in any case that involves long-term fixed obligations,” such as medical or indemnity costs for a worker with permanent total disabilities, said Linda Salmon, a specialist in the Rockford, Ill., office of Atlanta-based Structured Financial Assns. Inc. The employer is not charged a fee for such services, because the annuity-providing company pays them, she said.

Elements of a structured settlement can include an immediate cash payment, inflation-adjusted monthly payments that will continue for the claimant’s lifetime, periodic lump-sum payments, college endowment funds for the claimant’s children, a medical trust fund, and Medicare set-aside of monies for future health care needs that are considered workers comp-related.

From an attorney’s perspective, there are several reasons why old claims remain unresolved in litigation before state workers comp administrative bodies, said John P. Connolly, a workers comp attorney in the Chicago office of Brady, Connolly & Masuda P.C. These include an unrealistic petitioner or petitioner’s attorney and ongoing medical care—whether reasonable or not—as well as issues related to Social Security and Medicare, he said.

Ruling: Review authority

Continued from page 3

2002 and twice more over the next eight months after Mr. Diaz appealed and Prudential reviewed the case and submitted it to the insurer’s medical consultant.

Mr. Diaz sued Prudential, but a federal district court ruled in a May 2004 summary judgment that it had no authority to review the claim. The court found that Prudential’s plan document language met the 7th Circuit’s standard for adequately notifying plan participants that the claims administrator has broad discretionary authority over coverage decisions.

The 7th Circuit offered suggested plan document language in two earlier cases to provide guidance to plan sponsors after the U.S. Supreme Court’s 1989 ruling in *Firestone Tire & Rubber vs. Bruch*.

In that decision, the high court ruled that a denial of benefits challenged under Section 1132(a)(1)(B) of the Employee Retirement Income Security Act should be fully examined by a court—with no deference given to claims administrators’ decisions—unless plan documents warn participants that such a review is unavailable. The documents must alert participants that plan administrators or fiduciaries have “discretionary authority” to both determine benefits eligibility and interpret plan terms, the Supreme Court ruled.

With such a warning, a plan limits a court’s review to determining whether an administrator or fiduciary acted capriciously or arbitrarily. If an administrator’s decision was well reasoned, a court cannot re-examine whether a participant is entitled to benefits.

Previous cases

In two cases decided in 1989 and 1994, the 7th Circuit stated that it could offer no “magic words” that would constitute an adequate warning to plan participants. But it suggested that plan language that required participants to submit claim evidence “satisfactory to us”—or equivalent wording—would suffice.

Prudential’s plan documents state that a participant would be judged disabled “when Prudential determines” that the participant meets specified criteria, including submitting proof of a disability “satisfactory to Prudential.”

But that language does not adequately warn plan participants that Prudential has broad, discretionary authority in determining coverage, the 7th Circuit panel ruled in reversing the district court’s decision.

“Fairly read, it suggests only that the plan participant must submit reliable proof of two things: continuing disability and treatment by a doctor,” the court ruled. “In short, under Prudential’s plan, the only discretion reserved is the inevitable prerogative to determine what forms of proof must be submitted with a claim.”

The appellate panel did not fault the lower court for ruling in Prudential’s favor. Instead, it said the “satisfactory to us” language it had suggested was inadequate.

Plan language instead should include a provision that mimics or is

functionally equivalent to language that the court suggested in its 2000 ruling *Herzberger vs. Standard Insurance Co.*, according to the latest ruling. That provision reads: “Benefits under this plan will be paid only if the plan administrator decides in his discretion that the applicant is entitled to them.”

The appellate panel said that its 2000 decision was not circulated to all of the circuit’s appellate judges but that its current ruling would be, which makes the Prudential ruling precedential.

Prudential has not decided whether to appeal, but the full 7th Circuit would not likely review the decision because the panel’s circulated ruling has not raised any objections from the other judges, said Prudential attorney Rebecca Rothmann, a partner with Wilson Elser Moskowitz Edelman & Dicker L.L.P. in Chicago. The insurer likely will have to decide to ask the Supreme Court to review the case, she said.

Meanwhile, the case has been remanded to the district court.

Examine documents

Experts say the ruling should prompt all plan sponsor and insurers to examine their plan documents, but there is some disagreement over how many plans do not comply with the 7th Circuit’s new standard.

George J. Pantos, counsel for the Self-Insurance Institute of America in Washington, said most plans he has seen meet the 7th Circuit’s standard.

Many employer attorneys and benefits consultants disagree.

Indeed, some plan language still does not meet the previous “satisfactory to us” standard, said employer attorney Antoinette Pilzner, a partner with Butzel Long P.C. in Ann Arbor, Mich.

But larger employers, which largely self-insure their health benefits plans, are more likely in compliance with the 7th Circuit’s new standard than are midsize and small companies, Ms. Pilzner said.

Still, experts strongly advise plan sponsors to review their plan documents, which the experts say should be done routinely anyway.

While the court said it had no “magic words,” for plan sponsors, experts suggest that plan sponsors follow the court’s suggestion verbatim.

“You take some risk by not using them,” said Henry Saveth, an attorney with Mercer Human Resource Consulting in New York.

But whatever language a plan sponsor uses, the plan administrator’s authority must be described as “discretionary,” experts maintain.

“If you’re going to give the plan administrator discretion, then give the plan administrator discretion and don’t beat around the bush by throwing in other words,” said J.D. Piro, chairman of the health care legal group at Hewitt Associates Inc. in Norwalk, Conn.

“The word ‘discretion’ should appear close to the words ‘plan administrator’ and ‘decide’” in plan documents, Mr. Piro said.

Hugo Diaz vs. Prudential Insurance Co. of America, 7th U.S. Circuit Court of Appeals, Sept. 20; No. 04-2342.

325 attend Chicago REBEX conference

CHICAGO—About 325 persons attended the REBEX 2005 conference, held Oct. 6-7 at the Intercontinental Hotel in Chicago. The annual Midwest regional conference and exhibition was jointly sponsored by the Chicago and Wisconsin chapters of the New York-based Risk & Insurance Management Society Inc. It featured 32 sessions presented in four separate tracks, as well as a luncheon with a speaker and receptions.

The organizations’ 2006 event will be held in October at the same hotel, although no specific dates have been announced, according to a conference planner.

For additional information, contact the RIMS chapter Web sites at chicago.rims.org or wisconsin.rims.org.

REBEX: Third-party risks

Continued from page 4

lapsed during construction, the subcontractor made a multimillion-dollar claim for the loss of construction materials and supplies. The insurer denied the claim, and the subcontractor sued the city for breach of contract, ultimately obtaining a multimillion-dollar judgment.

Mr. Mishara also said that a company should be selective in adding third parties as additional insureds to its property policy, because that status can confer those parties with certain legal rights.

For example, while subrogation typically allows an insurer to recover a paid claim from a wrongdoer who caused the loss, most states do not allow the insurer to subrogate against its own insured or against those third parties a policyholder has added to its coverage as additional insureds.

Mr. Mishara also recommended

that a company “grant subrogation waivers only when it is in your interest and then only prior to the commencement of the project.” He warned, though, that some courts differ about the intended scope or breadth of subrogation clauses.

In addition, Mr. Mishara recommended that certificates of insurance clearly state whose interests are covered and what property is involved.

Once construction is underway, it is important to control access to the construction site, including enforcing log-in procedures to prevent theft, Mr. Wright said.

The company also should require change orders for any additional work “to keep the project well-documented,” Mr. Burton said.

A knowledgeable employee should oversee contractors, monitor work quality and check the site for workplace or procedural violations, both speakers said.

Weakened Al Qaeda increases threats to civilian targets

By MARK A. HOFMANN

WASHINGTON—Al Qaeda has been weakened, which may ironically put civilian targets at a greater risk of terrorist attacks, according to a terrorism expert.

In fact, because of the damage inflicted upon it, Al Qaeda is becoming more "a movement of movements," said Robert Reville, director of the RAND Institute for Civil Justice and co-director of the RAND Center for Terrorism Risk Management Policy in Santa Monica, Calif. Smaller groups will seek easier targets, he said.

Mr. Reville offered his observation during a Capitol Hill symposium on terrorism risk insurance held earlier this month. During the symposium, the RAND terrorism center joined the Center for Risk & Economic Analysis of Terrorism Events at the University of Southern California in Los Angeles and the Wharton Risk Management & Decision Processes Center at the Univer-

sity of Pennsylvania in Philadelphia in proposing six principles to guide public policy regarding the future of terrorism insurance.

The principles were unveiled during the Capitol Hill symposium on terrorism risk insurance earlier this month. The symposium came against the backdrop of the looming expiration of the Terrorism Risk Insurance Act, which provides a governmental financial backstop for insurers paying losses from future catastrophic terrorist attacks. The Bush administration does not support the extension of TRIA, which is slated to sunset on Dec. 31, unless the program undergoes significant revisions, most notably requiring the private insurance market to assume a greater amount of the risk.

A 'dynamic threat'

Mr. Reville's comments concerned two of the principles. One is that terrorism is a national security

issue and that the public sector has a responsibility to make terrorism insurance widely available and to encourage its use. The other is that terrorism is a dynamic threat. "The terrorists react to our actions and seek innovative ways to undermine our defenses. Public policy regarding terrorism insurance should evolve along with the threat," according to the statement outlining the principles.

Mr. Reville said that the weakening of Al Qaeda has resulted in a sort of "franchising" of terrorism. These locally autonomous groups make determining whether a terrorist attack was of foreign or domestic origin much more difficult. But he noted that TRIA makes a distinction between the two sources of terrorist attacks.

TRIA covers only foreign-originated attacks. That distinction could cause confusion in the wake of a future attack, he said.

Meanwhile, Mr. Reville pointed out that the strengthening of gov-

ernment targets against terrorist attacks may make civilian targets more attractive to terrorists, resulting in what he called a "displacement of risk phenomenon." That could mean greater reliance on terrorist insurance, he said.

Other principles

Mr. Reville also noted that Al Qaeda is increasingly interested in attacking economic targets, such as financial institutions.

The principles, though general, drew criticism from a Bush administration official who said that they did not give adequate emphasis to the private sector's role in providing terrorism insurance.

The other four principles are:

- The likelihood of a terrorist attack should be considered when determining insurance pricing and coverage. Risk analysis can be useful in informing insurance pricing and purchasing decisions.
- A public policy that anticipates

high rates of uninsured losses should not be tolerated unless there is acknowledgement that the public sector will respond with federal assistance after the attack.

• Loss distribution: The design of a terrorism insurance program should consider the distribution of losses after an attack among victims, insurers, all commercial policyholders and taxpayers.

• Mitigation measures: Public policy on terrorism insurance should encourage those at risk to adopt mitigation measures.

Douglas Holtz-Eakin, director of the Congressional Budget Office, criticized the principles as relying too much on the public sector. "What's notable by its absence is the private sector," said Mr. Holtz-Eakin.

In addition to RAND, USC and Wharton, the Communications Institute of Pasadena, Calif., and the Washington-based publisher Congressional Quarterly sponsored the Oct. 7 event.

TRIA: Possible expiration leads to concerns about economic impact

Continued from page 4

ernment backstop in either its current or any diminished form.

If there is no backstop, the economy could pay a considerable price, predicted several participants in a panel discussion at the symposium.

TRIA needs to be viewed within its role in maintaining the country's economic resilience, said Art Raschbaum, general director-corporate risk management for Detroit-based General Motors Corp. and senior vp and director of GMAC Insurance Holdings Inc. Mr. Raschbaum said he remains "highly skeptical" of the amount of private capital that could

be raised to cover terrorism risk. Without an extension or replacement of the TRIA program, "the economy will suffer," he said.

"The reinsurance market is one that is risk-averse" when it comes to terrorism, said Robert V. Hatcher III, executive vp of Willis Re Inc. in Philadelphia. That risk aversion will probably be magnified by the impact of Hurricane Katrina, Mr. Hatcher said. "I do not believe, in the wake of Katrina, the reinsurance marketplace will step up," he said.

There currently exists about \$169 billion in commercial insurance capital for all risks, said Brian Melas,

senior vp-commercial markets and manager-commercial markets administration for Liberty Mutual Insurance Co. in Boston. "A significant terrorist event would exhaust" a significant portion of that capital, Mr. Melas said.

"We think the industry needs to stand up and assume more risk," but insurers would need more capital to do so, he said.

Anyone interested in the extension of TRIA needs to talk to political leaders, said Peter Lowy, CEO of Westfield Corp. Inc. in Los Angeles. Mr. Lowy said the insurance industry would have a "major liquidity"

problem if both a hurricane similar to Katrina and a major terrorist attack were to occur within a short time period.

Mr. Lowy said Congress and the president should convene a blue-ribbon commission to examine long-term solutions to the provision of terrorism insurance. As an executive with a multinational corporation, he stressed his belief that the issue of a backstop is one of global competitiveness.

"If TRIA is not renewed," corporations may well consider the lack of a government terrorism insurance financial backstop when de-

termining where to locate facilities, perhaps to the detriment of the United States, he said.

The Oct. 7 symposium on terrorism insurance was sponsored by the RAND Center for Terrorism Risk Management Policy in Santa Monica, Calif.; the Center for Risk & Economic Analysis of Terrorism Events at the University of Southern California in Los Angeles; the Wharton Risk Management & Decision Processes Center at the University of Pennsylvania in Philadelphia; the Communications Institute of Pasadena, Calif.; and the Washington-based Congressional Quarterly.



Sponsored By: **inter:resolve**
resolving reinsurance problems without legal proceedings

Winning Strategies for REINSURANCE DISPUTE RESOLUTION

THE LEGAL, PRACTICAL AND TACTICAL GUIDE

28th & 29th November 2005 — The Grange Holborn Hotel, London WC1

Attend this conference for expert insights on:

- The key causes of disputes and tips on how to avoid them arising
- How you can benefit from early neutral evaluations
- Successfully using mediation to settle your dispute
- What you need to know when negotiating and drafting your arbitration clause
- Conducting arbitrations in the UK: a complete practical and tactical guide
- Arbitrations with a US dimension
- How you can modify, confirm or challenge an arbitral award

Media Partner:

To register call +44 20 7878 6888... or fax +44 20 7878 6885...
or visit our website at www.C5-Online.com/redispute

Business Insurance
www.BusinessInsurance.com

Priority Service Code: 543106.BI

WebCOBRA.com
Unlock the Benefits in COBRA Administration

Internet-based COBRA Administration

"WebCOBRA.com offers the functions of our server-based

COBRA software system, TravisCobra, which has been available since 1986 and is used by more employers and TPAs/COBRA administrators than any other system"

- COBRA OnDemand: connect from any computer with internet access
- No software to install, update, or maintain
- Intuitive system/Wizard oriented
- No need to purchase expensive software
- Give your clients real-time access to reports
- WebCOBRA.com has been culminated from 18 years of COBRA Administration software experience

Experience the benefits of cutting-edge, web-based COBRA Administration from the industry leader!



Travis Software

Call 866.866.9264 or visit WebCOBRA.com

Chaplains: Employers hire ordained employee advisers

Continued from page 3

they recognize that, in today's dispersed society, their employees may live far away from their families, may be "unchurched," and, therefore, may have no support systems to turn to in crisis situations.

At the same time, "employers are finding chaplaincy to be a way they can really try to reach beyond what happens at work and help employees with some of these demands that get placed upon them...from being an employee and a member of a family," according to Dwayne Reece, an associate vp with Corporate Chaplains of America in Wake Forest, N.C.

"We've added more than 50 new companies this year under chaplaincy, and we don't see the demand going away—in fact, it's increasing," Mr. Reece said.

Corporate Chaplains employs more than 70 chaplains, who serve close to 400 companies in 16 states.

Caring in the workplace

Providers of corporate chaplaincy services say their goal is to care for employees of all faiths as well as those of no faith, not to preach conversion to one particular religion. A chaplain will address spiritual or religious issues with an employee, they say, but only when the discussion is initiated by the employee.

Corporate chaplains follow strict codes of ethics or doctrinal statements that prohibit the violation of religious boundaries. And while the corporate chaplains are of Christian denominations, they can put employees in touch with representatives of other faiths, such as rabbis or imams, if requested, they say.

"We know what you can and you can't do," said Mr. Stricklin, a retired Army chaplain. "We are not

out there to push religion. We are not out there to turn a business into a church."

"We do nothing but take care of people," he said. "We do exactly what a priest or minister would do. We've done in excess of 1,500 funerals for people who didn't have anyone else to bury their family members. We do weddings, hospital visits, crisis intervention and prison visits. ...We reach out to folks in a time of need, and some people want to go to someone who believes in a higher power. They want somebody to pray for them even though they may not practice prayer," Mr. Stricklin said.

One of the advantages of having a corporate chaplain is that an employee may be more apt to approach a chaplain for help than he or she would a counselor, and the chaplain can encourage the employee to use the company's existing EAP or refer the employee to outside help, providers say.

"We've discovered, in many cases, that the EAP utilization rates actually increase after implementation of the chaplaincy program, and that's fueled by and large because of the chaplains referring the people into the EAP," said Mr. Reece of Corporate Chaplains.

"The utilization rates tend to go up because the employees feel they can trust us. We're something more than just a licensed counselor," said Diana C. Dale, president and chief executive officer of Worklife Institute, a Houston-based employee assistance counseling firm that offers chaplaincy services. In addition to being perceived as providing stricter confidentiality, "we can deal much broader than they can. We can talk about their deep issues like spirituality and meaning. Whenever there's a crisis, religious ideation starts coming in, and we can deal

with that comfortably," Ms. Dale said.

Unlike some corporate chaplaincy providers that don't require formal training, Workplace Institute offers clinically trained corporate chaplains. Ms. Dale, for example, is a licensed marriage and family therapist, an advanced addiction counselor and a trained mediator, as well as an ordained priest in the North American Old Catholic Church.

Chaplains at work

Nottingham, Pa.-based snack food company Herr Foods Inc. has been offering corporate chaplains to its roughly 1,500 employees for about 10 years now.

"We like the idea because it fits into our culture of caring for people," said Ed Herr, the company's president.

"Employers are obligated to refrain from efforts to proselytize or endorse any particular faith."

Gerald Maatman Jr.
Seyfarth Shaw L.L.P.

Between 30 and 35 part-time chaplains work at Herr Foods 22 Mid-Atlantic locations. The chaplains co-ordinate with Herr's existing EAP.

"They do worksite visits, which may mean they catch somebody in the cafeteria having lunch and just say, 'Hi.' Or it may mean that as they walk to the plant, they wave to people," Mr. Herr said. "They basically try to make themselves visible and by (being) visible, be available."

Mr. Herr said that while he'd like to say that statistically the corporate chaplain program has increased productivity among employees, he feels good just knowing that there is somebody there for them should there be a tragedy or a need.

Pittsburg, Texas-based poultry processing giant Pilgrim's Pride Corp. also has found success with

its chaplaincy program, which is called Pilgrim Cares.

"We constantly hear from our partners and their families that they really appreciate the program and appreciate the interest shown in them," said Jane T. Brookshire, vp-human resources.

It's also been positive for the human resources department because "oftentimes our partners are more comfortable going to the chaplains about personal issues than they are going to someone within the company" due to privacy concerns, she said.

The Pilgrim Cares program acts as the company's EAP and is available to the more than 35,000 employees and their families in more than 70 worksites across the United States.

"Our founder, Bo Pilgrim, does consider himself to be a Christian businessman and is very open per-

sonally about his faith," Ms. Brookshire said. "But I also think we all believe that people need to be cared for, and continually the biggest issues people go to our chaplains about are family-related issues, and those things go on regardless of your faith."

Potential liability

Both Ms. Brookshire and Mr. Herr said they have never been sued over their chaplaincy programs and receive few, if any, complaints from employees.

Labor and employment attorneys say, though, that employers need to be careful to not run afoul of religious discrimination and harassment laws.

"Employers are obligated to refrain from efforts to proselytize or

endorse any particular faith," said Gerald Maatman Jr., a labor attorney with Seyfarth Shaw L.L.P. in Chicago. "Chaplains in the workplace—especially to the extent they introduce faith-based issues into the office—may breed the conditions for a discrimination complaint, especially if an employee objects and claims it makes his or her working conditions uncomfortable."

"Introducing a chaplain is akin to making an employee listen to religious issues when they don't necessarily wish to engage in such a conversation," Mr. Maatman said.

This is why it is imperative that a chaplaincy program be voluntary and offered to all employees, and that representatives of other religious denominations be made available, attorneys say.

"They need to provide the service to everyone regardless of their religion, and they need to have a referral network for a way to refer people who particularly want to talk to someone of a different religion," said Ms. Rochelle of Littler, Mendelson.

"I don't think a company has a legal obligation to pay a roster of chaplains to meet every need of the employees and any possible denomination or religious background, but I do think they need to make that effort," she said.

At the same time, Ms. Mendelson said that because many of the business owners who want to provide workplace chaplains are "friendly to religion" themselves, they need to make sure they do not create an impression in the workplace that employees need to adhere to the owner's religion in order to succeed in the company.

"If it's just a voluntary employee benefit and another alternative employee benefit that's private, confidential and between the chaplain and the individual employee, then I think it's safe and I think you have very minimal liability exposure," said Dean J. Schaner, a labor attorney with Haynes & Boone L.L.P. in Houston.

Contract: London market steps up efforts to achieve clarity in policies

Continued from page 1

The Financial Services Authority has set a Jan. 1, 2007, deadline for the London market to achieve contract certainty.

In his letter, Mr. Prettejohn urged London company market CEOs to "communicate the definition and principles of contract certainty to the board of your company and obtain its commitment to them."

The Market Reform Group will contact all CEOs of London market companies before the end of the year to ensure that this has taken place, "so that the market can give further assurance to the FSA that all firms are committed to achieving the contract certainty target," the letter said.

According to Mr. Prettejohn's letter, the FSA "has indicated that it will be formally reviewing progress at the end of 2005 to determine whether, in its view, the market is on track to achieve satisfactory performance by the end of 2006."

The Market Reform Group defines contract certainty as "the

complete and final agreement of all terms (including signed lines) between the insured and insurers before inception."

The code of practice circulated to the market last week states that "the full wording must be agreed (to) before any insurer formally commits to the contract" and that "an appropriate evidence of cover is to be issued within 30 days of inception." The code of practice also requires brokers to "notify all terms to their client and obtain their client's agreement before inception."

Under the code, brokers and insurers should "ensure that post-inception amendments are documented and agreed as endorsements." And the code also requires brokers and insurers to "each collect and maintain data on their contract certainty performance at individual contract level."

The Market Reform Group also issued a checklist for insurers and brokers that encourages them to verify that there are no ambiguous terms in contracts, that broker payments

are clearly expressed, and that all broker/insurer agreements are clearly stated in the submissions.

In addition, the group has set interim targets for the market as it works to meet the Jan. 1, 2007, deadline.

By the end of 2005, the group aims for 30% of the monthly volume of contracts placed to be "certain" and comply with the checklist's requirements. By the end of June 2006, it hopes that 60% of the monthly volume of contracts placed will meet this target, and by the end of 2006, 85% of the monthly volume of contracts should meet these requirements, it said.

The group hopes that the code of practice and checklist will give the market "the practical help they need" to meet the FSA's deadline for contract certainty, said Simon Sperryn, chief executive of the Lloyd's Market Assn., which represents Lloyd's underwriters.

Mr. Sperryn said it is "imperative" that the market meets the FSA's deadline, and all underwriters

and brokers need to be able to show the regulator that they are making progress toward hitting that target.

"Of course, each individual company is ultimately responsible for its own actions in achieving contract certainty, but I believe these guidelines will prove an enormous help to the International Underwriting Assn.'s members as they each agree (to) their own strategies," said John Hobbs, director of market services at the London-based IUA, which represents London company market insurers.

It will be a challenge for the London subscription market to meet the FSA's deadline, according to Peter Staddon, head of technical services at the London-based British Insurance Brokers Assn., because of the "complexities of the risks and the diverse way in which they are placed and written."

Nonetheless, Mr. Staddon said that there are indications that the market will, in large part, have achieved contract certainty by December 2006.

There is a "higher level of confidence in the market now" that the FSA's deadline can be met, said John Spencer, group chief executive of London-based broker BMS Associates Ltd.

ADVERTISER INDEX	
Issue of October 17	
ADVERTISER	PAGE #
Ace	7
Aetna Corporate	9
American Re-Insurance	12
Aon Corporation	2
Burnham Systems	16
Business Insurance	13, 19
C5-Online	21
Exante Financial Services	14
GE Insurance Solutions	15
Harvard Pilgrim	13R
Marsh Inc.	24
RMTS, LLC	6
Travis Software	21
Wausau Insurance Companies	5
XL Insurance	11

Property: Insurers curb capacity after storms

Continued from page 1

is estimated to cost the company between \$14 million and \$16 million after taxes and reinsurance.

"Our loss from Katrina exceeded all modeled estimates," said Michael Oakes, James Rivers' chief financial officer. As a result, the company—which wrote commercial property risks throughout the United States—is suspending its property business "until there is an opportunity to make consistent underwriting profit," Mr. Oakes said.

And Hamilton, Bermuda-based Quanta Capital Holdings Ltd., which estimated it will suffer losses of up to \$58 million stemming from hurricanes Katrina and Rita, reported it will discontinue writing new policies for its technical risk property and property reinsurance lines of business, pending the outcome of an internal analysis.

"The combination of the unprecedented magnitude and frequency of these events over the past two years...has given us concerns about the prospect for profitability," a New York-based spokeswoman for Quanta said.

Despite predictions for a hardening rate environment going forward, Quanta remains concerned about the volatility of certain cat-exposed property lines of business, she noted. "Our results have been overshadowed by the frequency and severity of windstorms in these past two years," and as part of the company's review of its

portfolio, "we want to look at the efficacy of the catastrophe models that support those lines of business," the spokeswoman said.

Even companies that have not actually pulled out of the property market are growing cautious about taking on property exposures, observers say.

"We are definitely seeing underwriters becoming more conservative in the marketplace," said Bob Howe, managing director, global property placement at New York-based Marsh Inc.

Although only "a very small number have said they were going to exit property business for the duration of the year," Mr. Howe said, some companies indicated during Oct. 1 renewals that they "won't be writing any new cat-exposed business for the remainder of the year."

Pembroke, Bermuda-based Endurance Specialty Holdings Ltd.—though it has not yet suspended any lines of coverage in the wake of the hurricanes—said it is considering making changes with regard to its direct property business.

"Since Hurricane Katrina, we've had a new appreciation for the amount of catastrophe risk that is involved in that business," a spokeswoman for Endurance said. "What we're doing is taking sort of a second look at our direct property business, which is written out of Bermuda."

Among other things, the company is in the process of reviewing the

catastrophe component in that particular niche, and reevaluating terms and conditions, and pricing for that line of coverage.

"Certainly, a number of markets are reevaluating the way they are looking at their risk modeling," Marsh's Mr. Howe said. Underwriters may amend their evaluation of natural catastrophe risks in terms of attributing a once in 250-year event with the same sort of loss magnitude that that they would attribute to a once in 500-year event, he said.

"Like all carriers, we're going to be carefully examining natural catastrophe exposures to ensure a balanced portfolio," said John F. White, vp business development in Chicago for Allianz Global Risks U.S. Insurance Co. The company still plans to deploy its full \$300 million in property capacity, though, Mr. White noted.

But going forward, capacity for cat-exposed property risks will likely get tighter, experts agree.

There are "lots of signs in the market" that capacity for property risks may be in shorter supply in the coming months, said Mr. Howe.

On the reinsurance side, "we don't have an intention to reduce our capacity," said Hans Rohlf, chief underwriting officer and managing director for Hannover, Germany-based Hannover Re Group.

"But in the insurance market, we have heard that several companies intend to reduce their risk capacity," Mr. Rohlf said.

Late News

Continued from page 1

to reinsure long-term disability policies written by Metropolitan Life Insurance Co. and life insurance and accidental death and dismemberment policies written by Prudential Insurance Co. of America. MetLife would retain 10% of the LTD risk, while Prudential would fully reinsure the life and AD&D risk with the captive.

Gainesville, Fla. drops Gallagher as broker

After a 17-year relationship with Arthur J. Gallagher & Co., the city of Gainesville, Fla., is in the process of switching brokers to Marsh Inc. The Gainesville City Commission last week granted approval for the city to begin negotiations with Marsh to place about \$4 million in property, casualty and excess workers compensation premium on its behalf. The move comes on the heels of Gallagher informing the city in June that it had overcharged it \$1.3 million over a 14-year period of time. Gallagher has since reimbursed the city for the overcharges. Gallagher has stated that an internal review discovered the overbilling, and that it was an isolated incident handled by one producer who has since been terminated.

IRS announces pension contribution increases

The limits on contributions to defined contribution plans and on the amount of benefits that can be funded through defined benefit pension plans will increase next year, the Internal Revenue Service said. Among the increases announced, in 2006, 401(k) plan participants will be able to contribute a maximum of \$15,000, up from \$14,000 in 2005. In addition, participants age 50 and older will be able to make an extra \$5,000 in "catch-up" contributions, up from this year's \$4,000 limit. The total annual maximum contribution—which would also include employer contributions—to defined contribution plans will increase to \$44,000 from \$42,000.

Panel considers health cover tax cap

A presidential tax reform panel is considering, as a revenue-raising measure, a cap on the amount of tax-free health insurance coverage employers can provide to employees. Panel members have been discussing a cap that would be set at about \$11,000 for family coverage. Above that amount, any employer contribution would be included in an employee's taxable income.

California gives tax breaks to HSAs

Gov. Arnold Schwarzenegger has signed legislation that amends California law to conform with legislation Congress passed in late 2003 giving federal tax breaks to health savings accounts linked to high-deductible health insurance plans. Under the measure, A.B. 115,

contributions employees make to HSAs will be tax-deductible, while employer contributions will not be added to employees' California taxable income. Additionally, distributions made from the accounts to pay for medical-related expenses will not be taxed.

Canadian province plans comp rate cut

The Saskatchewan Workers' Compensation Board is proposing a 6.6% decrease in employer premium rates for 2006. WCB Chief Executive Officer Peter Federko attributed the proposed rate decrease to a decline in the number and duration of claims requiring workplace absences, a drop in the province's workplace injury rate from 4.95% in 2002 to a projected 4.13% at the end of 2005, and a slow but steady rise in investment income. Several other provinces, including British Columbia and Alberta, have also announced plans to lower employer premiums in 2006.

RRG group seeks NAIC hearings

The National Risk Retention Assn. has asked state insurance regulators to hold hearings "to explore 'good regulation' in the context of" risk retention groups. The request, made in a Oct. 10 letter to the heads of the National Assn. of Insurance Commissioners' risk retention working group and risk retention group task force, came in response to a recent U.S. Government Accountability Office report on risk retention groups. In its letter, the NRRRA calls on the NAIC to hold hearings on RRGs to allow more industry input.

PBGC to assume huge loss if plans fold

The Pension Benefit Guaranty Corp. would be hit with one of its biggest losses ever if financially troubled auto parts manufacturer Delphi Corp. terminates its massively underfunded pension plans. According to preliminary PBGC estimates, the agency would have to guarantee about \$4.1 billion in benefits that Delphi promised to more than 75,000 participants in two Delphi plans but did not fund. Delphi, which filed for bankruptcy last week, has not said whether it intends to terminate its pension plans. Steve Miller, Delphi's new CEO, said this week, though, that the big question facing the company is whether it can develop a reorganization plan that will generate enough capital to fund the pension plans.

At BusinessInsurance.com

New Online Poll: Do you think the Lawsuit Abuse Reduction Act will be enacted before the end of this year?

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.

Segal: Exec found competent for sentencing

Continued from page 3

May 2004, the prosecution alleged that beginning as early as 1990, Mr. Segal took millions of dollars from the brokerage's premium fund trust account to expand his business and to finance a lavish lifestyle.

The defense contended that Mr. Segal was a victim of bad accounting at the brokerage and that no insurer or customer was ever harmed.

It also maintained that Mr. Segal was a victim of a scheme by former

Near North executives who tried to wrest control of the company from him and then went to the FBI about the premium fund deficit in retaliation.

Mr. Segal was eventually convicted on 13 counts of mail fraud, one count of wire fraud, seven counts of making false statements, three counts of embezzlement, one count of tax conspiracy and once count of racketeering.

Late last year, Judge Castillo acquitted Mr. Segal of the seven counts of

making false statements, but upheld the more serious counts.

Near North National Insurance Brokerage Inc., once the nation's 18th largest broker of U.S. business based on \$199.9 million in 2002 brokerage revenues, also was convicted on similar fraud charges.

After two failed attempts to sell the brokerage, Mr. Segal eventually transferred what was left of the brokerage to Chicago-based Mesirov Insurance Services Inc. in August 2003.

BI Stock Index [10/10 - 10/14]

Up-to-the-minute data for all 85 companies that comprise the BI Stock Index can be found at www.businessinsurance.com.

Percentage change of BI Stock Index vs. key indicators

BI Stock Index	
2640.86	-0.07
Dow Jones	
10287.34	-0.05
S&P 500	
1186.57	-0.78

Largest gains

Harleysville Group Inc.	6.76%
SCPIE Holdings Inc.	5.13%
UNICO American Corp.	2.85%
XL Capital Ltd.	2.50%
AXA	2.21%

Largest losses

Fairfax Financial Holdings Ltd.	-11.40%
IPC Holdings Ltd.	-8.49%
Lincoln National Corp.	-5.30%
Gainsco Inc.	-5.03%
Navigators Group Inc.	-5.03%

Weekly change by market segment

Brokers	-0.52%
Insurers/Reinsurers	-1.23%
Managed Care Organizations	-0.76%

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