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EMPLOYER VICTORY IN ADA CASE FOCUSING ON ABILITY TO DRIVE LIKELY SHORT-LIVED / PAGE 3

In Brief

Aon to sell units writing auto cover

Aon Corp. has agreed to sell its AIS Management Group underwriting unit to auto insurer Mercury Insurance Group. Mercury will pay Aon \$120 million and up to \$34.7 million more, depending on the profitability of the acquired business, over the next two years. The sale includes business under the Auto Insurance Specialists Inc., PoliSeek and Aon Recreation Insurance brands.

A.M. Best drops XL Life to A-

A.M. Best Co. Inc. has downgraded XL Life Ltd.'s financial strength rating to A- from A, and said the outlook for the subsidiary of XL Capital Ltd. is stable. The rating change is in part due to pressure on capitalization and declining

See **IN BRIEF** page 34

AIG forced to curb exec pay, spending

As woes mount, Greenberg slams bailout terms

By **DOUGLAS McLEOD**

NEW YORK—American International Group Inc.'s struggles worsened last week as New York's attorney general attacked it for lavish executive pay and spending practices, and former Chairman Maurice R. Greenberg asserted that the insurer likely won't survive without revisions to its bailout deal.

AIG Chief Executive Officer Edward M. Liddy agreed last Thursday to help New York Attorney General Andrew Cuomo recover bonuses and other payments to former executives, a day after Mr. Cuomo blasted the payments as



SILENCE: Former chief Maurice R. Greenberg refuses to testify on Gen Re finite deal. Page 33

“unwarranted and outrageous.” Mr. Liddy also agreed to end “all junkets and perks” for executives, canceling scores of planned AIG events that would have cost it more than \$8 million.

On Friday, the House Oversight and Government Reform Committee also demanded that AIG provide a variety of documents, including details of how the insurer has

used money borrowed to date under its \$85 billion loan facility with the Federal Reserve and a separate \$37.8 billion facility backing AIG's securities lending operations. The committee, chaired by Rep. Henry Waxman, D-Calif. also



BLOOMBERG NEWS/LANDOV

New York Attorney General Andrew Cuomo last week forced AIG to cancel numerous events.

demanding e-mails and other communications of executives of AIG's troubled financial products division for the past two years.

Meanwhile, Mr. Greenberg wrote to Mr. Liddy last Monday warning that the terms of AIG's \$85 billion

See **AIG** page 33

Tight money may limit policyholder credit lines

Financial turmoil could restrict LOCs required for collateral

By **ROBERTO CENICEROS**

The credit crisis' potential of limiting the availability of letters of credit for large-deductible casualty programs and other exposures is grabbing the attention of some risk managers.

Some already are feeling the pinch of the credit crunch on their insurance programs and are looking to make adjustments.

While soft market conditions provide some relief, the prospect of future difficulties is driving other risk managers to research alternatives to LOCs, experts say.

Risk managers depend on LOCs to provide collateral that insurers demand to guarantee that losses within a large-deductible program are ultimately borne by the insured.

The credit letters, along with surety bonds or cash, also are commonly posted in many states as collateral that regulators require to guarantee that claims will be paid under self-insured workers compensation programs.

Companies obtain letters of credit under a “revolver” or credit facility similar to a mortgage equity line of credit that homeowners tap. Companies turn to their revolvers for competing needs, such as expansion projects or posting insurance deductible collateral.

Downers Grove, Ill.-based HAVI Group L.P., for instance, relies on one bank's credit line for its risk management LOCs and other needs.

Tightening credit markets have created a dilemma of applying the credit line for a business venture in Brazil or financing LOCs for its workers comp program, said Alan Kubitz, director of risk management at HAVI.

The product and logistical services provider has limited credit available through its bank; there-

See **COLLATERAL** page 34

Candidates weigh in on 401(k)s

Amid crisis, Obama, McCain offer competing plans on access to funds

By **JERRY GEISEL**

WASHINGTON—The financial crisis that has walloped many employees' and retirees' 401(k) and other retirement plan account balances has also spurred both presidential candidates to unveil proposals to ease the tax bite of plan withdrawals.

The two candidates, though, take different approaches in improving employee access to 401(k) plan balances and in lowering the taxes retirees pay

when they receive a 401(k) plan distribution.

Under a proposal by Democratic Party nominee Sen. Barack Obama, D-Ill., 401(k) plan participants in 2008 and 2009 could withdraw 15% of their account balance, up to \$10,000, for any reason and not be assessed the 10% penalty tax that now applies on such withdrawals. Regular income taxes would continue to be imposed.

The Obama proposal would be a big change from current law regard-

ing withdrawals. In addition to being hit with both income and penalty taxes, such withdrawals now are allowed only if they meet “hardship” criteria laid down by the Internal Revenue Service.

Under a proposal by the Republican Party nominee, Sen. John McCain, R-Ariz., distributions of up to \$50,000 taken in 2008 and 2009 would be taxed at a 10% rate. Under current law, distributions are taxed as ordinary income. For retirees in the top tax bracket—now 35%—the change advocated by Sen. McCain would mean potential tax savings of up to \$12,500 a year in 2008 and 2009.

In addition, while differing somewhat in detail, the proposals by Sens. McCain and Obama both would temporarily relax so-called minimum distribution requirements that now require retirees to start withdrawing funds from their 401(k) plans in the year in which they reach age 70½. The distributions are based on life expectancies

See **ELECTION** page 31

SPOTLIGHT

WORKERS COMP & DISABILITY MANAGEMENT

Front-line employees drive changes to reduce injuries; predictive models used to sift through comp claims; employers use established programs to help veterans return to work;



interview with Vietnam vet on work as therapy for returning soldiers; employers evaluate performance of third-party administrators.

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Florida's storm insurer could face shortfall

Fund official disputes concerns by rating agency, underwriter

By JUDY GREENWALD

TALLAHASSEE, Fla.—The Florida Hurricane Catastrophe Fund could be short more than \$14 billion should a severe hurricane strike this year given the difficulty of raising funds in today's constricted municipal bond market, according to the fund.

The 2008 hurricane season is drawing to a close, but a severe storm with losses could present serious difficulties for primary insurers that are relying on the fund for their catastrophe coverage of Florida risks, and could possibly lead to ratings downgrades, observers say.

The fund has a total potential liquidity of \$10.29 billion.

However, a fund official said such a problem is highly unlikely.

Rating agency A.M. Best Co. Inc.

CAPACITY

The Florida Hurricane Catastrophe Fund has an estimated loss reimbursement capacity of \$13.29 billion over the next 12 months, broken down as follows in billions of dollars:

Projected fund balance	\$2.79
Pre-event & other liquidity resources	\$7.50
Post-event borrowing capacity	\$3.00
Total loss reimbursement capacity	\$13.29
Annual assessment	2.7%

Source: Florida Hurricane Catastrophe Fund

last week said it is concerned about the fund's ability to pay claims in the event of a severe hurricane. The Oldwick, N.J.-based rating agency said it has started to assess the effect on rated entities' risk-adjusted capitalization "based on the reduction in the potential coverage available from the FHCF."

According to data released last week, the FHCF's single-season maximum loss reimbursement obligation is now about \$27.8 billion. The fund

projects, however, that it can raise only an estimated \$3 billion over a 12 month-period under current municipal bond market conditions.

Taking into account a projected fund balance of \$2.79 billion and pre-event and other liquidity resources of \$7.5 billion, this gives the fund a 12-month loss reimbursement capacity of only \$13.29 billion, leaving a potential shortfall of \$14.49 billion.

The resources take into account

the \$4 billion in bonds that Berkshire Hathaway Group Inc. agreed to buy under a put option deal announced earlier this year that is triggered if the FHCF has more than \$16 billion in losses.

"This is a catastrophe waiting to happen," E. Graham Clark, managing director, financial institutions group at Citigroup Global Corporate Bank in New York, one of the fund's senior managing underwriters, said in a speech earlier this month. He warned that if there is a severe storm, the fund would not be able to raise the necessary amount of capital because of the current market environment.

He said some of the fund's largest investors, primarily European investors, have already required a bailout by their own governments. "This capital structure is insolvent," he said.

Citigroup later issued a statement that said, "Mr. Clark's remarks about the Florida Hurricane Catastrophe Fund are highly misleading."

See **CAT FUND** page 31



Court: Inability to drive not protected by ADA

Recent changes to law likely to limit impact of appeals court ruling

By JOANNE WOJCIK

DENVER—A 10th U.S. Circuit Court of Appeals ruling that driving should not be considered a major life activity under the Americans with Disabilities Act will have only a limited effect on other ADA cases involving similar circumstances because of changes in the law that take effect next year, legal experts say.

If the case involving a worker in rural Wyoming were litigated after Jan. 1, 2009, when the amendments to the ADA become effective, it very likely would turn in favor of the worker rather than the employer, they say.

The Oct. 15 ruling in *Kellogg vs.*

Energy Safety Services Inc. overturned a Wyoming District Court ruling that held the employer discriminated against Ireane Kellogg, a safety technician, in violation of the ADA when it fired her after she was diagnosed with epilepsy. As part of her job, Ms. Kellogg traveled by company truck from its Worland, Wyo., office, to oilfields to provide services to clients.

Energy Safety Services, an Arizona corporation doing business as Oilind Safety L.L.C., is an industrial safety company that provides training, environmental monitoring and other services to industrial customers. After her diagnosis, Ms. Kellogg's doctor issued her a note ordering her not to drive until he decided it was safe.

Ms. Kellogg sued her employer in U.S. District Court in Cheyenne, Wyo., on May 5, 2006, alleging discrimination under the ADA as well

See **ADA** page 32

N.Y. regulator wants policies issued faster

WTC dispute cited as catalyst for change on contract certainty

By MARK A. HOFMANN

NEW YORK—Risk managers are hailing a New York State Insurance Department call for insurers and producers doing business in the state to develop and implement practices in one year to assure that documentation is delivered to policyholders within 30 days of inception in most circumstances.

The policy was announced in circular letter issued last week. The prolonged coverage dispute that arose from the Sept. 11, 2001, destruction of New York's World Trade Center played a key role in crafting of the new policy, New York Insurance Superintendent Eric Dinallo said in an interview shortly after the department announced the policy.

Mr. Dinallo brokered last year's \$2 billion settlement of the WTC coverage dispute (*BI*, May 28, 2007).

Millions spent on litigation

The WTC dispute "was based on a lack of contract certainty," Mr. Dinallo said. "They had slips and binders in place, but no policies. That's what the litigation was about."

"The only people who benefit from contract uncertainty are the litigators," Mr. Dinallo said. "It doesn't help clients. It doesn't help insurers. It doesn't help brokers." He said the litigation costs during the WTC coverage disputed amounted to "tens of thousands of



REUTERS

'The only people who benefit from contract uncertainty are the litigators. It doesn't help clients. It doesn't help insurers. It doesn't help brokers.'

Eric Dinallo, New York State Insurance Department

dollars a day" and "hundreds of millions of dollars in legal fees" when it was all done.

"This is not a shot across the bow at anyone," said Mr. Dinallo. "We've been talking about this almost since I took office."

Before becoming insurance

See **NEW YORK** page 32

Ohio's asbestos medical evidence law ruled retroactive

State's high court validates intent of law's framers

By MARK A. HOFMANN

COLUMBUS, Ohio—Ohio's law requiring medical evidence from claimants in asbestos injury cases applies to cases that had already been filed before the law's Sept. 4, 2004, effective date, according to the Ohio Supreme Court.

Writing for the court in its six-to-one Oct. 15 decision in *Ackison vs. Anchor Packing Co.*, Justice Robert R. Cupp ruled that the 2004 law's requirements that claimants must present specific medical evidence that asbestos caused disease or med-

ical impairment did not violate the state constitution's ban on retroactive laws because they were "remedial" and "procedural."

The law, which is expected to significantly reduce the number of asbestos-related cases in the state, had been hailed by business and tort reform groups. In the law, the Ohio Legislature inserted a statement of legislative intent, holding that the law applied to all asbestos injury cases pending in Ohio courts, regardless of whether they had been filed before or after Sept. 4, 2004.

Asbestos exposure

The wrongful death suit at issue had been brought by Linda Ackison in May 2004 against her deceased husband's former employer. She

alleged that her husband's illness and death had been caused by long-term exposure to asbestos in the workplace.

Ms. Ackison failed, however, to file documentation of her husband's medical conditions that met the new law's requirements by a deadline imposed by the trial court, which subsequently dismissed her case.

But an Ohio appeals court reinstated the case, holding that retroactive application of the medical evidence requirements violated the state constitution.

The majority of the high court disagreed and upheld retroactive application of the medical evidence requirement.

Justice Paul E. Pfeifer, however, dissented, holding that the legisla-

tion "changes the law so that people who had viable claims before its passage no longer have viable claims afterward."

An attorney specializing in product liability issues welcomed the decision.

"The Ohio Supreme Court is to be applauded for reaching a rational decision that respects the legislature's decision to give priority to sick asbestos claimants over those persons who have no present physical impairment," said Mark Behrens, an partner in the Washington office of Shook, Hardy & Bacon L.L.P., in an e-mail.

"The Ohio Supreme Court's decision should influence other courts to reach similar decisions in their states when the retroactivity of asbestos and silica medical criteria

laws are challenged," said Mr. Behrens, who had filed an amicus brief in the case on behalf of several national business organizations.

According to Mr. Behrens, the Florida Supreme Court is likely to hear a constitutional challenge to that state's medical criteria law and that a similar law in Texas has also been challenged.

Ackison vs. Anchor Packing Co. et al. Ohio Supreme Court. No. 2008-Ohio-5243. Oct. 15, 2008.



Ex-regulator cautions alternative risk market

State officials seen as suspicious of intent of RRGs, other tools

By DAVE LENCKUS

PHOENIX—The alternative risk-financing industry must interact more with state insurance departments to minimize the negative impression that a small but influential group of regulators have of the industry, a former regulator says.

Relatively few regulators are suspicious of alternative risk-financing mechanisms, but their staff often drives the working groups that develop model regulations for the National Assn. of Insurance Commissioners, said former Kentucky insurance regulator Julie Mix McPeak.

Regulators have to be educated about the benefits of alternative risk-financing mechanisms, said Ms. McPeak, an attorney with Burr Forman L.L.P. in Nashville, Tenn. She said a healthy insurance marketplace combines commercial and alternative risk underwriters and that an alternative risk marketplace is good for economic development in a state.

But regulators "are automatically suspicious of risk retention groups," for example, because they operate "outside of the norm," Ms. McPeak said at the Self-Insurance Institute of America Inc.'s 28th Annual National Educational Conference & Expo in Phoenix earlier this month.

Unlike commercial insurers, RRGs are governed by federal law and can operate nationwide after meeting the licensing requirements of a single state.

Less stringent regulation runs counter to state regulators' philosophy of how to protect consumers, Ms. McPeak said. So anyone "operat-

ing outside of that realm of very strict oversight is suspicious."

Regulators question, "Why are they trying to skirt state regulation?" she said. "They don't see the benefit to the overall marketplace."

A few regulators who have had bad experiences with alternative risk-financing efforts in their states are attempting to tighten regulatory control over such facilities, she said.

For example, she noted that one regulator told her that he requires any RRG that seeks licensing in his state to provide twice as much capital as state law requires. Other regulators encourage the formation of alternative risk-financing mechanisms in their jurisdictions. Most regulators fall somewhere between those two extremes, she said. They

"don't have any idea at all" about such facilities, she said.

Within the NAIC, however, the organization's working groups on alternative risk-financing facilities often consist of staff of state regulators who have had bad experiences, Ms. McPeak said.

"So they're very motivated," and sometimes those groups produce model regulations without obtaining much outside input, she said.

Those recommendations then go to the group's parent committee, which does seek more industry input, Ms. McPeak said.

With parent committee approval, the proposal then heads to the executive committee and, if approved, a plenary session of all NAIC commissioners.

See **SIIA** page 6

Insurance recovery attorneys scatter as Heller Ehrman dissolves

118-year-old firm closes after mergers fail, litigators depart

By JOANNE WOJCIK

SAN FRANCISCO—Attorneys that had made up Heller Ehrman L.L.P.'s insurance recovery practice are being scattered among several other law firms following the 118-year-old firm's announcement last month of its intent to dissolve.

The largest number of insurance recovery partners went to Orrick, Herrington & Sutcliffe L.L.P. They include Edward Joyce in New York, Barry Levin and Richard DeNatale in San Francisco, and Mark Plumer and David Klein in Washington. Messrs. DeNatale and Plumer had served as co-chairs of San Francisco-based Heller Ehrman's insurance recovery practice group.

Insurance recovery partners Nancy Cohen and Rene Siemens have joined Proskauer Rose L.L.P. in Los Angeles. Ms. Cohen was managing shareholder of the firm's Los Angeles office, and Mr. Siemens was a shareholder and co-chair of the office's litigation department as well as the firm's ethnic diversity committee.

In addition, Heller Ehrman partner Timothy Burns joined Perkins Coie L.L.P.'s insurance coverage group in Madison, Wis., as a partner.

Heller Ehrman partners Dave Goodwin and Larry Hobel moved to Covington Burling L.L.P.'s San Francisco office in July. Mr. Goodwin was the founder of Heller Ehrman's appeals and strategy group and a co-founder of the insurance recovery group.

"It's quite a scattering," said John Dempsey, managing partner of Dempsey Partners, a forensic

accounting firm in New York that has worked with several members of Heller Ehrman's insurance recovery team.

Heller Ehrman partners voted via videoconference on Sept. 25 to dissolve the firm and hired dissolution counsel Leslie Corwin of Greenberg Traurig L.L.P. to handle the breakup.

The firm's troubles can be traced back to its failed attempts to merge with either Baker & McKenzie or Winston & Strawn L.L.P. this past summer, sources say.

When those merger attempts failed, 14 intellectual property litigators left the firm, triggering a clause in the contract governing the firm's line of credit and leading to financial problems, a source said.

Heller Ehrman, which had been one of the nation's highest-ranked policyholder legal practices, employed 1,200 lawyers and staff members in 14 offices at the beginning of September.

Mass. revises creditable coverage rules

By JERRY GEISEL

BOSTON—Final rules approved last Friday by Massachusetts regulators will significantly increase the likelihood that employer-provided health care plans will meet so-called minimum creditable coverage requirements, protecting employees from being hit with big tax penalties.

Under Massachusetts' health care reform law, as of Jan. 1, 2009, individuals must be enrolled in plans that meet the minimum requirements or be hit with fines that can exceed \$900. This year, those penalties apply only to those who are not enrolled in a health care plan.

Responding to comments by employers and others, the new rules approved by the Massachusetts

Health Insurance Connector Authority amend earlier proposed requirements in several ways. For example, health care plans in place on Jan. 1, 2009, that are a result of collective bargaining agreements will not have to comply with the new rules until one year following the expiration of those agreements.

In addition, employer plans will be in compliance if their relative value is equivalent to so-called Bronze-level plans sold through the Connector Authority. Bronze level plans generally provide the lowest level of benefits of plans sold through the Connector. An actuary would have to certify that employer plans have an actuarial value at least equivalent to Bronze level plans.

That is a big change from earlier

rules that said enrollees had to be in plans providing benefits no less than those stipulated by the Connector Board. Many plans did not meet those requirements, which would have resulted in employees being hit with tax penalties unless employers amended their plans.

With the new actuarial equivalence standard, "The vast majority of employer plans will meet the requirements. Employers have been given considerable flexibility," said Richard Stover, a principal with Buck Consultants L.L.C. in Secaucus, N.J.

"Other earlier proposed rules remain in place. For example high-deductible health insurance plans linked to health savings accounts will be automatically considered in compliance through 2009.

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(including background checks and road testing) and formalized the driver selection process. As a result, even with a significant increase in annual mileage, the number of accidents dropped 30% and dollar losses dropped 60%. And thanks to fewer collisions, the delivery schedule ran smoother as well. It's all part of Wausau TotalValueSM and our commitment to lowering your total cost of risk. And it's backed by the financial strength of the Liberty Mutual Group. To learn more, visit wausau.com or contact your Wausau representative.



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Attendance down at SIIA

PHOENIX—The Self-Insurance Institute of America Inc.'s 28th Annual National Educational Conference & Expo, held Oct. 5-8 in Phoenix, attracted 1,405 attendees, a slight decrease from the 1,520 who attended the 2007 conference in Chicago.

The conference featured three dozen educational sessions and more than 100 exhibitors.

Next year's conference is scheduled for Sept. 20-23, 2009, at the Marriott World Center Resort in Orlando, Fla.

Additional information about the SIIA and its conference are available by calling the organization at 800-851-1789 or by visiting its Web site at www.siaa.org.

—By Dave Lenckus

SIIA: Interaction needed

CONTINUED FROM PAGE 4

At that point, some NAIC commissioners see a proposal for the first time, she said. Typically, few changes are made at this level and overcoming a recommendation that is objectionable to the industry is difficult, she said.

In addition, such proposals can undergo some changes in each state, and dealing with varying regulation from state to state is difficult for the industry, Ms. McPeak said.

To guard against unreasonably tough regulations, the alternative risk-financing industry has to provide consistent input to regulators, she said.

Getting acquainted with an insurance department's general counsel or financial analyst would be beneficial, she said. Indeed, such contacts may be better than reaching out to a commissioner, since head regulators hold office only about 18 months on average, she said. "It's harder to demonize an entity when there's personal contact."

The meetings, which can be in an office or over lunch, do not have to

cover a formal agenda, she said. "Just talk to them. Break through some of those suspicions" and destroy the stereotype of alternative risk-financing facilities trying to operate outside of state authority.

The industry also should consider maximizing its lobbying efforts at the state and federal legislative levels and at the NAIC, Ms. McPeak said.

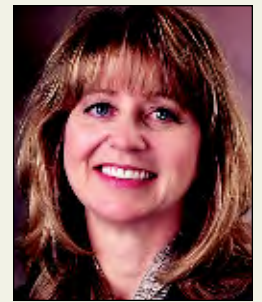
The growing number of states with captive insurance laws is helping to break down the negative stereotype of alternative risk-financing, she said. But the competition among some states for captive business has increased some regulators' concerns that those competing for captive business might sacrifice tight oversight to win that "arms race," she said.

The dubious regulators "think it might be a house of cards that may fall down someday," she said.

But in answer to an audience question, Ms. McPeak said the trouble that several insurers have had as the economy has deteriorated "bodes well" for alternative risk mechanisms "because you don't see a lot of insolvency in alternative risk."

Commentary

Stock market turmoil hits workers hardest



**JOANNE
WOJCIC**

Senior Editor Joanne Wojcik can be reached at: jwojcik@businessinsurance.com

As I watch my retirement savings disintegrate, I can't help but wonder what my late father would have to say about all the recent market gyrations.

In the working-class neighborhood where I grew up, most people's attitudes about "high finance" could best be summed up by the old Smith Barney television ads with voice-over saying, "We make money the old-fashioned way; we earn it." If there was any money left over after paying bills, we saved it. But we never, ever invested it, especially not in the stock market.

If you asked dad or his friends what they knew about investing, they'd tell you stories about people they had heard about, but never knew personally, who made or lost their fortunes in stocks. But they wouldn't dare to speculate in the market themselves.

I remember the time my older brother had the chance to buy some utility stock, and he shared the tip with my father, thinking he had stumbled onto something that could make both of them rich. My father just shook his head and said, "People like us don't invest in stocks. That's for people with money they can afford to lose. We need all that we've got."

My father had two primary investment vehicles, one of which was the house I grew up in and the other was a passbook savings account that paid a 5.25% annual interest rate compounded daily.

He was especially proud of the fact that he discovered such an account since most others paid interest only quarterly.

Meanwhile, most of my father's friends and neighbors all toiled at blue-collar jobs that promised them good old-fashioned defined benefit pensions if they stuck around until retirement age.

Because none of these people, my father included, even finished high school, most of their children didn't get far beyond high school. I think I was the only kid on the block who went to college.

My dad, a self-employed TV repairman, was counting on Social Security to finance his retirement. Even though his taxable income was significantly reduced by all the deductions available to small business owners, he always paid the maximum to ensure he'd get the most he could when he retired.

That was pretty much how a lot of people were living when Big Business began divesting itself of funding defined benefit pensions and replacing them with defined contribution plans that the workers would have to fund themselves. Sure, there were some employer matching contri-

butions in most cases, but most financial planners will tell you they're not enough to guarantee a comfortable retirement. So a lot of them opened IRAs, too.

Many workers who put their savings into these plans had little or no experience in investing. They relied on their employers to provide a safe menu of instruments, usually diversifying by putting a little into each one. Sure, there was usually a guaranteed investment contract, but

It pains me to think how these naive investors are faring during today's crisis.

employers and fund managers warned that putting all their eggs in this basket wouldn't accumulate enough to retire.

It pains me to think how these naive investors are faring during today's stock market crisis. Their 401(k)s and IRAs are vaporizing before their eyes.

I can imagine what my dad might have to say if he were still alive. "What goes up must come down," he'd say, explaining stock market fluctuations as if they were governed by the laws of gravity. Even though he never owned a single share of preferred or common stock, he'd be right, not because stocks are inherently risky, but because many of the people who began investing in them over the past 20 years did not know what they were doing.

I think a conversation I had recently with a friend who came from a similar background and is already retired illustrates my point. When the market started to tumble, she contacted her financial adviser to ask whether she should be concerned. After receiving a rather long and convoluted response via e-mail, she had to turn to Google for a plain English translation.

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Business Insurance OPINIONS

Minimum distribution rules need rethinking

IT IS UNDERSTANDABLE why both presidential candidates are proposing changes to 401(k) plan distribution and tax rules.

Tens of millions of individuals have been hurt by the meltdown on Wall Street. Many have seen the value of their retirement plans plummet and are worried about their financial futures.

As we report on page 1, the 401(k) plan proposals by Sen. John McCain, R-Ariz., and Sen. Barack Obama, D-Ill., respond to those concerns.

One response, which the two candidates support in different ways, is on target: suspending rules that require retirees to start withdrawing funds from their 401(k) plans when they turn 70½. Forcing retirees to liquidate part of their account when asset values are low seems unfair. More to the point, we question why minimum distribution rules are even necessary.

The sound policy is to allow the funds to stay put and continue to grow.

Obviously, the intent is to raise tax revenues. But common sense dictates that when a retiree needs to withdraw such funds, the government will collect its taxes at that point. We think the sound policy is to allow the funds to stay put and continue to grow.

More problematic, though, is Sen. Obama's proposal that would allow employees to withdraw 15% of their account balance up to \$10,000 this year and next and not have to pay a 10% penalty tax.

This proposal would encourage such withdrawals, which is counterproductive to the intent of 401(k) plans: giving employees tax breaks to save for their retirement.

On Sen. McCain's proposal to lower the tax rate on 401(k) plan distributions up to \$50,000 for this year and next, we have no strong opinion. The tax break would generally be limited to those 59½ and older. Our general view, though, is when tax breaks are provided, one segment of the population shouldn't be treated differently from others.

Credit crisis presents an opportunity to shine

AS IS MADE CLEAR by several stories in this week's issue, the credit crisis is directly hitting commercial insurance buyers and their service providers, and they are being hit from all directions.

Whether it be American International Group Inc. taking a rapid lesson in what it's like to have the government as a shareholder, Florida's catastrophe fund facing the prospect of tougher times raising money to pay claims in the event of a major hurricane or employers having to prepare for the possibility of revamping their administration of retirement savings plans to allow easier access for hard-up workers, times aren't easy.

And some risk managers are seeing credit problems that have an immediate impact on their programs. As we report on page 1, the availability of letters of credit to support high-deductible casualty programs or workers comp programs is becoming a growing concern. As banks tighten their credit facilities, risk managers have to seriously consider what to do if their use of LOCs is restricted.

Such situations, while creating difficulties, also give risk managers a chance to shine. Strategies such as redoubling efforts to prevent claims to ease the strain on existing LOCs or turning to captives to provide alternative funding are just a couple of mainstream risk management techniques that can be used to alleviate financial problems than can reach throughout an organization.

Such moves create value for a risk manager's company and highlight the value of risk management itself.



WRITE

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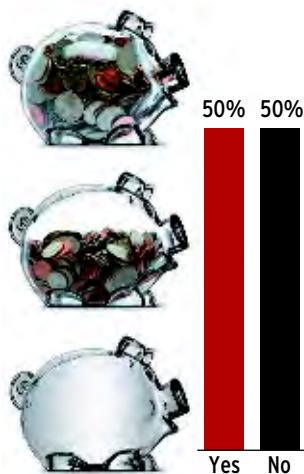
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in the *BI* Online Poll at
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THIS WEEK'S RESULTS

Q Has the fall in the equities markets resulted in your pension plan going from overfunded to underfunded?



NEXT WEEK'S QUESTION

Q: Is it a good idea to ease rules for 401(k) withdrawals during the economic downturn?

BI Online Poll tool is sponsored by Wausau Insurance Cos.

LETTERS

AIG agent retreat entirely justified

TO THE EDITOR: It's easy to understand the public outrage over the American International Group Inc. "executive retreat" to the tune of \$400,000, but it's not so easy to understand a like reaction within the insurance industry.

Firstly, it wasn't an executive retreat after all, but rather an incentive reward for top-producing agents in the life sector. Driven by our customers, those of us on the production side, whether life or property/casualty, are facing the question of whether to renew existing and/or place new accounts with AIG. A significant downturn in the flow of new business will undoubtedly sink any effort to stabilize the company. If I were in AIG's shoes and had an opportunity get in front of 100 of my top-producing agents to reassure them of our future, I would do so in a heartbeat—and at the reported cost, which frankly is miniscule for a company its size.

Certainly AIG could have done a better job explaining this to the public and their new government partners. This type of event is a common industry practice and has been analyzed from a cost/benefit stance ad infinitum.

In addition, the participants likely qualified contractually for this event last year. In my opinion, the event and the expenditure were not only justified but warranted.

Edward G. Wright, CPCU
President and
Chief Executive Officer
W.J. Cox Associates Inc.



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SAFETY

FROM THE GROUND FLOOR UP

Front-line employees drive manufacturing changes to reduce injuries and claims

By LOUISE ESOLA

Before PPL Montana L.L.C. began adopting employee safety as a way of life, a workplace standard that its safety chief says now is as much a part of the company's work culture as clocking in, workers compensation losses were in the millions of dollars.

After nearly a decade of zeroing in on employee safety, Diane Harkins, manager of safety for the Billings, Mont.-based company that runs 13 power plants statewide, said workers comp losses have plummeted. "Now we're looking at tens of thousands in losses," she said.

Many companies are seeing the difference that a well-orchestrated safety program can bring, said Skipper Kendrick, Fort Worth, Texas-based director of Environmental Health

and Safety for Providence, R.I.-based Textron Corp. and past president of the Des Plaines, Ill.-based American Society of Safety Engineers.

The state of safety programs in general is as "good if not better than we've seen in a long time," he said.

What changed? For PPL Montana, everything shifted for its 500 employees when it came to safety, according to Ms. Harkins, who began working for the company in 2001. Mostly, she pegged employee involvement and managerial guidance as the top catalysts for change.

Listing a few aspects of PPL Montana's relatively new safety culture, Ms. Harkins said employees are now required to conduct safety checks before each shift and weekly to look at all functions of the work environment and stations in search of possible safety concerns, something that might have fallen through the cracks under previous work conditions when safety checks were not regulated and often fell to the wayside.

See **SAFETY** next page

SPOTLIGHT

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Safety: Employers tap front-line workers' ideas to reduce hazards

CONTINUED FROM PREVIOUS PAGE

Employees also attend regular safety meetings within their own job groups and are encouraged to voice and implement changes that create a safer work environment, she said. Workers are encouraged to lead safety meetings, serve on safety committees and find innovative ways to make corrections to address safety concerns.

Involvement and leadership

And to keep employees motivated and involved, the company offers incentives—some monetary—for those who assume leadership roles on safety, such as serving on a safety committee, she said.

Currently, 150 of the company's 350 union field workers now hold the title as safety audit workers, she said. More than 30 employees join that rank every year, she added.

"We found that all employees want to be safe, and if you provide them with an opportunity to be safe and provide them with an opportunity to get involved, they will want to participate," said Ms. Harkins. "This became a part of the way we work; this is what we need to do to do our jobs and maintain a safe workplace."

According to experts in workplace safety consulting, employee involvement and company leader-

ship are the two driving trends for creating safer workplaces.

Robert Pater, managing director for Portland, Ore.-based Strategic Safety Associates Corp., said companies are no longer holding onto old, worthless habits for preventing worksite accidents. "There are no more supervisors saying to workers, 'Here. Watch this safety video and get back to work,'" he said. "There is a lot more grass-roots involvement. Change used to go top-down and now we are seeing that it needs to be both top-down and bottom-up."

That's what worked for Princeton, Ind.-based Toyota Manufacturing Indiana Inc., a U.S.-based unit of the Japanese automobile maker, when it formed a task force in 2006 to address an increase in upper extremity injuries in its body welding shop. The task force of managers and production floor workers created an innovative delivery system that helped reduce injuries by 87% when it was implemented in 2007, said Jason Sims, assistant manager of safety for the plant. The changes, which put automobile parts on an automated assembly line rather than rely on workers who often faced upper extremity injuries, were later made at Toyota plants countrywide, he said.

Mr. Sims said enlisting front-line workers in the process of creating a safer method for building vehicles

'There is a lot more grass-roots involvement. Change used to go top-down and now we are seeing that it needs to be both top-down and bottom-up.'

Robert Pater,
Strategic Safety Associates Corp.

was key.

"They are the folks that understand the process better than anyone else; they work in it day in and day out and many times they see the hazards we don't see" as management, he said.

Overall, employee safety has turned heads among companies that once saw it as a background issue, experts say.

"One of the things that we in (workplaces) are seeing more of is senior management getting very interested in safety," said Mr. Pater.

This could be because, unlike other workforce cultural shifts such as introducing a wellness program to curb rising health care premiums,

companies focusing on workplace safety to reduce workers comp losses often see their return on investment immediately as injuries plummet, according to Sam Gualardo, president of Salix, Pa.-based National Safety Consultants Inc., who is also a past president of the American Society of Safety Engineers.

Mr. Gualardo said workplace safety initiatives ought not to be considered as a new program for workers but a workplace cultural shift in the way they conduct business. "It has to be something addressed daily by everyone," he said.

Mr. Gualardo encourages companies to emphasize workplace safety "preflight" checklists, for example. This way, employees can look at safety concerns at the onset of their workday, he said. Such a brief, three-minute routine can make a major difference in avoiding workplace hazards, he added. Regular peer monitoring and "safety fix" meetings to discuss changes are also parts of the culture shift, he said.

Not all incentives are equal

With an already packed workday and pressure to perform, how can companies get employees to care?

Experts say empowerment, such as giving employees leadership roles in safety, and incentives can help drive change.

Companies, however, must tread

carefully when it comes to providing monetary incentives, said Textron's Mr. Kendrick.

For example, companies should avoid giving monetary incentives to employees who report fewer incidents, he said. "Giving employees incentives will not make the workplace safer; that's been proven. It will just keep them from reporting injuries and ailments," Mr. Kendrick said. "To give them money for not getting hurt only drives reporting of injuries underground."

However, incentives for identifying hazards and implementing proactive safety measures are often a good way to drive change, he said. "Awards are right for the right stuff."

Experts agree that the best motivator for change, however, is workers' general interest in avoiding injuries.

"The best incentive is going home safe to their families. They want to go home and live a life free of pain and suffering that often comes with the work," Mr. Kendrick said.

"Most employees realize they are doing this for their own benefit," said Mr. Gualardo. "It's really to avoid incidents and the pain and suffering that go along with it. I think employees are in the best position to control their own destinies when it comes to risk."

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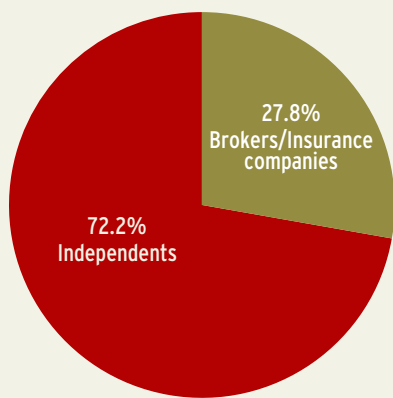
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SHARE OF THE SAFETY CONSULTING MARKET

Percentage of market controlled by independent consultants vs. consultants owned by brokers/insurance companies*



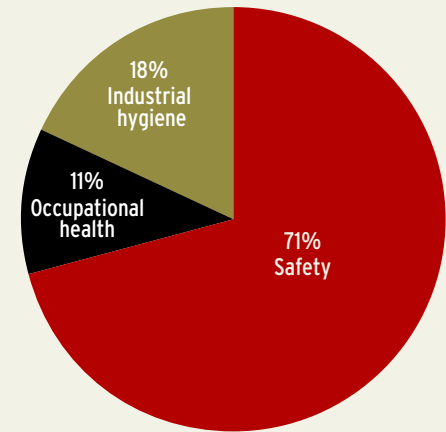
Source: BI survey

REVENUE SHARE



BREAKDOWN OF CONSULTANTS' STAFF

Percentages reflect total professional staff of all companies surveyed



Source: BI survey

Largest independent safety consultants*

Ranked by 2007 revenues from safety consulting services**

Rank	Company/Address	Phone/Web site	Unbundled safety consulting revenues	Staff	Total unbundled clients	Corporate/institutional clients	Principal officer
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2	Bureau Veritas 11860 W. State Road 84, Suite 1, Fort Lauderdale, Fla. 33325	888-357-7020 www.us.bureauveritas.com	\$46,700,000	360	1,800	1,000	Robert Donze, COO
3	ATC Associates 600 W. Cummins Park, Woburn, Mass. 01801	781-937-3320 www.atcassociates.com	\$16,500,000	750	2,000	2,000	Bobby Toups, president/CEO
4	ERM 101 S.W. Main St., Suite 804, Portland, Ore. 97204	503-488-5282 www.erm.com	\$14,870,923	265	500	300	John Alexander, CEO
5	Safety Resources 10975 Grandview Drive, Overland Park, Kan. 66210	913-663-8500 www.olsi.net	\$13,381,000	172	148	148	Jack Leonard, president
6	Safety Management Group of Indiana Inc. 6500 Technology Center Drive, Suite 200, Indianapolis, Ind. 46278	800-435-8850 www.safetymanagementgroup.com	\$13,170,918	113	324	288	Kent Burget, president
7	Regional Reporting Inc. 40 Fulton St., New York, N.Y. 10038	212-964-5973 www.regionalreporting.com	\$12,000,000	300	300	20	Martin Myers, CEO
8	F.A. Richard & Associates Inc. dba FARA 1625 W. Causeway Approach, Mandeville, La. 70471	800-259-8388 www.fara.com	\$7,900,000	187	111	25	M. Todd Richard, president/CEO
9	Risk Consultants Inc. 6611 Watson St., Union City, Ga. 30291	770-964-1226 www.riskcon.com	\$7,800,000.00	88	499	475	R. Michael Malone, president/CEO
10	PSRG Inc. 800 W. Sam Houston Parkway S., Suite 107, Houston, Texas 77042-1908	713-532-8800 www.psrgroup.com	\$3,500,000.00	45	300	270	Robert J. Weber, president/CEO

*Includes companies not owned by brokers or insurers. **Reflects safety consulting revenues provided on a direct, unbundled basis.

Source: BI survey

Researched by Kevin Edison and Karen Tucker

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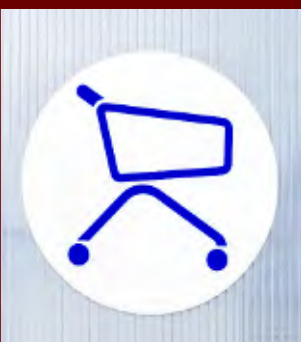
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Rank	Company/Address	Phone/Web site	2007 active workers compensation lives	Principal officer
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2	PMSI Inc. 175 Kelsey Lane, Tampa, Fla. 33619	877-275-7674 www.pmsionline.com	400,000	Mark Hollifield, president
3	Cypress Care Inc. 2736 Meadow Church Road, Duluth, Ga. 30097	800-419-7191 www.cypresscare.com	283,548	David George, CEO
4	National Pharmaceutical Services 13660 California St., Omaha, Neb. 68154	402-964-9030 www.pti-nps.com	225,000	Douglas M. Pick, president/CEO
5	ScripNet 10050 Banburry Cross Drive, Las Vegas, Nev. 89144	888-880-8562 www.scripnet.com	210,000	Dennis Sponer, president
6	Healthsystems L.L.C. 5100 W. Lemon St., Suite 311, Tampa, Fla. 33609	800-921-1880 www.healthsystems.com	134,000	Ron Roma, CEO
7	BioScrip 100 Clearbrook Road, Elmsford, N.Y. 15013	888-818-3939 www.bioscrip.com	40,000	Richard Friedman, chairman/CEO
8	IdealScripts 16 International Way, Warwick, R.I. 02886	877-274-7871 www.idealscripts.com	9,000	Samuel Fleet, president
9	Intracorp 1601 Chestnut St., 2 Liberty Place, Philadelphia, Pa. 19192	800-345-1075 www.intracorp.com	3,931	Margaret Aslakson, vp-case management operations
10	HealthTrans 8300 Maplewood Ave., Suite 100, Greenwood Village, Colo. 80111	800-950-9120 www.healthtrans.com	1,148	Jack McClurg, CEO

Source: *BI* survey
Researched by Kevin Edison and Karen Tucker

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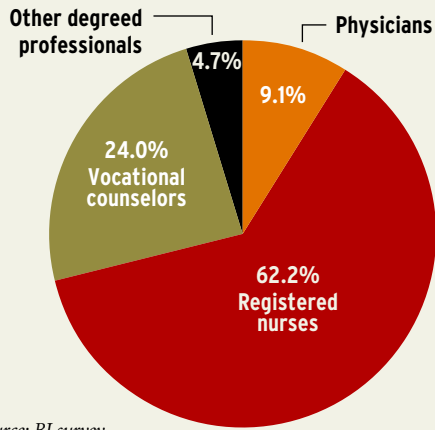
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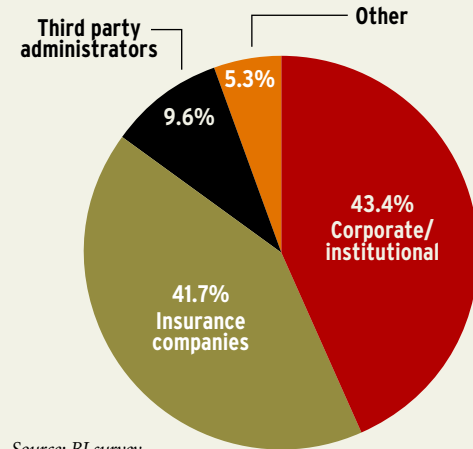
PROFESSIONAL STAFF

Type of professionals employed



Source: BI survey

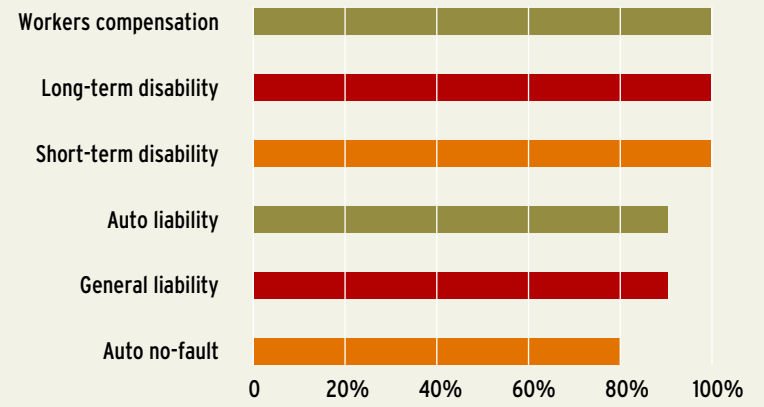
BREAKDOWN OF CUSTOMERS



Source: BI survey

REHAB SERVICE OFFERINGS

Percentage of surveyed companies providing services



Source: BI survey

Largest rehabilitation service providers

Ranked by 2007 revenues from rehabilitation services provided directly to employers*

Rank	Company/Address	Phone/Web site	Revenues from rehabilitation services	Professional staff	Total clients	Cases closed in 2007	Independent medical exam cases	Expert opinion	Principal officer
1	Coventry Health Care Workers Compensation Services Inc. dba Coventry Workers' Comp Services 3200 Highland Ave., Downers Grove, Ill. 60515	630-737-7900 www.cvty.com	\$187,145,485	1,443	1,700	365,261	46,715	800	James McGarry, president
2	GENEX Services Inc. 440 E. Swedesford Road, Suite 1000, Wayne, Pa. 19087	610-964-5100 www.genexservices.com	\$153,400,000	1,085	1,230	75,000	15,100	0	Peter C. Madeja, president/CEO
3	Intracorp 1601 Chestnut St., Philadelphia, Pa. 19192	215-761-7100 www.intracorp.com	\$112,179,021	302	541	81,318	832	86	Mark Farrell, president
4	CorVel Corp. 2010 Main St., Suite 600, Irvine, Calif. 92614	949-851-1473 www.corvel.com	\$108,000,000	800	2,000	9,000	35,000	0	Dan Starck, president/CEO
5	MedInsights Inc. 206 Gothic Court, Suite 308, Franklin, Tenn. 37067	615-778-5100 www.medinsights.com	\$23,260,000	65	380	14,044	0	24	Edward G. Troy, chairman/CEO
6	F.A. Richard & Associates dba FARA 1625 W. Causeway Approach, Mandeville, La. 70471	337-267-1190 www.fara.com	\$9,258,000	25	220	485	0	0	M. Todd Richard, president/CEO
7	M Hayes 30 E. Padonia Road, Suite 201, Timonium, Md. 21093	410-628-4050 www.mhayes.com	\$5,750,000	34	209	4,510	75	89	Melinda Hayes, president/CEO
8	Rainier Case Management Inc. 101 E. Eighth St., Suite 210, Vancouver, Wash. 98604	360-695-8383 www.rainiercasemgt.com	\$3,500,000	45	2,000	1,200	0	0	Tom Garbarino, Brad Reckord, Renee White, vps
9	Archer Consultants Inc. 1101 Stewart Ave., Suite 300, Garden City, N.Y. 11530	516-683-0100 www.archerconsultants.org	\$934,500	27	118	216	0	122	Dorris Wisotzik, president
10	Total Care Management P.O. Box 6528, Greenville, S.C. 29606	800-638-6829 www.hewittcoleman.com	\$820,000	11	80	133	72	14	Charles R. Warne, CEO

*Rehabilitation management services are defined as providing all services included in the medical management or vocational rehabilitation of an injured or ill individual. They do not include the delivery of physical rehabilitation or treatment or case management for group life and health cases.

Source: BI survey

Researched by Kevin Edison and Karen Tucker

Visit www.businessinsurance.com/directories for more information and to access the full searchable Directory of Rehabilitation Service Providers. Business Insurance now offers the option to purchase the entire online directory as an Excel file or as a PDF.

Predictive models tackle drivers of workers comp claims

Type and cause of injuries often linked to demographic information to focus on appropriate treatment and avoid fraud

By ROSEANNE WHITE GEISEL

The most important information about worker injury risks that can be gleaned from predictive modeling is gauging the simplicity or complexity of claims, experts say.

That determination boosts the efficiency of the workers compensation claims management process by getting the right resources—experienced claims adjusters, medical or legal, for example—involved early to the benefit of the employer, employee, and the insurer or third-party administrator.

Predictive modeling, which uses company-specific and general data to flag potential problems, also can root out fraud and provide insights that lead to safety interventions.

“Predictive modeling helps triage a claim, meaning understanding early how complex the claim is likely to be based on certain attributes, and then getting it to the right department,” said Jeanne Hollister, managing principal and property/casualty insurance prac-

‘From a case management and medical management standpoint, predictive modeling helps determine which cases we really should focus our resources on.’

David Duden,
Deloitte Consulting L.L.P.

tice leader for the Americas region at Towers Perrin in Hartford, Conn.

“A straightforward claim can go to more junior people in the department; if the claim has huge medical issues, you need a nurse,” Ms. Hollister said. “The view in workers comp is that the earlier the identification of a claim and the faster you act on it, the more manageable it is.”

Towers Perrin and Deloitte Consulting each are developing workers comp predictive models in conjunction with clients. These models are computer programs designed to cull information from closed claims data and other relevant information that may help predict the outcome of a current claim. Both consultants do not reveal certain types of data being built into their customized models, because clients consider that to be proprietary.

“From a case management and medical management standpoint, predictive modeling helps determine which cases we really should focus our resources on,” said David Duden, a Hartford, Conn.-based director of Deloitte Consulting L.L.P. The process also more quickly identifies claimants who could get into a return-to-work program,

reducing the cost of the claim. “The science of identifying those claimants is important,” Mr. Duden said.

Kevin Turner, executive vp-business development of third-party administrator Cambridge International in Greenwich, Conn., said claims no longer will be categorized just as medical or lost time.

“This is a huge paradigm shift for the industry in the way comp claims are handled,” Mr. Turner said.

“There are different avenues to take to build a model,” he said. “What we’re embracing is medical and socioeconomic elements, criminal history, financial history and census data.” Mr. Turner said this is all public information that can be used to assess the resources needed to handle a claim, but not to deny a claim.

Another organization involved in building a workers comp predictive model is the Jersey City, N.J.-based Insurance Services Office Inc.,

which is working with two insurers that ISO declined to identify. “As far as the resources, such as a nurse or settlement attorney, why not get them involved earlier? Use that information at the front end rather than dragging it out at the back end,” said Marty Ellingsworth, president of ISO’s predictive analytics group.

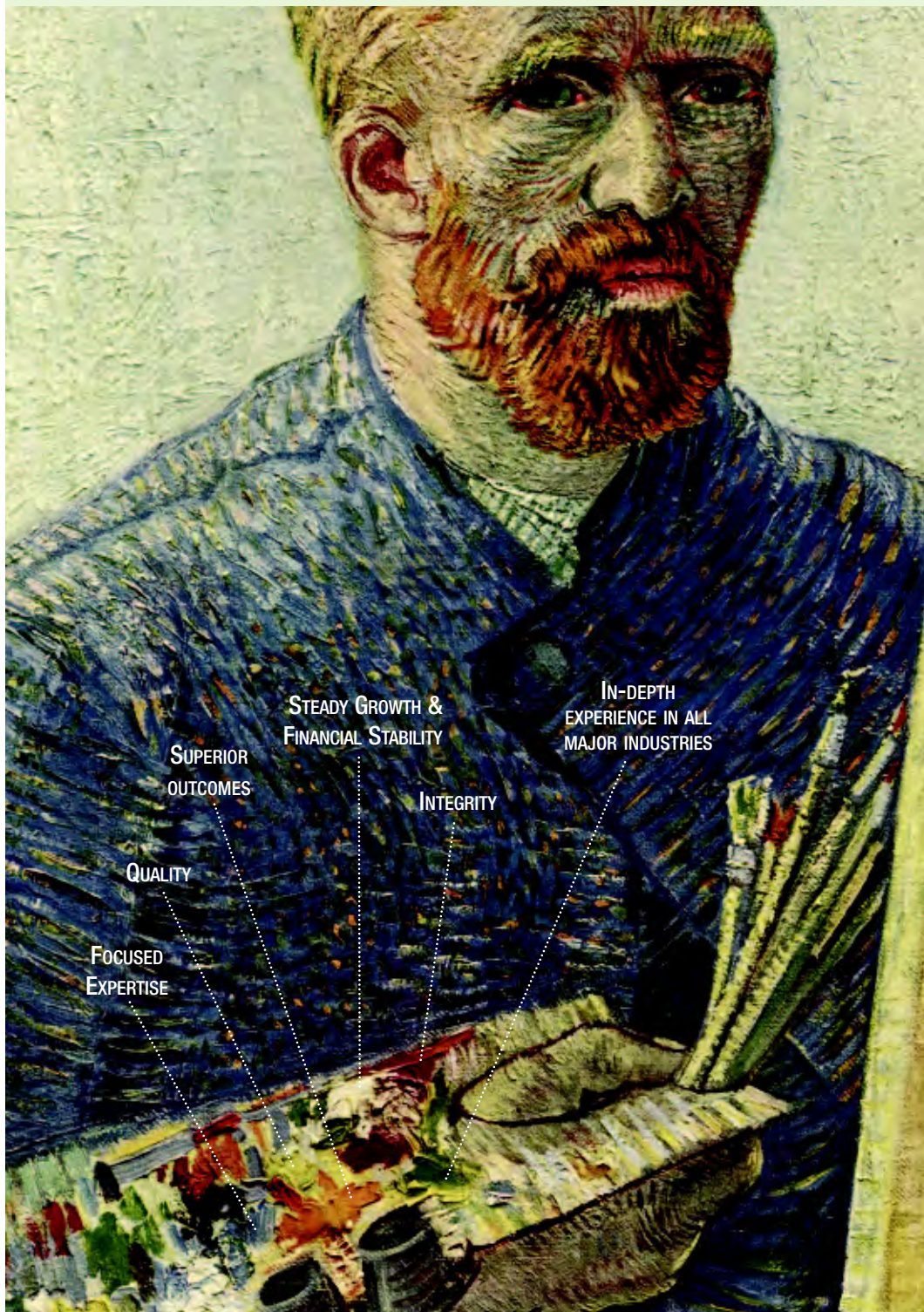
“What is important on the claims side is using predictive modeling to get a better feel for the cost of the ultimate claim,” said Art Cadornine,

vp in charge of insurance acquisitions, development and service in ISO’s data collection area. “We’re trying to identify the cost drivers. Why is it that for every dollar (spent on a claim), 65 cents is going to medical costs” rather than to indemnify the worker?

The model that ISO is building encompasses factors such as subsequent injuries; injured worker demographics, in terms of location

See **MODELING** next page

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Modeling: Not everyone sold on predictive approach in workers comp

CONTINUED FROM PREVIOUS PAGE

and the individual's physical condition; and occupation.

Predictive modeling also can reduce costs by helping uncover fraud.

"Predictive modeling's first entry into claims is really from a fraud detection standpoint," said Deloitte's Mr. Duden.

ISO's Mr. Ellingsworth said the systems can determine a whether an individual claim is suspicious by checking for prior claims and subrogation.

In order to accomplish their purposes of boosting claims-manage-

'Having the data is one thing. Reacting to changes in the world and new claims and new data mining (techniques) is another.'

Marty Ellingsworth, Insurance Services Office Inc.

ment efficiency, reducing costs and detecting fraud, the predictive models are complex and require not only internal data but also external data of various types.

"Getting the right quality data," said ISO's Mr. Cadorine, is 70% of the job of developing an effective

model. "We try to identify the information needed by models and make sure it's valid and accurate," he said.

"Having the data is one thing," said Mr. Ellingsworth. "Reacting to changes in the world and new claims and new data mining (tech-

niques) is another." For example, he said, some systems now are capable of pulling text from adjuster notes or detailed medical reports.

"As we built these models, there seemed to be key factors that revealed information on the frequency side," Mr. Duden said. "Each company or population of workers has its own unique characteristics."

For example, Mr. Duden said, Deloitte's models showed that the distance an employee travels to work affects injury frequency. People that drive more than 50 miles are more susceptible to back injuries, raising the costs of that population, he said.

"It's a very good predictor," Mr. Duden said. That data leads to interventions such as suggesting different commuting routes or offering driver education.

Models also can highlight the value of information that traditionally hadn't been considered but could be helpful when looked at statistically, said Ms. Hollister.

Ms. Hollister said Towers Perrin's approach is to start by asking an insurer what data already is in the claims management system, how segmented it is and what customer information is collected.

After the internal data is considered, a decision must be made about what external information is helpful. Ms. Hollister noted, for example, that the number of comp claims increases when the economy is weak, making economic information useful in assessing staffing requirements.

Besides gathering the data, another formidable challenge to effectively using a predictive model is acceptance of it, experts say.

"You have to believe the models and be able to act on them," Ms. Hollister said. "Some adjusters are reluctant to rely on the results. Things seem counterintuitive, so they dismiss them."

ISO's Mr. Ellingsworth summarized the bottom line of predictive modeling.

"Return to work, case management, peer review—all those things really are looking at how we can best ensure that the injured worker receives the best care, gets back to work and is made whole as soon as possible," he said. "Basically, you are developing a plan for each individual worker."

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Employers use established programs to help veterans get back to work

EAPs, communications efforts, support for supervisors all ease transition

By **ROBERTO CENICEROS**

Return-to-work and disability management programs designed for civilian workers also can help those who have served active military duty when they re-enter the workforce, experts say.

Communicating with affected workers, supporting supervisors who are managing returning veterans and making employee assistance programs available are traditional approaches that can help service members return to their jobs, they say.

Disability issues facing military reservists and National Guard members returning from deployments, as well as full-time soldiers leaving the military, can include post-traumatic stress disorder, amputations, traumatic brain injuries, or other physical or psychological problems, they say.

Traumatic brain injury and PTSD are "signature injuries" of returning

to help supervisors and co-workers understand that their returning colleagues may behave differently than before they were deployed, she said.

"They may have been very outgoing before and now the employer is struggling with the fact that this person doesn't seem to want to talk about anything, but they are doing their job and doing a fine job," Ms. Phillips said in citing an example. "But they (may be) less engaging."

Most employers will have very few employees who have served in combat, said Daniel M. Arkins Jr., regional director of disability for MetLife Inc. and a lieutenant colonel in the Army National Guard who served a tour in Iraq.

In addition, most soldiers return to their civilian roles without physical injuries and the degree to which

See **VETERANS** page 23



REUTERS

An Iraq war veteran listens to music at a picnic organized for returning soldiers in Mountain View, Calif. Employers can use a range of events and services to help reservists and National Guard members return to the workplace.

'They may have been very outgoing before and now the employer is struggling with the fact that this person doesn't seem to want to talk about anything, but they are doing their job and doing a fine job.'

Fonda Phillips, ComPsych Corp.

National Guard members and reservists, according to the U.S. Department of Labor, which launched a Web site in August called America's Heroes At Work to help employers assist veterans.

The site includes resources and advice for employers who have military veterans returning to their civilian jobs.

Behavioral health issues related to PTSD, depression and anxiety may be present as they return to civilian roles. Workers who are not diagnosed with a disorder may still need someone to talk with about the experience of transitioning from the military world to civilian life, observers say.

How to help veterans readjust to the workplace after experiencing combat has become a question more employers are grappling with, said Fonda Phillips, director of the guidance resources unit for ComPsych Corp., a Chicago-based EAP provider.

"It's a challenging issue in many different ways for employers," Ms. Phillips said.

The challenges employers face include meeting legal compliance issues in successfully returning military vets to the workforce and how

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Questions & Answers



Richard Pimentel is the Vietnam War veteran credited with helping to cultivate the movement that launched the Americans with Disabilities Act. His life story was made into the 2007 movie "Music Within." He is a frequent motivational speaker on disability issues in the workplace and returning veterans to the workplace and spoke recently with Business Insurance Senior Editor Roberto Cenicerros.

How to reintegrate military vets to the workforce

Q: What are common myths and what are the realities about war veterans returning to the workplace?

I go back to the Vietnam days and some of the myths we faced was the idea that the returning veteran is a volatile, sometimes unpredictable employee.

With the people coming back from Iraq and Afghanistan, we're seeing similar things, especially with fears about behaviors.

With Iraq and Afghanistan we not only have post-traumatic stress in record numbers, we have high numbers of veterans who go back and then go back and then go back again—this didn't happen in Vietnam. And we have very significant numbers of traumatic brain injuries.

If veterans have these kinds of impairments and disabilities, employers really aren't sure what to do with them, and they're really not sure how to accommodate them or train their supervisors to work with them.

Q: What can employers do to help returning veterans and help themselves as employers to reduce potential disability losses?

Well first of all, you know the vast majority of vets that are going to come back are not going to have any physical impairments, but there are things employers can do.

Make sure you're very aggressive about

bringing those people back and that's not going to be easy because we're in a downturn economy. Look very aggressively at accommodations you're going to need to make for veterans that are coming back with physical injuries.

The way to get them back at 100% is to bring them back now, when they're not at 100%, and help them work through that because work itself is therapeutic. That is also true for traumatic brain injury. We don't leave these vets out there until some government agency fixes them. We bring them back because work is not the goal, work is part of the normalization process itself. Reintegration into our society is the goal. You see our country can bring them back here, but it's the employers who can bring them home.

Employers need to ask themselves, "Well, what am I going to do about post-traumatic stress and what kind of policy should I initiate? What kinds of things should I train my supervisors to deal with? What kind of accommodations can be made?"

Q: What kind of accommodations can be made?

Post-traumatic stress can affect memory. Then how do you work with an employee with memory problems? You might post instructions on equipment to remind them. Sometimes with PTSD, you can be easily distracted or you might suffer from a lack of con-

centration. What can an employer do about that? You remove some of the distractions from the work environment. Try and keep the worker from being interrupted during their tasks.

Q: It sounds like a good return-to-work program would help both the returning veteran and the employer.

Absolutely. In fact, it is taking what we already know about how you bring a worker back to work. You say, I'm going to look at post-traumatic stress or I'm going to look at traumatic brain injury the same way I look at a bad back or the same way I look at carpal tunnel. What are the issues? What do we need to do about them? What can the worker do? How can we help? Once you get them back and you start working with them on this, then the normalization process really can take hold and the person can do what anyone is going to do in a good transitional employment program. They're going to recover more quickly and more completely.

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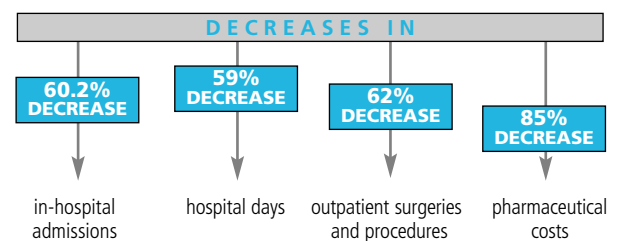


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- 85% decrease in pharmaceutical costs.



SOURCE: JOURNAL OF MANIPULATIVE AND PHYSIOLOGICAL THERAPEUTICS, MAY 2007

For more information regarding the value of chiropractic care visit: www.yes2chiropractic.com
Alternative Medicine Integration study results available at: [www.jmptonline.org/article/S0161-4754\(07\)00076-0/abstract](http://www.jmptonline.org/article/S0161-4754(07)00076-0/abstract)

Veterans: Return-to-work programs used

CONTINUED FROM PAGE 21

individuals suffer from PTSD depends on their personal resiliency, others added.

But injured employees returning from wartime duty may present challenges that can be long-lasting, according to a white paper published in February by the San Diego-based Disability Management Employer Coalition.

"For years to come, there will be those who need additional support, whether they are returning from military service with significant physical or mental health issues or they need extensive therapy or retraining due to a disability acquired outside of military conflict," according to the white paper titled *Workplace Warriors: The Corporate Response to Deployment and Reintegration*.

The DMEC white paper cited a 2007 article in the *Journal of the American Medical Assn.* in which Defense Department clinicians conducted two surveys—one immediately after serving in Iraq and the other three to six months later—and found that 20.3% of active soldiers and 42.4% of reserves needed mental health treatment. Researchers said military members' mental health needs rose several months after returning from war.

The military works to help returning reservists to civilian life as soon as possible by providing necessary services, Mr. Arkins said. But those with disabilities may present issues for employers, he added.

The white paper—stemming from a think tank of employers and disability management vendors assembled by DMEC—states that good corporate disability management, absence management and return-to-work practices can also help military veterans.

Those practices include, maintaining communications with employees during absences, such as e-mail, adequately providing benefits information, and training supervisors so they are sensitive to and can spot red flags that indicate potential difficulties.

"All the things we consider about worksite accommodation, sensitivity training with co-workers and managers, all of those things that we do in the disability management arena would be perfectly applicable," Mr. Arkins said.

Applying such programs to assist returning soldiers entering the civilian workforce can reduce potential disability-related absences or presenteeism losses among veterans, said Cheryl M. Pasa, executive director for integrated disability management at the United Services Automobile Assn. in San Antonio.

A member of Ms. Pasa's team meets individually with each employee returning from military service, she said. The practice is part of USAA's long-established policy of supporting veterans.

The insurer assures the workers that they will receive all benefits to which they are entitled and compensation that became effective while they were away, such as incremental pay raises. Such assurances can help reduce absences or presenteeism as

workers will be less likely to worry about such matters, Ms. Pasa said.

Few employers have established specific policies or programs addressing how to help returning veterans or applying existing disability services, observers say.

Behavioral health risks

Employers may be hesitant about returning veterans to the workforce because of beliefs that they may have major behavioral health risks, said Carol A. Harnett, vp and national practice leader for group disability and life practices at Hartford Financial Services Group Inc. in Simsbury, Conn.

But veterans have skills that corporations value, such as team leadership and technology expertise, Ms. Harnett said.

And behavioral health issues are not foreign to employers. "One in two of us will experience a bout of clinical depression in our lifetime," said Ms. Harnett, who wrote the white paper. "So mental health challenges and behavioral health challenges are not unknown to the American workforce."

PTSD is a common issue that EAP programs help workers address and is not limited to combat veterans, said Ms. Phillips. While employers may not be establishing specific pro-

grams aimed just at returning veterans, both veterans and employers are calling on EAP services for advice on helping veterans and their co-workers adjust, she says.

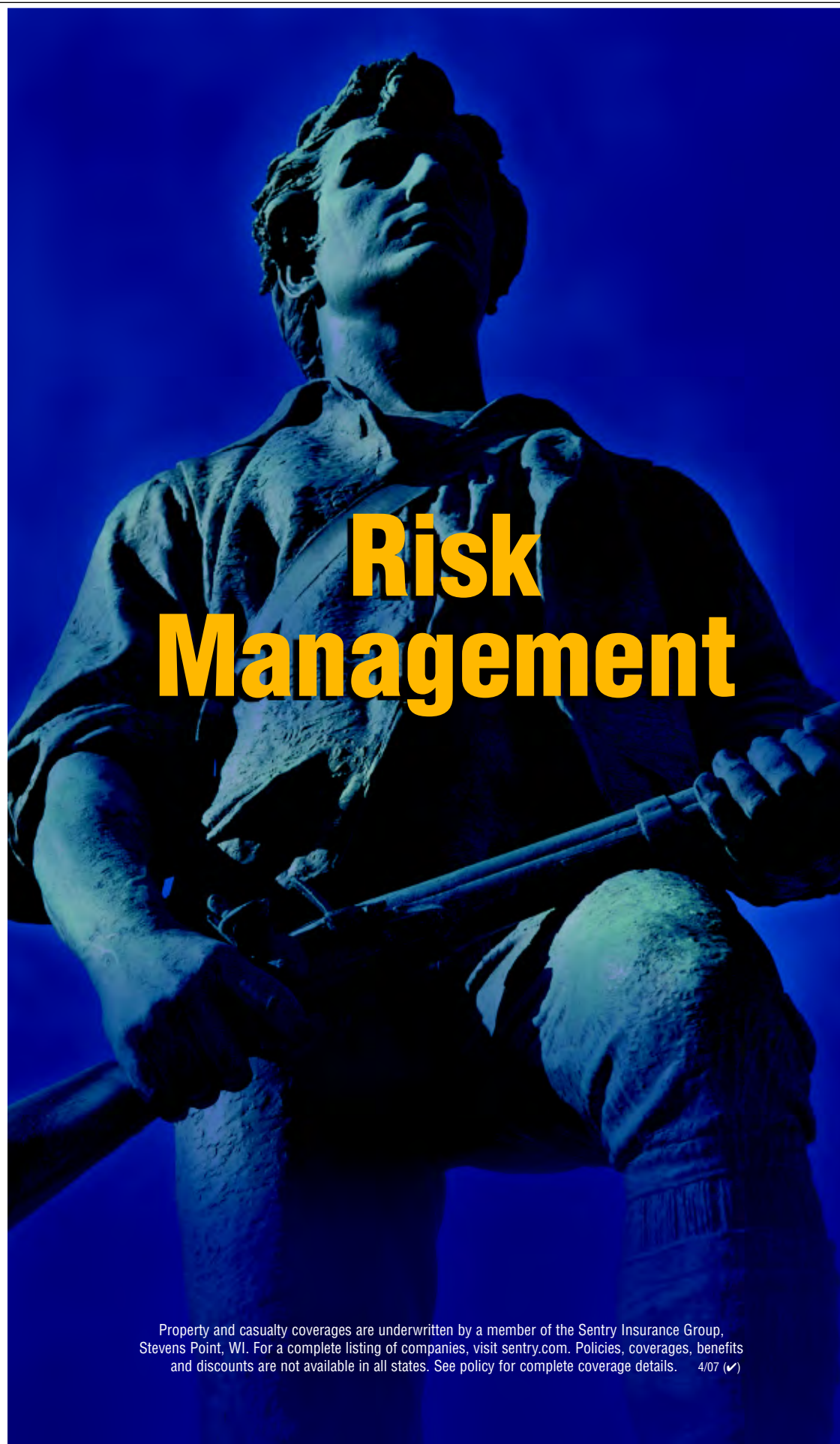
EAP programs are a critical resource for returning veterans and their dependents, DMEC's white paper says. But EAP services can vary, so employers should evaluate their ability to assist soldiers and civilians who have served overseas, the white paper also says.

Establishing a mentor program linking returning soldiers with veterans in the workplace who can discuss their experiences is another white paper suggestion already implemented by some employers such as Hartford, Ms. Harnett said.

Employers also can help through informal low-cost measures, Ms. Pasa said, such as inviting the families of colleagues that have been deployed to attend holiday parties and other company functions and encourage letter-writing programs to colleagues who have been called to active military duty.

Just as good disability management requires staying in touch with employees that are out with illness or an injury, keeping contact with deployed colleagues can help them stay connected to their jobs during their deployments and help with their reintegration, Ms. Pasa says.

The contact helps maintain their workplace social contacts and keeps them up on changes in business practices at work, she said.



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Third-party administrators come under greater scrutiny

Experts recommend setting benchmarks and meeting regularly with TPAs to enhance accountability, keep an eye on costs

By COLLEEN MCCARTHY

Employers facing economic pressures and soaring health care costs are examining their third-party administrators more closely and

turning to claims reviews and independent audits to evaluate their performance, observers say.

While the majority of self-insured organizations depend on TPAs to manage their workers compensa-

tion and disability programs, employers should maintain an open dialogue with their TPA to ensure that their claims are successfully managed and medical costs are under control, experts say.

"We want to provide employees with the best medical care possible to get them back to work as quickly as possible," said Dan Kugler, assistant treasurer, risk management at Snap-On Inc., a Kenosha, Wis.-based tool manufacturer. "But a good program doesn't run itself. It takes a team approach," he said.

Mr. Kugler recommends that organizations work with their TPAs to develop benchmarking strategies to ensure the company's goals are being met and meet regularly to review progress.

Lack of involvement by employers in a program can lead to mismanaged claims and result in additional costs, observers say. "You're basically hiring someone and handing over your checkbook," said Robert Bennett, chief executive officer of TPA Alternative Services Concepts L.L.C., a Nashville, Tenn.-based TPA. "The relationship requires more than trust; it requires accountability," he said.

Disagreements between TPAs and employers can lead to significant legal disputes.

In February, a California school insurance authority won a \$4.7 million jury verdict in a lawsuit against its TPA, ESIS Inc., a unit of ACE USA, alleging claims mishandling.

Philadelphia-based ESIS, which ACE acquired in 2000, had served as the Marin School Insurance Authority's workers comp claims administrator for decades and provided coverage for 21 California school districts and other agencies.

However, an independent audit commissioned by the school districts revealed that ESIS failed to provide the authority's excess insurer with timely notification to trigger coverage. The authority also alleged

'We want to provide employees with the best medical care possible to get them back to work as quickly as possible.'

Dan Kugler, Snap-On Inc.

that ESIS failed to properly investigate claims and object to unreasonable medical treatments.

"It emphasizes the scrutiny that should be given to TPAs," Daniel Sovocool, attorney with Thelen Reid Brown Raysman & Steiner L.L.P., the law firm representing the pool.

ACE declined to comment on the pending litigation in which a judge in April reduced the award to \$3 million. Both sides are appealing.

Evaluating a TPA's performance

can be done in several ways, either through claim reviews, which are generally conducted internally, or an independent audit, which is more intensive and includes a third-party audit consultant.

During claims reviews, employers meet with their TPAs to review open claims and discuss the best way to close a file, settle a claim or deal with related issues. Such reviews work best when organizations bring together all individuals who are connected with a file, including senior management, said Jodie Massingill, associate director at John L. Wortham & Son L.P. in Houston, which places programs for large and midsize companies.

"If the majority of your claims are being generated from the operations department, then the vp of operations needs to get involved to understand the process and the costs," said Ms. Massingill.

Claims reviews can be used to review a TPA's response time and accuracy in paying bills, and to assess claims reserves to ensure they are adequate. It's also an opportunity to gauge the performance of the "front line person on the account"—the claims adjuster—and whether adjusters comply with the TPA's best practices guidelines, Ms. Massingill said.

Depending on the service issues, the employer should expect the TPA to provide performance improvement plans specific to the account or a change of adjuster may be necessary, she said.

Many risk managers use brokers to help them design special handling instructions with their TPAs to outline their expectations. For example, "I want to be consulted on every reserve increase over \$25,000 or I want a coverage opinion on every claim that involves long-term chemical exposure," said Garry L. Allen, casualty claims manager at Celanese Corp., a Dallas-based chemical company. "Reviews with the TPA are then based on the roadmap you have provided," he said.

TPAs often conduct their own internal audits with clients annually. However, to assess claims in greater detail and address larger issues, employers are increasingly hiring third-party claims consultants to conduct external audits, consultants say.

Employers are scrutinizing all costs, including disability benefits and workers comp, because there is always the potential for fraud, said Tom Klett, senior consultant with Watson Wyatt Worldwide in Stamford, Conn.

Mr. Klett said legislation such as the Sarbanes-Oxley Act and other recent legal disputes involving fiduciary liability have increased the demand for audits.

External audits can measure the objective elements of a program, such as regulatory compliance or calculating benefit payments and assessing financial due diligence. They can also be used to evaluate

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TPAs: Claims reviews, audits evaluate performance

CONTINUED FROM PAGE 24

some subjective areas, such as interpreting how well a TPA follows various instructions and procedures outlined by an employer, Mr. Klett said.

For example, the audit can help an employer determine the effectiveness of various cost containment programs within the TPA's medical management services, such as the network of approved providers, including doctors, pharmacies and labs in the TPA's preferred provider organization.

"The goal is to have the vendors' resources, particularly the clinical resources, being focused on the more complicated claims," said Mr. Klett. Not all claims require every service a TPA provides, "so you really want to determine if the TPA is applying the appropriate level of resources. It's subjective, but it's very important."

Other findings from an audit may reveal the degree to which an integrated program—where TPAs administer both workers comp and disability programs—has been established. "Oftentimes, it turns out there are still two, separate systems and no communication between the two," he said.

A common finding in the disabil-

Not all claims require every service a TPA provides, 'so you really want to determine if the TPA is applying the appropriate level of resources.'

Tom Klett, Watson Wyatt Worldwide

ity claims arena is that a TPA is ineffective or slow at securing an employee's Social Security disability insurance to offset the benefits paid out by the employer. "There's a real incentive to be efficient in this area, otherwise the employer is leaving money on the table," Mr. Klett said.

Based on the outcome of an audit, an unsatisfied employer may choose to terminate the relationship and seek a new vendor. Or the employer may choose to work with the TPA to resolve the problems. "It actually works quite well in a number of cases," he said.

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LEGAL NOTICE

NOTICE OF SANCTION OF SOLVENT SCHEME OF ARRANGEMENT IN THE HIGH COURT OF JUSTICE OF ENGLAND AND WALES NO 5311/2008, CHANCERY DIVISION, COMPANIES COURT

IN THE MATTER OF MALAYAN INSURANCE COMPANY (U.K.) LIMITED

(referred to in the Scheme as the COMPANY)

AND IN THE MATTER OF THE COMPANIES ACT 2006 OF GREAT BRITAIN

NOTICE IS HEREBY GIVEN that, by an order granted 7 October 2008 made in the High Court of Justice of England and Wales, Chancery Division, Companies Court, at the Royal Courts of Justice, Strand, London WC2R 2LL, in the above named matter, the solvent scheme of arrangement ("the Scheme") to be made between the Company and its Scheme Creditors (as defined in the Scheme) pursuant to part 26 of the Companies Act 2006, which was voted on and approved by Scheme Creditors during the meeting held on 1 October 2008, was sanctioned. A copy of the order sanctioning the Scheme was lodged with the Registrar of Companies in England and Wales on 9 October 2008 and the Scheme became effective on that date ("the Effective Date"). The full text of the Scheme, along with the Explanatory Statement and all other related documents are available for downloading from the scheme website located at www.chiltington.com/schemes/malayan or free of charge from the Scheme Manager, Chiltington International Limited (Chiltington) by emailing abagshaw@chiltington.co.uk or by telephoning Anne Bagshaw on +44(0)20 7621 6332.

Under the terms of the Scheme, Scheme Creditors, other than those who elected to use their Voting Form as the Claim and not wishing to amend it, must submit completed Claim Forms in respect of their Scheme Claims (as defined in the Scheme) to reach Chiltington on or before 5 pm on 9 April 2009 (the "Final Claims' Submission Date"), this being 6 months after the Effective Date. Claim Forms can be obtained free of charge from the Scheme Website, upon request from Chiltington by emailing abagshaw@chiltington.co.uk or by telephoning Anne Bagshaw on +44(0)20 7621 6332. Completed Claim Forms should be returned by the Final Claims' Submission Date to Chiltington International Limited, Holland House, 1-4 Bury Street London EC3A 5AW, United Kingdom, marked for the attention of the Anne Bagshaw. Alternatively, Scheme Creditors may send their forms by facsimile transmission to facsimile number +44 (0)20 7621 6344/55 or by email (in pdf format) to abagshaw@chiltington.co.uk by the same time on the same date. Forms sent by facsimile or email will be accepted only if they are legible.

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Any Scheme Creditor that is unclear about the action to take or has any questions concerning this Notice, or any Scheme Creditor requiring a hard copy of the Scheme, Claim Form or any other document contained on the Scheme Website, should contact Anne Bagshaw at Chiltington at the above address.

Dated 9 October 2008

CityNet Law, Solicitors, of St. Martin's House
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London EC1A 4EN
Solicitors for the Company

Workers want employer help with health goals: NBGH survey says

By JOANNE WOJCIK

Employees say they would like to improve their health status but need their employers to help them do it, a survey by the Washington-based National Business Group on Health has found.

However, the demands of work, personal life and overall stress levels are keeping them from pursuing their health improvement goals, said employees responding to the survey.

The NBGH survey found that while 88% of employees have taken steps to improve their health within the past year or have been regularly doing so for more than a year, work demands are preventing 47% of them from leading a healthier life.

Employees also said they want health care communication targeted to their specific needs and interests, and to learn more about how to save money and get more value from their health plans, the survey found.

When asked to rank their preferred method of communication, 77% of employees said they read health-related e-mails, 65% like getting home mailings, and 55% use their employer's Web site or intranet. While the vast majority said monthly or quarterly communication would be the preferred frequency for health-related communication, younger workers and men said they would like it even more often.

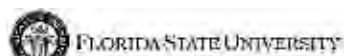
Employees are becoming more engaged in making active health care choices during annual enrollment, the survey found. Almost three-quarters (73%) said they reviewed their health plan options for their 2008 annual enrollment, and of those, 24% switched to a different plan. The tools employees found more helpful in making their decision were out-of-pocket cost calculators, used by 63%; enrollment guides, used by 61%; and plan comparison tools, used by 60%.

More than half (54%) of employees said they would take advantage of health-related activities if offered by their employer as a way for them to improve their health status, the survey found. Of that group, 59% said they would get onsite health screenings; 55% would use worksite fitness centers; 53% would enroll in a weight management program; 52% would participate in a Web-based wellness program; 52% would see a worksite health care provider; and 49% would work with a health coach.

The survey, which was conducted online between July 10 and July 21 by Fidelity Investments, included responses from 1,502 employees working full- or part-time at employers with 2,000 or more employees. The survey was funded by the NBGH for its members' exclusive use.

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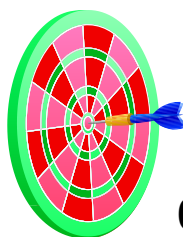
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International NEWS

Most insurers' subprime exposure limited: S&P

By JEFF CASALE

Global insurers generally appear well-positioned to withstand volatility stemming from the credit crisis because of their low exposure to mortgage-backed securities, according to Standard & Poor's Corp.

Though many insurers saw negative rating actions from the New York-based S&P, its analysts said in a report those were due mainly to the low point in the pricing cycle rather than the securities insurers carry as assets. However, the rating agency said mortgage and title insurers and those—like American International Group Inc.—with major exposure to credit default swaps are expected to feel the pain of the U.S. housing market collapse.

"Insurers have too often been painted with the same broad brush of fear that has covered Wall Street, the federalized mortgage intermediaries and some banks," S&P analysts wrote in the report, "Global Insurers Weather the Credit Turmoil—Thus Far."

"We believe this ignores the insurance business model and specific efforts...insurers have made to protect themselves," the report stated.

S&P said insurers in Europe and in the Pacific regions have high cap-

ital adequacy and low exposure to subprime assets, while Asian insurers generally appear to have a "manageable" exposure to the subprime crisis.

S&P said North American insurers are in good financial position to handle residential mortgage-backed security losses and that property/casualty insurers as a whole have a "modest exposure" and expected losses of 1.3% of capital.

In contrast, S&P said life insurers are much more exposed and have projected losses of more than 5% of capital.

"Despite negative outliers, we continue to see ratings stability among all insurance subsectors, given the industry's capital strength and sound liquidity, relative to other financial institutions," S&P analysts wrote. "But we are aware that the U.S. real estate and mortgage crisis can spread to other asset classes too, such as commercial real estate."

In total, S&P said U.S. life insurers have 9.6% of their invested assets in commercial mortgages and 1.7% in commercial real estate.

For S&P RatingsDirect members, the report is available at www.ratingsdirect.com. For nonmembers, e-mail research_request@standardandpoors.com. The report costs \$500.

London P&I Club boosts members' premiums

By MICHAEL BRADFORD

LONDON—The London P&I Club is raising past and future premiums for its members as it shores up its financial position that has been hit by high claims and shrinking investments.

The protection and indemnity club said it also needs additional cash because of the more stringent capital regulatory requirements it expects to face under Solvency II, the proposed risk-based capital regulatory regime for insurers and reinsurers slated for introduction in 2012 in the European Union.

The club's reserves have fallen to just under \$81 million as of Feb. 20, it said in a statement. While its cap-

italization remains strong, its reserves no longer represent a comfortable margin in excess of regulatory requirements, the statement noted.

Members will incur a 35% premium call for the 2006/2007 claims year, the P&I club said. There will be a premium call for the same amount for the 2007/2008 claims year and a 25% call for 2008/2009.

In addition, a general premium increase of 15% will be applied before adjustments for individual members' experience.

Any adjustments to the London club's cost for its share of excess-of-loss reinsurance through the International Group of P&I Clubs also will be passed along.



Solvency II amendments favor captives, stress proportionality

By SARAH VEYSEY

BRUSSELS, Belgium—European risk managers have welcomed a European Parliament committee's vote on Solvency II that approved special amendments for captives, among other things.

The European Parliament's Committee on Economic and Monetary Affairs earlier this month agreed to several amendments to the draft directive on Solvency II, which will establish a risk-based capital regulatory regime for insurers and reinsurers operating in the European Union.

The vote marks another important step toward the directive being passed and taking effect by 2012, experts say.

"We are ready to proceed. We are moving ahead," said Peter Skinner, rapporteur for the directive and a U.K. member of the European Parliament.

Of the members of the European Parliament's Committee on Economic and Monetary Affairs, 22 voted for Solvency II in its current form, seven voted against it and four abstained, Mr. Skinner said.

He said he was still hopeful that the European Parliament would be able to hold a plenary vote on the directive next month. The European Council of Economic and Finance Ministers may weigh in with proposals, Mr. Skinner noted.

The directive was also discussed by the European Council of Economic and Finance Ministers, and will be discussed by that body again in November.

"This vote of the European Parliament was a critical step. We now have good reasons to anticipate an endorsement from the European Council of the text as it is," said Thierry van Santen, director of the Federation of European Risk Management Assns. with responsibility for European affairs.

"We are pleased that this vote keeps the timetable for the directive on track, as delays in implementing this enhanced approach to the calculation and regulation of insurers' solvency requirements would send the wrong message both to European consumers and to the international community, particularly during the current market turmoil," said Michaela Koller, director general of the Brussels-based Comité Européen des Assurances, which represents insurers and reinsurers in Europe.

Among other amendments to the directive, the Parliament committee approved several changes related to the treatment of both insurance and reinsurance captives under Solvency II.

The draft directive states that where it refers to insurance or reinsurance undertakings, it covers captive insurers and reinsurers except where special provision has been made for such structures.

One clause states that very small insurance undertakings, fulfilling



A European Parliament committee has agreed to amendments to a draft of the Solvency II directive on which the full Parliament may vote next month.

'This vote of the European Parliament was a critical step. We now have good reasons to anticipate an endorsement from the European Council of the text as it is.'

Thierry van Santen, Federation of European Risk Management Assns.

certain conditions such as gross premium volume of less than €5 million (\$8.9 million), are excluded from the directive's scope.

An important element of the directive, experts say, is the so-called proportionality principle.

"In particular, the new solvency regime should take account of the specific nature of captive insurance and reinsurance undertakings," the directive states in its current form.

"As those undertakings only cover risks associated with the industrial or commercial group to which they belong, appropriate approaches should thus be provided in line with the principle of proportionality to reflect the nature, scale and complexity of their business," it

continues.

That principle should also ensure that at smaller, less-complex companies, certain corporate governance functions—with the exception of internal audits—can be carried out by more than one person or organizational unit.

"Thanks to this vote, captives under certain conditions will not only benefit from a simplified solvency regime, but are also now officially recognized by European regulation as a specific risk financing instrument, useful for European industry," said Mr. Van Santen.

"This is a great victory for FERMA members," he said, pointing out that originally captive companies would have been subject to the same rules as traditional insurance entities under Solvency II.

"But the game is not over," he noted. FERMA and captive owners must now work with the Committee of European Insurance and Occupational Pensions Supervisors in the implementation phase of Solvency II.

The European Parliament committee's vote addressed several other important issues, such as the minimum capital requirements, use of own funds and equity risk, noted Mark Batten, a partner at PricewaterhouseCoopers L.L.P. in London.

The vote is an important step toward agreement on the Solvency II directive, although ECOFIN may wish to make its own amendments, he added.

Emerging Risk STRATEGIES

Subprime conversations

The following was inspired by an anonymous Internet posting.

LOAN ORIGINATION

APPLICANT: I'd like to buy a house but I don't have a down payment.

MORTGAGE BROKER: No problem. I have access to 500 banks. I can get you a loan.

APPLICANT: What size loan?

MORTGAGE BROKER: You're purchasing a house for \$450,000. Don't worry that it was listed last week for \$400,000. The seller has agreed to make a \$50,000 down payment.

APPLICANT: Excellent.

MONTHLY PAYMENT

MORTGAGE BROKER: Here's your monthly payment.

APPLICANT: Wow. I'm not sure I can handle that.

MORTGAGE BROKER: Here's the amount of your payment if we charge interest only for three years at a 3% rate. Then, the rate will adjust to 7% and you can reduce the principal.

APPLICANT: Perfect. I can handle that.

ABILITY TO PAY

MORTGAGE BROKER: I need to know your annual earnings from your job.

APPLICANT: If I get a promotion, it will be \$45,000.

MORTGAGE BROKER: Are you sure it won't be more? What's the most it could be?

APPLICANT: Well, if I get two promotions, it could be \$90,000.

MORTGAGE BROKER: \$90,000 it is. You look like an honest person.

APPLICANT: I am.

MORTGAGE BROKER: Good news. We got a loan for \$400,000 with interest-only payments at 3% for three years and an attractive 8% rate for 27 more years.

APPLICANT: What happens if I can't make the payments at the end of three years?

MORTGAGE BROKER: No problem. You see home prices. Sell the house at a profit and buy another house.

APPLICANT: Only in America!

AT THE RETAIL BANK

LENDING OFFICER: We've accumulated some mortgage loans, but I'm concerned about them. They look risky if housing prices fall.

BANK MANAGER: Good news. We sell them to an investment banking firm.

LENDING OFFICER: How much of the

portfolio should we sell?

BANK MANAGER: All of it. The real profit is in the fees we charge. By selling the loans, it frees our capital and deposits so we can make more profitable loans.

LENDING OFFICER: Sounds like a good strategy to me.

INVESTMENT BANK ASSESSES RISK

VP: As you directed, I purchased all these mortgage loans from retail banks. The collection contains highly risky mortgages.

PARTNER: Don't worry. We have a strategy. We're creating a financial security called a collateralized debt offering. We'll sell the packaged mortgages to investors in the form of this security.

VP: Is it risky?

PARTNER: Not really. Only a small portion of mortgages are likely to default at any one time. And rising house prices will create minimal losses when we sell the houses to pay off the security holders.

INVESTMENT BANK REDUCES RISK

VP: Will we hold any of the mortgages ourselves?

PARTNER: Yes. We'll divide the offering into three tranches:

■ Conservative: Highly safe.

■ Moderate: A good return for the risk incurred.

■ Aggressive: A high return for the higher risk incurred.

VP: What if housing prices don't continue to go up?

PARTNER: That's the beauty of it. We'll only hold the conservative tranche.

RATING STRATEGY

VP: Who'll buy the moderate and aggressive tranches?

PARTNER: Not widows and orphans. We're honest and ethical business-people. We'll sell them to our sophisticated institutional clients and our preferred wealthy individual investors.

VP: Will the security offering be evaluated by the rating agencies?

PARTNER: Why not? We have a AA rating ourselves. We'll guarantee payment on the conservative tranche, so our rating will apply.

INSURANCE REDUCES RISK

VP: What about the risk to us if we guarantee the payment to investors

in the conservative tranche?

PARTNER: We'll buy insurance to protect us against an unexpected loss.

VP: What about the moderate and aggressive tranches?

PARTNER: No guarantee by us or insurance, but remember that these securities are very complex to evaluate. We should get BBB or something like that, which isn't bad for the high return offered by the tranche.

NO DISCLOSURE

VP: We'll hold some mortgages and guarantee others. Will the auditors require us to disclose the risks?

PARTNER: Not really. Auditors don't require the disclosure of certain categories of risk on financial statements. It is legal to:

■ Set up an offshore shell company.

■ Transfer risky assets to the shell company.

■ Exclude the assets from the balance sheet of the parent company.

REGULATOR ROLE

VP: What about the regulators in Washington? Fannie Mae? Freddie Mac? The SEC?

PARTNER: Fannie Mae and Freddie Mac exist to help Americans own their own homes. They will be very supportive.

VP: And the SEC?

PARTNER: The SEC knows these are complex securities but doesn't understand the risk in them. With our guarantees and insurance, high ratings and sophisticated buyers, the SEC will not be a problem.

CONGRESSIONAL ROLE

VP: What about Congress?

PARTNER: With all the money we pay to congressmen, I don't expect any problems at all.

AFTERMATH

APPLICANT: What happened?

MORTGAGE BANKER: What happened?

LOCAL BANKER: What happened?

INVESTMENT BANKER: What happened?

AUDITOR: What happened?

REGULATOR: What happened?

CONGRESSMAN: What happened?

INSTITUTIONAL INVESTORS: What happened?

INDIVIDUAL INVESTORS: What happened?

FORMER HOMEOWNERS: What happened?

ANSWERS: Countrywide, Merrill Lynch, Bear Stearns, Washington Mutual, Lehman Bros., Fannie Mae, Freddie Mac, AIG.

The end. Or just the beginning?

UP Comings & Goings CLOSE



JOSEPH DIBELLA

NEW JOB TITLE: Executive vp of the employee benefits consulting practice for Cherry Hill, N.J.-based Conner Strong Cos. Inc.

PREVIOUS POSITION: Senior vp for employee benefits and sales at Conner Strong.

GOALS FOR NEW POSITION: To build a world-class benefits consulting and brokerage operation that is unparalleled in our industry. We want to be world-class and best-in-class in everything we do for our customers. We want customers to look at us as business advisers so that they come to hear us, the advice and the counsel that we give them on benefits-related issues, knowing that the cost of employee benefits is an enormous element of the overall cost of their being in business.

CHANGES IN STORE: We are absolutely looking to raise the bar on services we provide for customers and what we expect from our consultants that handle our clients' businesses. We are reviewing all the services we are providing for our customers to ensure that we providing a one-stop level of service.

CHALLENGES FACING THE INDUSTRY:

Cost is the greatest challenge. People in this economy are looking for ways to cut costs yet they don't want to diminish benefits to the point where it becomes a problem for them to attract and recruit the best talent. The challenge is finding the most economical deals for our customers. A second major challenge is the future of our industry from a regulatory standpoint. What's going to happen with who is elected president next? A third challenge is we have an epidemic, a crisis of an unhealthy population and chronic disease that continue to drive up health care costs.

FIRST EXPERIENCE IN THE INDUSTRY JOB MARKET:

I was working for a Blue Cross-Blue Shield company. The industry was dramatically different. It was at the beginning of when managed care was beginning to...cement itself in the industry. Now we are going through the same process with consumer-driven health care.

OUTSIDE THE INDUSTRY, A DREAM JOB:

This one could get me in trouble. A dream job is to be the governor of the state of New Jersey. I've always had an interest in politics.

Comings & Goings

ONLINE

VISIT www.businessinsurance.com/CandG for a full list of this week's personnel moves and promotions. Check our Web site daily for additional postings.

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Cat fund: Capital concerns

CONTINUED FROM PAGE 3

trophe Fund were regretfully taken out of context. The FHCF is a valued client of Citi's and we continue to believe strongly in their stability and will continue to support them as an adviser and underwriter."

In its comment last week, Best said it had previously indicated concerns about the FHCF's ability to fund all obligations should a severe hurricane hit the state.

"These concerns were largely based on the contingent capital nature of the FHCF and capital market acceptance of what would likely be one of the largest public debt offerings," Best said. "In addition, the potential liquidity and cash flow issues that might arise from such an event created an additional level of uncertainty. Based on current market conditions, it is only prudent to re-evaluate these expectations in the assignment of ratings, despite the near-completion of the 2008 hurricane season."

As a result of its review, Best said, "Companies with significant potential gaps in reinsurance coverage and correspondingly inadequate risk-adjusted capitalization will be placed under review with negative implications pending additional discussions with company management regarding improving this key metric."

Best Analyst Richard Attanasio said insurers would not necessarily face a downgrade, "but we need to evaluate each one; and if the potential exists, we could put them under review." There might not be an issue because of structures around the cat fund that provide additional protections, for instance. "Those are the things we need to figure out now."

Mr. Attanasio said the fund's current problems were caused by the Florida Legislature's decision last year to expand the fund, which roughly doubled it to more than \$30 billion, plus the current credit crisis.

Jack Nicholson, the fund's chief operating officer, expressed confidence about the fund's financial condition. "I don't have any doubt that we'd be able to fund losses one way or the other. Time will help us out, the markets will improve or the event will be small enough so that we can easily fund it," he said.

Mr. Nicholson said the fund could pay the hurricane losses of 2004 and 2005 plus have "a billion left over with our current resources."

In "the vast majority of scenarios I can think of, we would not have any problems, and it would have to be, certainly, an unprecedented hurricane" to create any, Mr. Nicholson said.

"Certainly, we are discussing the situation around the cat fund with our clients, and that includes the reaction and comments made by A.M. Best," said Lara Mowery, Minneapolis-based managing director for reinsurance intermediary Guy Carpenter & Co. Inc.

"I think certainly we anticipated that A.M. Best would react in some way to this situation, because the mechanics of what has happened do, in fact, produce gaps in companies' coverage that have significant involvement in the Florida market," Ms. Mowery said.

She noted that under Florida law, insurers may not recoup reinsurance costs that duplicate coverage provided by the FHCF. This means insurers are, in effect, prohibited from obtaining coverage "that would help them fill in the gap if, in fact, the cat fund wasn't there," said Ms. Mowery.

"We have to take very seriously the implications that there has to be another way to fill those gaps in coverage," she said. Guy Carpenter does not want its clients "to be in a situation where a late-season storm happens" and it is not known whether the fund has the resources to pay its claims, she said.

One potential solution to help the cat fund is the possibility of the federal government purchasing bonds from the fund. Mr. Nicholson said he believes the federal government would do so "if push comes to shove."

Meanwhile, the question also remains of what happens next year.

This is "largely a function of where the credit markets stand in terms of level of funds" and what might be needed to raise funds, said Mr. Attanasio. There also is the possibility that the fund's structure might be changed, he said.

Sam Miller, executive vp of the Tallahassee, Fla.-based Florida Insurance Council, said the legislature should lower the fund's capacity to a level where "the cat fund can always deliver, even in economic crises like this." Insurers should then be able to purchase additional coverage in the private market, he said.

Richard Miller contributed to this story.



Under Florida law, insurers may not recoup reinsurance costs that duplicate coverage provided by the Florida Hurricane Catastrophe Fund.



CANDIDATES' PLANS

How the presidential contenders would change distribution, withdrawal and tax rules for 401(k) plans.

REUTERS

UNDER SEN. BARACK OBAMA'S LATEST PROPOSAL

- The Treasury Department would suspend current rules that require retirees to begin withdrawing funds from their 401(k) plans in the year they turn age 70½.
- 401(k) plan enrollees could withdraw 15% of their account balances—up to \$10,000—in 2008 and 2009 without being assessed the normal 10% penalty tax.

UNDER SEN. JOHN MCCAIN'S LATEST PROPOSAL

- For 2008 and 2009, the income tax rate on the first \$50,000 a retiree withdraws each year from a 401(k) plan would be 10%.
- Temporarily waive current rules that require retirees to begin withdrawing funds from their 401(k) plans in the year in which they turn age 70½.

Election: 401(k) ideas take different tack

CONTINUED FROM PAGE 1

and increase with age.

Under the McCain proposal, the minimum distribution requirements would be suspended, according to his advisers, for one year.

Retirees would reap a double benefit from a suspension. Depending on investment results, assets that remain in the 401(k) plan, would have more time to earn investment income, while retirees would not be taxed on the contributions and investment income as long as the assets were not withdrawn.

Sen. Obama's approach would limit to two years the suspension of the minimum distribution rules.

Sen. McCain said unless the minimum distribution rules are suspended, retirees would be forced to sell plan assets at a time when asset values are very low. Sen. Obama, whose minimum distribution proposal came shortly after Sen. McCain's, acknowledged the Republican candidate's lead on the issue, saying he "had to give credit where credit is due."

But the two candidates weren't as mutually supportive on their other 401(k) proposals.

For example, Sen. McCain said Sen. Obama's proposal to allow employees to take penalty-free withdrawals from their 401(k) plans would encourage withdrawals and exacerbate the fall in the equities markets.

"This is an invitation to capital flight, and therefore continued instability in the market, at a moment when the opposite is need-

ed," Sen. McCain said last week in a speech in Blue Bell, Pa.

Similarly, while Sen. McCain said his proposal to reduce taxes on 401(k) plan distributions was needed to provide relief to retirees to allow them to keep more of their savings, staffers for Sen. Obama said the proposal was geared to aiding wealthier retirees.

Plans reflect the economy

Benefit experts say they aren't surprised that 401(k) plan issues are drawing the interest of the presidential candidates, given the recent dramatic fall in the equities markets.

"This is a reflection of what is going with the economy," said Diann Howland, vp-legislative affairs at the American Benefits Council in Washington.

Benefit experts question Sen. Obama's proposal to allow participants to withdraw the lesser of 15% of their 401(k) account balance or \$10,000, without penalty.

Scott Macey, senior vp and director of government affairs at Aon Consulting in Somerset, N.J., said a more focused approach would be to modify the proposal so that only those who qualify for hardship withdrawals would be exempted from the 10% penalty tax.

In fact, by allowing employees to withdraw funds without penalty from 401(k) plans, employees could be hurt: If they withdraw the funds now, they will have less plan assets available when retire, said Mark Warshawsky, director of retirement research at Watson Wyatt Worldwide in Arlington, Va.

"Employees will end up hurting themselves," said Michael Weddell, a consultant with Mercer L.L.C. in Detroit.

"We don't want people raiding their 401(k) plans for consumer spending," said Kathryn Ricard, vp-retirement policy at the ERISA Industry Committee in Washington.

If Congress were to approve Sen. Obama's plan to allow penalty-free 401(k) plan withdrawals, employers would face the burden of amending their plans and communicating the changes to plan participants.

Benefit experts generally declined to comment on Sen. McCain's proposal to temporarily cut the tax rate to 10% on 401(k) plan distributions up to a maximum of \$50,000 a year for two years, noting that is more of a tax policy rather than retirement plan issue.

Still, Aon's Consulting Mr. Macey noted that while the concept "perhaps isn't a bad one, the effect might be to encourage retirees to take distributions sooner than they needed."

There is broad support, though, for easing, if not eliminating, the minimum distribution rules. For example, by forcing retirees to start taking money out at age 70½, the chances of retirees outliving their account balances increases, Mr. Macey said.

Others note that the policy behind the minimum distribution rules—raising tax revenue for the government—is suspect since the funds eventually will be distributed and taxed.

ADA: Inability to drive not protected

CONTINUED FROM PAGE 3

as violations of the Fair Labor Standards Act, claiming she was entitled to overtime compensation that had not been paid.

The jury found on her behalf on both claims and awarded her damages. In addition, the district court awarded Ms. Kellogg prejudgment interest, front pay—the equivalent of lost earnings—under the ADA; liquidated damages, an estimate of damages that would result from a breach of contract under the FLSA; and attorney fees.

New law

Oilind appealed and a three-judge panel of the 10th Circuit on Oct. 15 vacated the jury's verdict on the ADA claim and remanded the case for a new trial, but it upheld the FLSA verdict and the district court's award of liquidated damages. Circuit Judge William Judson Holloway Jr. dissented.

"Whether driving constitutes a 'major life activity' under the ADA is a question of first impression in this circuit," the ruling states. "The two courts of appeals that have published opinions on the question have concluded that it is not."

"It cannot be disputed that driving is an extremely important activity to many, even most, adults. Without the ability to drive, it may be very difficult to care for oneself or to work.... But driving is, literally, a means to an end," the court wrote.

Plaintiffs attorney Bruce S. Asay

of Associated Legal Group L.L.C. in Cheyenne said he had not yet discussed with his client whether to seek a rehearing by the full 10th Circuit or to proceed with a new trial.

"Since Wyoming is such a rural state, the court should have found that driving is a major life activity under the ADA," he said.

The defendant's attorney, Catherine MacPherson, of counsel at MacPherson, Kelly & Thompson L.L.C. in Rawlins, Wyo., was unavailable for comment.

Two attorneys not connected



with the case, one who represents disabled workers and another who represents employers, both agreed that the impact of the Kellogg case will be minimal going forward because of the ADA Amendments Act of 2008.

The law requires the amended law requires judges to read the ADA broadly and expands ADA protections to individuals with episodic impairments or conditions that are in remission if the impairment while in its active state would substantially limit a major life activity.

"My sense is that if this case were decided under the new act, the

inability to drive where driving is a necessary component of one's job would not disqualify someone, and there would never be a holding like there was here that someone is not disabled within the meaning of the law," said Gerald Maatman, a partner at Seyfarth Shaw L.L.P. in Chicago who represents employers in ADA discrimination cases.

Laurence Paradis, executive director of Disability Rights Advocates in Berkeley, Calif., agreed.

"The amendment requires courts to apply a more relaxed standard to defining a substantial impairment, so now it is a 'significant limitation' rather than 'a complete inability' to either care for oneself or engage in an activity," he said.

"I don't see the court saying that the plaintiff will be unsuccessful once it is reviewed again by a trial court. They're basically leaving it to the jury to decide whether her inability to drive impacts daily activities, and she seems to have a good argument for that," Mr. Paradis said.

And even though the changes in the law cannot be applied retroactively, "she may still have an ongoing claim for an injunctive order to provide her employment with the accommodation that would presumably be subject to the amendments once those kick in," he said.

Ireane Kellogg v. Energy Safety Services Inc., No. 07-8072. Appeal from the U.S. District Court for the District of Wyoming, (D.C. No. 06-CV-110-CAB), May 5, 2008.

New York: Takes aim at contract certainty

CONTINUED FROM PAGE 3

superintendent in 2007, Mr. Dinallo was general counsel for Willis Group Holdings Ltd. in New York.

The Oct. 16 circular letter seeks to provide "contract certainty," which means that the complete and final agreement to all terms of a policy exists by the time the policy takes effect, and the issuance and delivery of the policy occurs "before, at or promptly" after the inception date, according to the department. The circular noted that contract certainty is not an issue with most policies because they are written on standardized forms that have received regulatory approval. But under certain circumstances—including manuscripted large commercial accounts, the excess lines market and reinsurance—"the unique nature or size of the risk" gives rise to issues regarding contract certainty.

The insurance department "expects the industry in New York to adhere to a set of reasoned principles and practices to enhance contract certainty," according to the circular letter. "Accordingly, all terms of a policy should be complete and finalized...and provided to the insured before, at, or promptly after inception. For the purposes of this circular letter, 'promptly' should be generally interpreted to mean within 30 days, and any

extensions beyond that period should be carefully documented by insurers. Licensees should strive for contract certainty in at least 90% of the policies that are not already subject to a more stringent requirement, such as policy forms subject to approval under the New York insurance law and regulations."

The policy gives insurers 12 months to devise policies to assure contract certainty concerning commercial property/casualty and rein-



sure policies. Mr. Dinallo stressed that the aim is to have at least 90% of the affected policies compliant. "I don't think you'll ever get a policy that's 100%. But if you get to the 90s, you're going to have a much more contract-certain industry that's going to benefit everybody."

The New York-based Risk & Insurance Management Society Inc. welcomed the move.

"RIMS applauds the decision of the New York state insurance superintendent," said Terry Fleming, RIMS director-external affairs.

"This issue has been a point of

focus for RIMS quality initiatives with our industry partners for years," said Mr. Fleming, who is also director-division of risk management for Montgomery County, Md., in Rockville. "RIMS has recognized that if the insurance industry did not voluntarily move in the direction of contract certainty, that regulators would force the issue. We look forward to other states following New York or insurers moving forward with contract certainty independently."

"I hope the industry embraces this and says this is what a regulator should be doing," said Mr. Dinallo. "If everyone is already compliant—great. Then we're done. We've given them ample time to reach an industry best practices standard."

He added: "I hope we don't need a regulation, that everyone agrees that this gets put into their risk management and policies."

In its announcement of the circular letter, the department noted its "action is similar to that taken by the United Kingdom Financial Services Authority in 2004." The FSA called on "the London market to provide greater contract certainty at the inception of a contract, with full documentation delivery promptly thereafter," adding that "significant progress toward contract certainty in that market resulted from the FSA's action."

Products & Services

Insurers accept Aon's Bermuda Shorts

CHICAGO—Several Bermuda-based general liability insurers have agreed to accept a single, excess coverage follow form from Aon Corp.

The form, Bermuda Shorts, is available to Aon clients through Bermuda-based Endurance Specialty Insurance Ltd., Arch Insurance (Bermuda) and Canopus Underwriting Bermuda.

The form can be used in an excess position for both occurrence-based and claims-made business, depending on the way a carrier has written coverage for a particular client, according to the Chicago-based brokerage.

The form is designed to address Bermuda-specific issues. For example, an arbitration provision is written into the form, according to Aon.

Bermuda Shorts is designed to provide greater consistency among insurers with respect to excess follow form contracts, which Aon said can vary widely.

For more information, contact Karen White Lawson, executive vp of Aon Bermuda Ltd., at 441-278-1226 or visit www.aon.com.

Affiliated FM offers green endorsement

JOHNSTON, R.I.—Affiliated FM, a unit of Factory Mutual Insurance Co., which does business as FM Global, has introduced a green endorsement to its all-risk property policy to cover additional costs associated with repairing or rebuilding damaged property using environmentally sound practices or building supplies.

The policy includes coverage for additional costs to replace damaged roofs with green roofing systems, remove or recycle damaged property in an environmentally safe fashion, replace or upgrade ventilation systems and hire an accredited consultant to assist in environmentally friendly design and construction.

The endorsement also provides policyholders with business interruption coverage for the duration of the project or while policyholders secure third-party certification.

The coverage enhances the Johnston, R.I.-based insurers' proVision all-risk property policy. Green endorsement limits start at 25% of the costs of the physically damaged property with a limit of \$100,000 per occurrence. Sublimits can be expanded to meet specific needs, according to the company.

For more information, contact Michael Lebovitz, vp and manager of Affiliated FM, at 401-275-3000 or visit www.affiliatedfm.com/green.

TriSure offers online employee benefit tools

RALEIGH, N.C.—TriSure Corp. is offering an online program for employers to manage employee benefits and communicate with

plan members called Broker Suite.

The Web-based tool functions as a portal for benefits administration. Through Broker Suite, customized information related to an organization's benefits can be accessed by plan members and their dependents. Users can access information regarding health plans and medical coverage, participate in online enrollment and access related forms, manuals or other resources.

All private health information is stored on a secure server in compliance with the Health Insurance Portability and Accounting Act, according to the Raleigh, N.C.-based broker. Employers also can use the site to communicate with members and post employee benefit-related information.

For a Broker Suite demonstration, call TriSure at 800-849-8545. For more information, contact Wally Dawson, partner, at 919-469-2473 or visit www.trisure.com.

Westfield launches blogs on info security, loss control

WESTFIELD CENTER, Ohio—Westfield Insurance Co., a member of Westfield Group, has launched two business insurance blogs about information security and loss control.

Information security blog www.infosec.westfieldinsurance.com is authored by Mike Rossander, corporate information security manager for Westfield Insurance. Mr. Rossander will lead discussions on security-related topics, including tips for organizations to reduce their exposures to privacy and data breaches and ways to prevent identity theft and fraud.

The loss control blog, at www.loss-control.westfieldinsurance.com is written by Lisa Mundt and Jay Gumbrecht, senior risk control representatives. The blog will promote discussions on risk management and loss prevention topics, providing resources for companies developing safety programs.

For more information, contact Gary Christy, executive, branding and marketing services, at 800-243-0210, ext. 6640; Terri Grimm, manager, marketing communications, at 800-243-0210, ext. 6055; or visit www.westfieldinsurance.com.

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AIG: Insurer forced to curb expenses; former chairman slams bailout plan

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loan facility will force a "fire sale" of AIG assets and leave the insurer unable to repay principal and interest on the debt. In the letter, Mr. Greenberg pushed for a revision of the loan terms to mirror the capital infusions recently extended to banks by the U.S. Treasury.

Determining whether AIG's asset sales will cover its debt "is a hard call," said Bill Bergman, an analyst with Morningstar Inc. in Chicago. "The loan is so large and (AIG's credit default swap) position is so large and uncertain that there's a lot of uncertainty about it."

In a research note earlier this month, analysts at Keefe, Bruyette & Woods estimated the value of several large operations AIG has tagged for sale at less than \$60 billion. AIG has hired KBW to sell its Hartford Steam Boiler Inspection & Insurance Co. unit.

Responding to Mr. Greenberg's letter, AIG said in a statement that it is "working closely" with the Fed and is "considering all serious proposals that can benefit taxpayers and AIG shareholders."

A Federal Reserve spokesman declined to comment.

By last Wednesday, AIG had drawn down a total of \$82.9 billion under both the \$85 billion loan facility and the separate \$37.8 billion facility, according to a Fed report.

An AIG spokesman declined to comment on a report Friday that AIG is seeking access to another Federal Reserve program set up to buy commercial paper.

Meanwhile, in a sign of the competition that AIG faces in retaining renewal business, the New York Insurance Department last week said it is investigating cases of competitors illegally misrepresenting AIG's financial condition in attempts to woo its clients. The department warned brokers and insurers against such misrepresentations.

"AIG subsidiaries licensed in New York State are meeting—and are expected to continue to meet—their obligation to pay insurance claims," the department said.

Under fire

In a letter to AIG's board and at a press conference in lower Manhattan, Mr. Cuomo last week assailed AIG's expenditure of millions of dollars for executive compensation and executive junkets and perks.

He specifically cited decisions by AIG's board regarding former CEO Martin J. Sullivan and Joseph Cassano, who was terminated as president of AIG's financial products division in February. Mr. Sullivan was awarded a \$5 million cash bonus and a golden parachute worth \$15 million; Mr. Cassano was allowed to keep \$34 million in bonuses and continued collecting a \$1 million monthly retainer until recently, despite the disastrous results of his division's credit default swap portfolio, the attorney general noted.



REUTERS

Maurice R. Greenberg, former chairman of American International Group Inc., said AIG's deal with the federal government is a 'lose-lose' proposition for the company and for taxpayers.

'The loan is so large and (AIG's credit default swap) position is so large and uncertain that there's a lot of uncertainty about it.'

Bill Bergman
Morningstar Inc.

"The party is over," Mr. Cuomo said at the news conference. "No more hunting trips, no more luxury resorts. They are not going to have the party and leave the hangover for the taxpayers."

Mr. Cuomo threatened legal action to recover the expenses, charging that they represent fraudulent conveyances under New York law governing debtors and creditors.

Mr. Liddy met with Mr. Cuomo the next day and the two soon released a joint statement outlining steps that AIG will take in response to the attorney general's complaints. Among other things, the insurer agreed to help Mr. Cuomo recover "any illegal expenditures," including compensation paid to Messrs. Sullivan and Cassano. AIG also said it will not make any payments under its employment agreement with Steven J. Bensinger—who resigned Oct. 9 as acting chief financial officer—pending the attorney general's "review of the propriety of such payments."

Mr. Bensinger was replaced as CFO last week by David L. Herzog, who had been AIG's senior vp and comptroller since 2005.

Mr. Bensinger made \$6.6 million in 2007, including \$2.2 million in salary and bonus, according to an

AIG SEC filing. His employment contract also calls for severance payments totaling \$7.5 million.

Mr. Liddy also agreed that AIG will halt junkets and perks that are not "strictly justified by legitimate business needs." The company said it will cancel more than 160 events.

"We know the attorney general shares our commitment to rebuilding AIG's business and paying back the U.S. taxpayer, and we will address the attorney general's concerns expeditiously," Mr. Liddy said in a statement.

Greenberg plan

AIG's repayment of its Federal Reserve loans was the subject of Mr. Greenberg's Oct. 13 letter to Mr. Liddy.

Mr. Greenberg describes the Fed bailout as a "lose/lose" proposition for the company and taxpayers, noting that AIG is paying more than 14% interest on the money it draws from the facility and 8.5% on the funds it does not use.

"In order to service the principal and interest on this loan, AIG will



have no choice but to engage in a fire sale of profitable assets," Mr. Greenberg wrote.

"Bottom line, this means that AIG cannot pay off this loan from the proceeds of selling assets in this market, nor can it pay the annual interest rate from earnings," he said.

As an alternative, he proposed replacing the loan facility with a new deal in which the Fed's nearly 80% voting stake in AIG would be replaced by nonvoting preferred stock paying the government a 5%

Greenberg refuses to testify about Gen Re finite deal

By DOUGLAS MCLEOD

NEW YORK—Former American International Group Inc. Chairman Maurice R. Greenberg has refused to answer questions in a deposition by lawyers for the New York Attorney General's office about a sham 2000 reinsurance deal between AIG and General Re Corp., Mr. Greenberg's lawyer confirmed.

In the last of four days of testimony, Mr. Greenberg earlier this month invoked his Fifth Amendment right against self-incrimination, declining to answer Gen Re-related questions arising from the attorney general's civil fraud lawsuit against him, said Robert Morvillo, a criminal defense lawyer representing Mr. Greenberg.

Mr. Greenberg had previously answered questions about several other AIG transactions unrelated to Gen Re that are cited in the attorney general's complaint, Mr. Morvillo noted. The complaint, originally filed in a New York state court in 2005, charges that Mr. Greenberg orchestrated a variety of transactions to manipulate AIG's financial results.

Five former executives of Gen Re and AIG are awaiting sentencing in a Hartford, Conn., federal court after their convictions earlier this year in a separate criminal fraud case related to the 2000 transaction.

Prosecutors alleged that the deal—initiated by a call from

Mr. Greenberg to former Gen Re Chief Executive Officer Ronald E. Ferguson—transferred no risk and was designed only to inflate AIG's loss reserves to placate stock analysts.

Mr. Greenberg, whom prosecutors identified as an unindicted co-conspirator in the case, has denied any wrongdoing in the transaction.

"The continued investment of resources for the last three and a half years by the U.S. Department of Justice in a reinsurance transaction between AIG and General Re which had no impact on the earnings or revenues of either company and which took place eight years ago, in the current atmosphere of huge corporate defalcations and misdeeds threatening the economic security of the United States, indicates a troubling lack of perspective," Mr. Morvillo said in a statement.

"As a result, I have advised Mr. Greenberg that he should decline to testify on this subject matter until such time as a semblance of fairness is injected into the process," he said.

Federal prosecutors handling the Gen Re criminal case said earlier this year that the investigation is continuing and that they intended to go "up the ladder" against other possible defendants.

Mr. Morvillo said that prosecutors have not been in touch with him so far regarding Mr. Greenberg.

to 6% annual dividend. The two-year term of the current loan facility would also be eliminated, with AIG having the right to redeem the government's preferred stock over a 10-year period at a 10% premium.

"Such a plan would have an immediate impact on the market and would save AIG from being liquidated," Mr. Greenberg wrote.

Whether the planned asset sale will ultimately bring in enough to retire AIG's debt remains uncertain.

Keefe, Bruyette estimated the value of several of the operations for sale at \$57.8 billion, not including any taxes AIG might owe on the sales.

This includes \$34.7 billion for an 80% stake in AIG's international life operations; \$13.4 billion for U.S. life business; \$7.6 billion for International Lease Finance Corp.; \$1.8 billion for AIG's 60% stake in reinsurer Transatlantic Holdings Inc.; and \$323 million for AIG's personal lines business.

Keefe, Bruyette's target price of \$2.50 per share for AIG reflects "the significant uncertainties surrounding the company and our lack of confidence in the company's ability to fully repay the Fed loan in the near term," the analysts wrote.

"You don't get close to \$70 bil-

lion" with the asset sales that AIG is now pursuing, said an insurance investment source familiar with the company. "Nobody is going to step up and pay a premium for these businesses."

AIG disagreed in a statement responding to Mr. Greenberg's letter: "Some argue that AIG's arrangement with the Federal Reserve is overly burdensome," it said.

"We have many remarkable businesses and a flexible plan that will allow us to repay the Federal Reserve loan as quickly as possible under our current arrangement," the insurer said.

Whether Mr. Greenberg succeeds in altering the AIG deal's terms is also uncertain.

"My impression is that it's not likely," Morningstar's Mr. Bergman said, noting that AIG's problems are different from the banks now getting capital from the Treasury. "AIG is unique and will be handled on its own terms."

Calling the terms of the current AIG bailout "totally confiscatory," the insurance investment source held out a faint hope that the terms might be amended.

"Except for the fact that it's so egregious, there would be no chance at all," the source said.

News In Brief

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premium production for the Hamilton, Bermuda-based XL Life. Best noted that while XL Capital Ltd. has provided capital support to XL Life, XL Life may report further realized losses in the fourth quarter.

Fla. regulator orders comp rate decrease

Florida Insurance Commissioner Kevin McCarty has ordered NCCI Holdings Inc. to decrease state workers compensation rates by 18.6% for policies incepting Jan. 1, 2009. The commissioner said in a statement that he turned down a 14.1% rate decrease that NCCI originally sought and ordered the agency to amend its filing and reduce rates by an additional 4.5%. Reforms adopted in 2003, along with utilization and cost trends, are driving rate reductions, the commissioner added. Including the 2009 reduction, rates in Florida will have declined by 60% since 2003.

Retirement plan caps to increase in 2009

The maximum contribution that can be made to 401(k) and other defined contribution plans will increase next year, and the maximum benefit that can be funded through defined benefit plans also will rise in 2009, the Internal Revenue Service said. The maximum annual contribution an employee can make through salary reduction to a 401(k) plan will rise to \$16,500 from \$15,500. The maximum annual total contribution, including employer contributions, to defined contribution plans will rise to \$49,000 per participant from \$46,000. The maximum annual benefit that can be funded through a defined benefit plan will increase to \$195,000 from \$185,000.

Hartford names chief risk officer

Hartford Financial Services Group Inc. named Robert Paiano senior vp and enterprise chief risk officer. He is responsible for risk management across all Hartford operations, the Hartford, Conn.-based company said. Mr. Paiano, who joined Hartford in 1996, previously was CRO of the insurer's P/C operations.

IRS increases transit caps

Employees will be allowed to make bigger pretax contributions in 2009 to pay for commuting expenses, the Internal Revenue Service said. Effective Jan. 1, 2009, employees can reduce their salaries by \$120 a month, up from this year's \$115 maximum, to pay for mass transit expenses such as bus and subway passes. In addition, the monthly maximum pretax contribution to pay for parking expenses will rise to \$230 from \$220.

USI names new CFO

USI Holdings Corp. has hired Michael Dinkins as executive vp and chief financial officer. Since October 2005, Mr. Dinkins has served as CFO of Hilb Rogal & Hobbs Co., which recently was acquired by Willis Group Holdings Ltd. Mr. Dinkins succeeds Edward J. Bowler, who has served as interim CFO of USI since the departure of Vincent E. Nerlino earlier this year. Mr. Bowler will resume his duties as senior vp of corporate development following a transition period.

FM Global adds disaster lab

Factory Mutual Insurance Co. will expand its West Gloucester, R.I., research campus to include a new natural disaster laboratory. The new lab will be four times the size of the company's existing natural hazard facility and contain an earthquake-shake table, according to the insurer, which does business as FM Global. The \$38 million expansion also will include an upgraded fire technology laboratory and a new multimedia center. The expansion is to be completed in 2009.

Travelers 3Q cat losses to exceed \$1 billion

Travelers Cos. Inc. said it expects pretax losses of about \$1.05 billion from catastrophes in the third quarter. Travelers estimated its aftertax losses from the catastrophes—primarily hurricanes Ike, Gustav and Dolly—would be about \$690 million net of reinsurance. Travelers said it would record net realized investment losses of approximately \$115 million after taxes for the quarter. It also said it expects to record favorable prior-year reserve development of around \$210 million after tax in the third quarter stemming from better-than-expected losses in commercial multiperil and general liability.

Collateral: Tight credit raises some buyer concerns

CONTINUED FROM PAGE 1

fore, it must find alternatives to LOCs to finance its Brazil venture and carefully manage its LOCs for its workers comp deductible program, Mr. Kubitz said.

HAVI must pay even closer attention to reducing workers comp injuries so loss reserves do not increase and drive up collateral amounts demanded by its insurer, he said.

Today, HAVI has only one LOC outstanding and has closed out LOCs for past years, Mr. Kubitz added.

"If the loss reserves did increase, I'm not sure what sort of problem we would run into if I needed to increase my letter of credit significantly, since the bank has basically frozen the line we already have," he said.

Some risk managers are planning ahead and hunting for alternative capital sources should bank-issued LOCs dry up, said Eric Silverstein, managing director in Atlanta for broker Beecher Carlson Holdings Inc.'s casualty practice.

"The strategic insurance buyers are definitely starting to do that," Mr. Silverstein said. "Everybody is concerned about it."

Soft insurance market conditions, however, provide a counterbalance to a tightening credit market for some risk managers. Middle-market accounts, for example, might weigh moving to guaranteed-cost programs or smaller deductibles when renewing coverage, said Tony Tam, managing director in the casualty practice at Marsh Inc. in New York.

So far, most risk managers have not had problems financing collateral for high-deductible or self-insured programs, brokers, risk managers and regulators said.

But some banks declined to renew credit lines or restricted loan terms for certain companies, said Pam Ferrandino, executive vp and casualty practice leader for Willis HRH in New York.

The topic is gaining greater attention as some banks cease to provide revolvers or tighten their credit conditions, experts said.

"Reviewing alternative forms of collateral is a conversation any good broker is having with their client, specifically depending on what the relationships are with (the insured's) financial institutions," said Patrick Walsh, area president in White Plains, N.Y., for Arthur J. Gal-

agher & Co.

The extent to which risk managers are affected so far is shaped by the amount of unused credit available under their revolver and the amount of time before they must renew their revolver arrangements with their banks, said Beecher Carlson's Mr. Silverstein.

"What I am seeing right now is a lot of concern, but I am not seeing people scrambling, although I am sure there are employers that are scrambling because of the timing of their debt package or the amount of debt they have on their books," Mr. Silverstein said.

Some insurers, meanwhile, have increased their scrutiny of banks providing letters of credit—particularly smaller banks—and are trying to avoid accumulating too many LOCs from certain banks, Marsh's Mr. Tam said.

"There are some rare cases, we have heard now, that (insurers) have actually asked some (policyholder) customers to see if there is another alternative" to providing the insurer with LOCs from certain banks, Mr. Tam said.

There is greater fear among insurers' credit officers about holding concentrations of LOCs from a bank that could encounter financial distress at the same time as a policyholder relying on that bank faces financial problems, said Ms. Ferrandino of Willis HRH.

Just as brokers encourage their clients to meet with underwriters, particularly during hard markets, Willis encourages clients to meet with insurers' credit officers, she said. Credit officers approve policyholders' collateral arrangements and scrutinize revolver renewal dates, available credit capacity, loss histories and policyholders' financial strength, experts said.

"I don't think it's doom and gloom by any means," Ms. Ferrandino said. "But it is a different time in the market and it does require more careful consideration on the part of the credit officers at insurance companies."

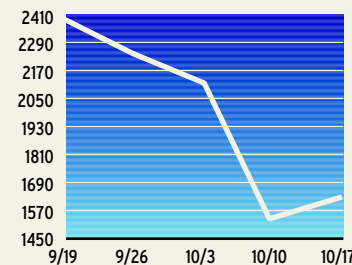
Forward-thinking risk managers, meanwhile, are weighing alternatives for structuring their future collateral needs in case credit conditions should worsen, Mr. Silverstein said. Some are considering tapping reserves in captive facilities while others are looking for capital that may be unused under years-old collateral arrangements still posted with previous insurers.

Stock Index

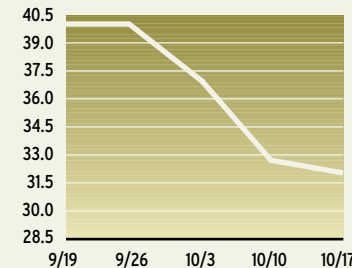
[10/13-10/17]

Up-to-the-minute data for all 82 companies that comprise the BI Stock Index can be found at www.IndustryFocus.com.

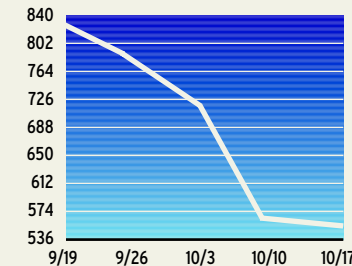
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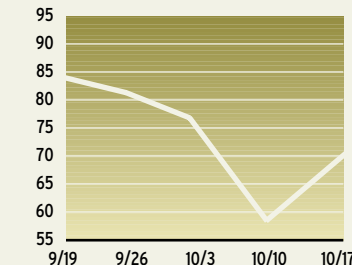
BI BROKERS INDEX



BI INSURER/REINSURERS INDEX



BI MANAGED CARE ORGANIZATIONS INDEX



Percentage change of BI Stock Index vs. key indicators

Index	Value	% Change
BI STOCK INDEX	1640.90	4.46%
DOW JONES	8852.22	4.75%
S&P 500	940.55	4.60%

LARGEST GAINS

Ambac Financial Group	105.29%
XL Capital Ltd.	81.40%
MBIA Inc.	59.86%
Hartford Financial Services	49.19%
Allmerica Financial Corp.	46.25%

LARGEST LOSSES

ING Groep N.V.	-31.29%
Arthur J. Gallagher & Co.	-13.68%
Torchmark Corp.	-12.31%
PMA Capital Corp.	-11.03%
AIG	-9.87%

Source: Financial Content Inc. <http://financialcontent.com>



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Business Insurance END PAGE



Media course bundled with blog cover

Bloggers are often accused of spreading rumors and being notoriously inaccurate, but now they can blog with the assurance that they are insured for those very acts.

The New York-based Media Bloggers Assn. has started a program of legal and financial resources, which includes BlogInsure, a liability insurance program for bloggers. The insurance provides coverage for all forms of defamation, invasion of privacy and copyright infringement.

The coverage comes with a bit of education for the mostly untrained journalists, as they will take courses in media law developed by the Media Bloggers Assn. in partnership with The Poynter Institute's News University.

By joining the MBA, individual bloggers can purchase liability insurance through Media/Professional Insurance, a unit of the select markets division of AXIS Insurance.

Media liability coverage protecting against claims of defamation and infringement has been offered to publishers and broadcasters for years. This is the first time this type of coverage is being offered to bloggers. Well, that's the rumor.

Florida broker seeks to stop financial storm

Daytona Beach, Fla.-based broker Brown & Brown Inc. activated an emergency response plan last week, but it had absolutely nothing to do with an impending hurricane.

Instead, after inadvertently releasing preliminary third-quarter financial results, Brown & Brown contacted the New York Stock Exchange requesting that trading of its stock be halted temporarily.

The NYSE granted the trading halt request, giving the brokerage time to issue a statement about its inadvertent release.

In that release, the broker reported third-quarter earnings of 29 cents per share, but those financials had yet to be finalized and reviewed by the company's audit committee and auditors, Brown & Brown said in its follow-up statement.

The broker, which did not say how the early release of earnings information happened, said it expects to complete its work and discussion with its auditors and audit committee and release its actual results after the close of stock trading today.



AP
American International Group Inc. held a retreat for independent agents at the St. Regis Monarch Beach Resort in Dana Point, Calif., days after receiving an \$85 billion bailout from the federal government.

Costly AIG retreat yields comedy gold

Live from New York, it's AIG!

The beleaguered insurer's recent lavish retreat for independent agents, which got much attention during an Oct. 7 House of Representatives hearing about AIG, also provided rich material for the writers at "Saturday Night Live."

During the Oct. 9 inaugural episode of "Saturday Night Live Weekend Update Thursday," Weekend Update anchors Amy Poehler and Seth Meyers ridiculed the more than \$400,000 AIG event in a segment dubbed "REALLY!?! With Seth and Amy."

"Really, AIG, really?" Mr. Meyers said. "You went to this retreat only six days after receiving an \$85

billion bailout? Really? Even the mafia knows not to spend money that soon after a heist."

"Here's a cheaper way to do team-building: You know all those empty sacks that used to be filled with money? Get in those and race," he said.

Ms. Poehler then noted that, subsequent to the House hearing, AIG had tapped the government for another \$37.8 billion, which she said "brings us to a new segment that we like to call, 'Oh My God, Are You Serious?!'"

"It's like you gave your junkie cousin \$100 for rent, and then you ran into him at the dog track and you gave him another \$37 billion," she said.



"Saturday Night Live Weekend Update Thursday" anchors Amy Poehler and Seth Meyers.

Buffett plays the ukulele. Don't you think that's kinda neat?

Warren Buffett, the billionaire owner of Berkshire Hathaway Inc. known as the Oracle of Omaha for his investment instincts and a major philanthropist, also has a playful side when it comes to son Peter.

The 78-year-old Berkshire Hathaway leader—armed with his ukulele—joined his singer-songwriter son and hip-hop artist Akon earlier this month onstage at the Paley Center for Media in Los Angeles, where all three joined in the 1927 hit, "Ain't She Sweet," according to reports.

Mr. Buffett sang along with the duo, partners in the networking Web site *IsThereSomethingICan*



MARK SULLIVAN/GETTY IMAGES

Warren Buffett, along with his ukulele, center, joined son, Peter Buffett, and hip-hop artist Akon onstage in Los Angeles recently for a rendition of 'Ain't She Sweet.'

Do.com, which was set up during the summer in conjunction with their collaboration on the single "Anything."

In a National Public Radio interview, Peter Buffett said his father has played ukulele "for years" and that's how he "famously courted my mother."

The son said his father may join him at future concerts, but indicated he is less than likely to collaborate on his father's projects.

"I'm not going to be sitting at Berkshire going through actuary tables on insurance," the younger Mr. Buffett said in the interview.



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GETTY IMAGES

Crisis response

Financial markets turmoil, an economic downturn and the federal rescue of American International Group Inc. present challenges and opportunities. **Page 10**

Indexed annuity debate

A proposed SEC rule would require indexed annuities to be treated as registered securities, requiring insurance agents who sell the annuities to be licensed as securities brokers. **Page 14**

Examining concierge care

Some health insurers won't work with physicians who offer "concierge care," in which patients pay an annual retainer for a higher level of service. **Page 16**

FEATURES

Issues... and answers

News from the CPCU Society's annual gathering in Philadelphia and the second annual Insurance Symposium in Dallas. **Page 18**

Free lunches, high price

For thousands of senior citizens, "free lunch" seminars come at a hefty price, not just for seniors but, in the end, for insurers as well. **Page 20**

Agility springs from IT

Insurance companies must be able to change products or strategies quickly enough to meet business goals or tactical challenges. **Page 22**



Experts on the money

A look at some of the key investment banking firms active in helping insurance-related companies gain access to capital. **Page 23**



THREE QUESTIONS

Francine L. Semaya of Cozen O'Connor P.C. discusses recent events' possible impact on insurance regulation. **Page 5**

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RODD ZOLKOS
Editor, Industry Focus
rzolkos@businessinsurance.com

In the midst of turmoil, opportunity

Writing this, I find myself facing a particularly challenging situation as a columnist.

I know that given the magnitude of recent events, I really can't write about anything else. Yet, the nature of those events—and, more strikingly, the pace at which they are occurring—makes it impossible for me to know just where things might stand when these pages actually reach your hands.

I'm referring, of course, to the tumult that has surged through world financial markets—and many insurance companies—in recent weeks. The situation has been as amazing as it has been at times frightening to watch.

When I joined *Business Insurance* in January 1994 after a number of years spent at *City & State*, a former sister publication that focused on the business of state and local government, various friends in the journalism business asked me if I wasn't afraid I'd find it boring, trading covering government and politics for the world of commercial insurance.

If you think about the events and issues the industry has dealt with since January 1994, you'll have a pretty good idea why I've found covering this industry anything but boring. (I'll spare you a recounting of the supposed "Chinese curse.")

And now, as fate would have it, with the federal government's rescue of American International Group Inc. and the financial services bailout, I'm even getting to witness

CURRENT EVENTS may well offer an opportunity for the industry to remind the public of the vital role it plays in the economy.

an intersection of public policy and the insurance business that no one could possibly have imagined.

In this issue of *Industry Focus*, in addition to our planned Cover Focus report on Benefits & Financial Services, we've attempted to address some of the likely fallout on the industry of those recent events. It's a subject to which we'll no doubt return frequently in the months ahead.

In looking at the issues that the recent turmoil poses for the industry, we've obviously found that there will be challenges ahead.

But we've also heard about many possible opportunities that some might find emerging from the turmoil.

In addition to the business opportunities that some companies might realize, current events may well offer an opportunity for the industry to remind the public of the vital role it plays in the economy. And many companies may find the turmoil spurring them to closely examine their operations. A rethinking of business focus and a closer look at the risks confronting the business could offer a real opportunity for stronger companies to emerge from the current crisis.

Having spared you the Chinese curse, I will resort to the old saying about an ill wind. Hopefully the storm blowing through the financial markets won't be that ill wind, and some good will settle out from all this soon.

PASSION BENEFITS CHARITIES

On another topic, I'd like to note that the author of our Last Word this month, Larry Goanos, president of Professional Indemnity Agency Inc. in Mount Kisco, N.Y., has a somewhat longer work being published as well.

This month sees the release of Larry's book "Claims Made & Reported: A Journey through D&O, E&O and Other Professional Lines of Insurance." Larry is obviously someone who feels passionately about the industry, and about many of the people working in it.

He says that in writing the book he wanted to write something other than a "scholarly tome," and in fact his book is a fine mix of professional liability industry history, glimpses at the companies and key individuals involved in its development, and even some amusing anecdotes.

All net proceeds from Larry's book will be shared between four charities: the PLUS Foundation, the National Sept. 11 Memorial and Museum, the Aniridia Foundation International and the National Transplant Assistance Fund.

"Claims Made & Reported," published by Soho Publishing, is \$29.99 and can be ordered online at www.sixthandspringbooks.com.

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P/C insurers' tech spending slows: Study

DES PLAINES, Ill.—The growth of property/casualty insurers' information technology spending is slowing, according to a survey by the Property Casualty Insurers Assn. of America and Gartner Inc.

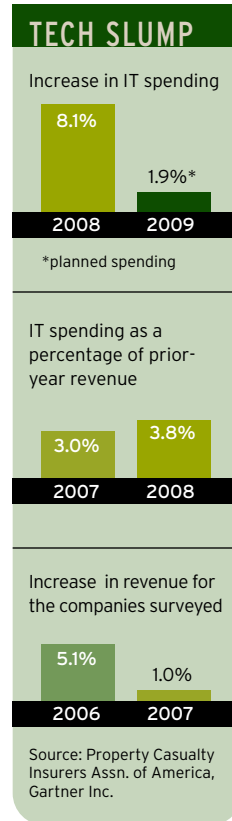
The third annual joint IT spending survey by the PCI and Gartner showed that the insurers who were surveyed planned to increase IT spending by 8.1% this year vs. last year, with the planned increase for 2009 being only 1.9%. In comparison, P/C insurers' IT spending increased 11% in 2006 from the previous year.

The slowing IT spending is likely the result of insurers' slowing revenue growth, according to the Des Plaines,

Ill.-based PCI and Stamford, Conn.-based Gartner, as revenue for the companies surveyed increased 5.1% in 2006 but only 1% in 2007. IT spending as a percentage of prior-year revenue was 3.6% in 2008 and 3.0% in 2007, indicating that IT spending still is outpacing the change in revenue, Gartner and the PCI noted.

The survey showed that P/C insurers are devoting a larger portion of their IT spending to supporting business growth and transformation.

The 30 PCI members participating in this year's study averaged \$691 million in annual revenue and 1,116 employees. **IF**



Big I guide helps agents increase profitability

ALEXANDRIA, Va.—The Independent Insurance Agents & Brokers of America has published a guide to help agents enhance their profitability.

The new guide is focused on helping agents move to advanced workflows and eliminating paper, freeing up staff time for sales activities and customer service. The "Best Practices Guide to Agency Business Processes and Information Management" replaces two earlier guides and incorporates the latest in agency workflows.

The guide contains practical information and model workflows that agencies can use to improve their operations.

Like the earlier guides, the new publication is a collaboration between the Alexandria, Va.-based Big I's Agents Council for Technology and its Council for Best Practices, working with agency workflow consultant Laura Nettles.

The 155-page guide is available at www.independentagent.com/act and is designed to be used electronically, offering numerous links for easy navigation. It enables agencies to conduct self-assessments in technology, management support, workflows, agency/carrier interfaces, utilization of Real Time agency software and step-by-step guidance on improving agency workflows.

The guide also provides steps to implement an information storage plan for all forms of media and documentation, including paper, scanned documents, e-mail, voicemail, notes, faxes and photographs, as well as a reference to categorizing and retrieving electronic documents. **IF**

BY THE NUMBERS

Top 10 U.S. banks in insurance brokerage fee income (first-half 2008, in millions of dollars)

RANK	BANK	BROKERAGE FEE INCOME		% CHANGE
		FIRST SIX MONTHS 2008	2007	
1	Citibank N.A.	743.0	539.0	37.8
2	Branch Banking & Trust Co.	420.5	418.5	0.5
3	FIA Card Services N.A.	136.1	105.4	29.0
4	Bank of America N.A.	67.7	89.6	(24.5)
5	BancorpSouth Bank	46.3	37.6	23.1
6	National City Bank	43.9	33.4	31.1
7	TD Bank N.A.	32.6	31.6	3.1
8	Compass Bank	31.3	32.2	(2.8)
9	Eastern Bank	27.8	24.4	14.0
10	Associated Bank N.A.	21.8	21.5	1.2

Source: Michael White—Symetra Bank Fee Income Report



While there might be debate over how the recent financial market rescue plan and bailout of American International Group Inc. might influence future insurance regulation, there's little doubt that the measures will be factors in future regulatory changes. Francine L. Semaya is a member of Cozen O'Connor P.C. in New York, where she chairs the law firm's insurance corporate and regulatory practice and is involved in numerous professional organizations, including serving as president of the International Assn. of Insurance Receivers. Recently, Ms. Semaya discussed the recent developments and their potential impact on insurance regulation.

It seems that both sides in the debate over state regulation of insurance vs. an optional federal charter are using aspects of the AIG situation to support their case. Does the AIG rescue increase the likelihood of an optional federal charter in insurance?

What I'm finding—and this is my personal interpretation—I'm not sure optional is a solution. If anything, you're going to have federal regulation. It's not going to be a choice. I know the states are saying it's not the insurance company that's having a problem, it's the holding company, it's the parent company, the insurance company is fine.

A lot is going to depend on the election. I think OFC might take more of a back seat, but federal regulation will not. I think what they're likely to go for is more regulation rather than less. I'm afraid what's happened is that everybody's pushed for federal regulation—they might get more than they bargained for.

Are there any aspects of the federal government's recently approved \$700 billion financial system rescue plan that you see possibly having an impact on the insurance industry.

I don't think directly. I think what the bailout is going to do—hopeful-

ly it does help Main Street and not only Wall Street—but if some funding is going to be used to purchase the subprime mortgages, it may very well have an impact on the insurance industry by helping some of the companies that may be having a problem with their investments.

Do I think it will have a direct impact on insurance regulation? I don't think so, but it will have a peripheral impact.

New York has indicated it's moving to regulate credit default swaps as insurance. What sort of implications do you see in that move?

I'm still grappling with it. The question is, if a credit default swap is being written by a bank, is a bank going to have to be a licensed insurance company? You not only have insurance companies writing these things but also banks and other capital markets.

I think they're trying to right the wrongs of the past. This is an example of trying to regulate more in an environment that wants less regulation. Does a federal bank now have to become an insurance company? I think there are a lot of questions to be answered. But it is an example of more, tightened regulations rather than less. I think you're going to see more of that. ■

Chubb sets up one stop for multinational clients

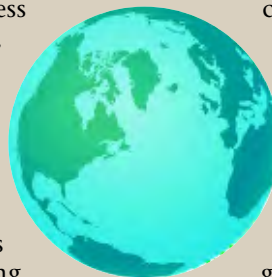
WARREN, N.J.—Responding to what it sees as growing multinational exposures, the Chubb Group of Insurance Cos. has expanded its Multinational Risk Group to encompass both the insurer's standard property/casualty products and specialty insurance such as directors and officers liability.

Chubb said its teams of employees worldwide allow it to provide solutions for customers' risk transfer needs across product lines and geographic boundaries. Addressing the entire range of commercial insurance for customers with multinational exposures within a

single unit makes the process easier and more efficient, according to Warren, N.J.-based Chubb.

The Multinational Risk Group works through Chubb's international network of branches, affiliates and correspondent brokers to coordinate underwriting, claims and loss control for multinational customers.

The group facilitates placing underlying insurance in local markets and coordinating master programs, in-



cluding difference-in-conditions and difference-in-limits insurance that provide consistency in the scope of insurance and service for multinational customers' operations worldwide.

Chubb's multinational group also can help agents and brokers form relationships with correspondent brokers in overseas markets in which their customers require locally admitted insurance policies. ■

ISO and IVOX join to assess driver risks

JERSEY CITY, N.J.—The Insurance Services Office Inc. has entered into a strategic alliance with Atlanta-based predictive driver risk management data tool provider IVOX Inc. to gather and analyze data collected by devices installed in passenger vehicles and commercial fleets.

ISO and IVOX said the alliance will be the basis for developing a next generation of tools and products for measuring, managing and reducing risks. As part of the agreement, Jersey City, N.J.-based ISO has invested in IVOX as a shareholder.

Under the arrangement, ISO's



Applied Informatix unit will work with IVOX and insurance companies to collect and analyze data from telematics devices installed in vehicles. The com-

panies said the effort will be the largest study thus far to determine the predictability of telematics data for rating, underwriting and claims purposes.

The devices installed in the vehicles will wirelessly transmit data reflecting certain driving behaviors. Insurers participating in the study will be able to use IVOX's DriverScore to help them understand risks associated with individual policyholders. In addition, those insurers will be able to offer policyholders driver safety, fuel saving and engine diagnostic tools.

For more information about the initiative, call 1-877-ISO-IVOX. **IF**



THE QUOTE

'I DON'T LIE AWAKE at night worrying about the property/casualty industry. I lie awake at night worrying about my own portfolio, as we all should.'

JOHN W. WICHER

PRINCIPAL, JOHN WICHER & ASSOCIATES INC.

CPCU Society offers insurance information and tips for buyers

MALVERN, Pa.—The CPCU Society has launched a Web site offering consumers unbiased professional information about insurance for autos, homes and small businesses.

The site, insurancehelp.cpcusociety.org, is a public service of the Malvern, Pa.-based society, the professional organization of the Chartered Property Casualty Underwriters.

The site provides information about property/casualty insurance, including guides to understanding auto and homeowners policies, a glossary of terms and tips on filing claims. It also provides numerous articles created by the CPCU Society. The site also will include insurance advice for small businesses, such as necessary coverages and how to find them.

The CPCU Society's nearly 28,000 members hold the Chartered Property Casualty Underwriter designation, conferred by the American Institute for CPCU, on passing undergraduate- and graduate-level examinations, meeting experience requirements and agreeing to a strict code of professional ethics. **IF**

AMS updates broker, benefit tool

BOTHELL, Wash.—Automation solution provider AMS Services has updated its BenefitPoint Web-based benefit management and procurement solution for brokers and benefit consultants.

BenefitPoint's approach is designed to allow integration between property/casualty and benefits management systems. The new version features deeper integration, enhanced commission tracking and customization, and new event-driven workflow capabilities,

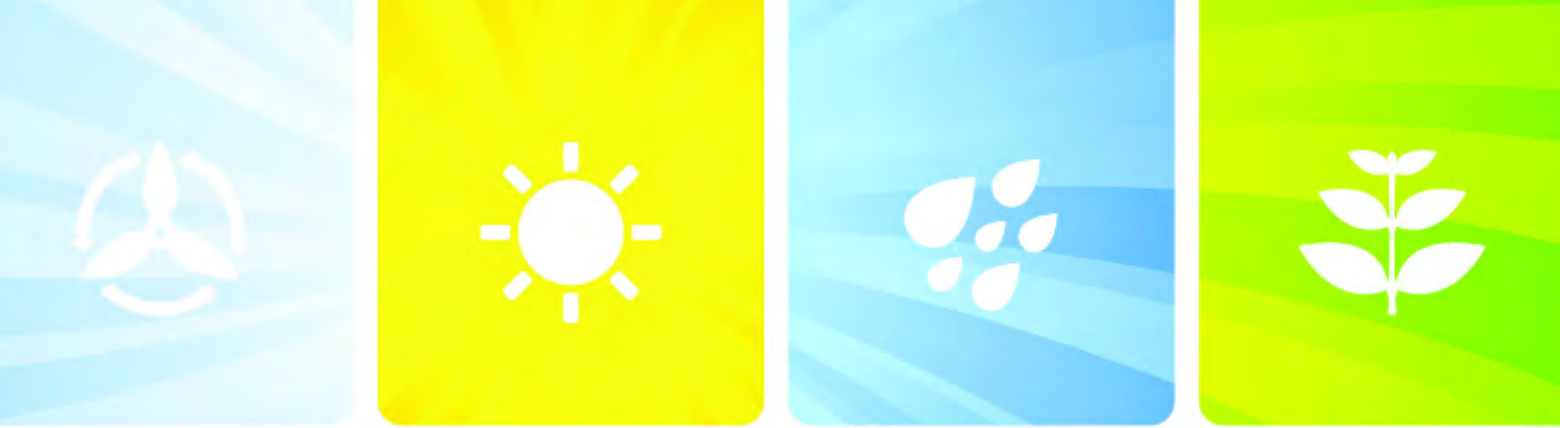
Bothell, Wash.-based AMS said.

A new component of the commission tracking system, eStatements, is an electronic statement conversion tool designed to allow BenefitPoint brokerage clients to upload electronic insurer statement data, decreasing the time spent manually entering such information and preventing re-keying errors.

AMS Services, a trademark of Vertafore Inc., purchased BenefitPoint in 2006. **IF**

ERRORS & OMISSIONS

In a September *Industry Focus* article about boosting productivity, "Technology Options Enhance Efficiency," the market share of the Connecticut Interlocal Risk Management Agency was stated incorrectly. The pool primarily serves the risk financing and risk management needs of 85% of the 169 municipalities in Connecticut as well as many other local public agencies such as school districts.



Mutual Boiler rolls out 'green' coverage

MALVERN, Pa.—Equipment breakdown reinsurer Mutual Boiler Re has introduced a "green" equipment breakdown coverage intended to help insurers' policyholders establish and maintain sustainable and environmentally-friendly properties in the event of a loss.

The reinsurer said the coverage allows property/casualty insurers to offer green equipment cover to their pol-

icyholders at no extra cost.

The repair and replacement terms automatically included in Mutual Boiler Re's coverage provide for covered property to be replaced with equipment that is more efficient, safer and better for the environment, according to Malvern, Pa.-based Mutual Boiler Re. The reinsurer said it would also help insurers implement the new product offering.

The coverage includes costs for repairing or replacing damaged property with green alternatives; hiring accredited green consultants to assist in design and replacement; certification or recertification by recognized green authorities; green removal, disposal and recycling of damaged property; and business interruption associated with undertaking the related green activities.

Mutual Boiler Re is part of Factory Mutual Insurance Co., which does business as FM Global. The company has been providing equipment breakdown insurance in North America for more than 130 years and specializes in mechanical, electrical and pressure systems breakdown treaty reinsurance and support services for commercial, homeowner and farm owner lines of business. **IF**



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Mr. Liddy

The board of New York-based American International Group Inc. elected **Edward M. Liddy** chairman and chief executive officer. Mr. Liddy, who had been with the Clayton, Dubilier & Rice Inc. private equity firm after serving in various capacities at Allstate Corp., including chairman and CEO from 1999 to 2006, succeeds Robert B. Willumstad.

Peter F. Garvey, president of New York-based Integro Ltd., has been named to the additional role of CEO following Robert Egan's resignation from the broker. Separately, Integro named **Robert Dunn**, managing principal and office leader of the broker's Montreal office, chairman of Integro (Canada) Ltd., and **Mark Rankin**, managing principal, president of Integro (Canada) Ltd. and office leader for Toronto. The Vancouver, British Columbia, operations of Integro's Canadian unit also report to Mr. Rankin.

Pembroke, Bermuda-based Allied World Assurance Co. Holdings Ltd. has promoted **David Bell** to chief operating and administrative officer of its Allied

World Assurance Co. Ltd. subsidiary. Mr. Bell previously was senior vp, global product line manager, professional liability. Allied World also promoted **Frank D'Orazio** to chief underwriting officer of the Allied World Assurance Co. unit. Mr. D'Orazio had been senior vp, global product line manager, general casualty.

Schaumburg, Ill.-based Zurich North America Commercial has appointed **Michael Garceau** chief operating officer of its Specialties business unit in North America. Mr. Garceau, who is based in New York, joins Zurich North America Commercial from Chubb Specialty Insurance, where he was senior vp and CFO. Zurich North America Commercial is a division of Switzerland-based Zurich Financial Services Group.

Hamilton, Bermuda-based Catlin Group Ltd. has appointed **Michael Hansen** president of its Catlin Canada Inc. operation. Mr. Hansen, who most recently was vp and western regional manager for Catlin Canada and also serves as co-leader of Catlin's Aerospace Business Group, will be based in Catlin's office in Calgary, Alberta. He succeeds Michael Wills.

Rodney J. Dillman has been named president of MassMutual International L.L.C. and senior vp of the company's parent, Springfield, Mass.-based Massachusetts Mutual Life Insurance Co. MassMutual International is the holding

company for MassMutual's international insurance subsidiaries. Mr. Dillman most recently was general counsel at Babson Capital Management L.L.C., a MassMutual subsidiary, and corporate vp and associate general counsel of MassMutual.

Hamilton, Bermuda-based XL Capital Ltd. has appointed **Jacob D. Rosengarten** executive vp and chief enterprise risk officer. Mr. Rosengarten previously was a managing director at Goldman Sachs Asset Management.

Munich, Germany-based Allianz S.E. has named **Oliver Baete** to replace CFO Helmut Perlet when Mr. Perlet retires next Aug. 31. Mr. Baete currently is the company's COO.



Mr. Spiro

Chubb Corp. has named **Richard G. Spiro** executive vp and chief financial officer. Mr. Spiro joins Warren, N.J.-based Chubb from Citigroup Global Markets Inc., where he was a managing director in the financial institutions banking group. He succeeds Michael O'Reilly, who is retiring.

Rodney Caudill has been promoted to CEO of Fort Worth, Texas-based Property Damage Appraisers Inc. Mr. Caudill most recently was the company's COO. PDA operates a nationwide automobile appraisal and service inspection network serving the insurance industry.

The National Insurance Crime Bureau has named **Joseph H. Wehrle Jr.** president and CEO, replacing Robert M. Bryant, who is retiring. Mr. Wehrle had been the Des Plaines, Ill.-based NICB's COO.

Jon A. Boscia has been named president of Sun Life Financial Inc., based in Wellesley Hills, Mass. Mr. Boscia retired from Lincoln Financial Group in 2007 after serving as CEO for 10 years. Later this month, **Westley V. Thompson** will join the company as president of SLF U.S. and **Terrence J. Mullen** will join as president of Sun Life Financial Distributors Inc. Both Messrs. Thompson and Mullen join Sun Life from Lincoln Financial Group. In addition, Sun Life named **Robert Salipante** president of SLF International. He will be based in Sun Life's headquarters office in Toronto. Mr. Salipante previously was president of SLF U.S.

Westboro, Mass.-based Hospitality Mutual Insurance Co., formerly the Liquor Liability Joint Underwriting Assn. of Massachusetts, has named **John W. Tympanick** president and CEO. Mr. Tympanick previously was CFO at the LLJUA. **F**

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TARGETED NEWS. TARGETED AUDIENCE. TARGETED DELIVERY.

By Rodd Zolkos

The insurance industry will surely experience fallout from the effects of global economic turmoil and the collapse and federal rescue of American International Group Inc., though the current climate likely offers opportunity for some as well.

Regulatory changes are likely in the industry's future, and economic issues and residue from the subprime mortgage crisis may play themselves out on some companies' balance sheets over the next few years.

Meanwhile, some may find new business opportunities in various aspects of the current uncertainty, and the self-examination likely to occur at many companies may well produce stronger businesses going forward.

For the industry as a whole, some note the opportunity to tout the insurance industry's essential strength and critical economic role at a time when other areas of the financial services sector are stumbling.

"I think the first thing that the insurance industry needs to communicate clearly to people since there's been so much concern about the economy, so much noise, is that insurance companies are solvent," said Howard Mills, director and chief advisor in the Insurance Industry Group of Deloitte Services L.P. in New York.

"Insurance companies, paradoxically given all that's going on here, have a very good story to tell," Mr. Mills said. "There should be confidence in the insurance industry."

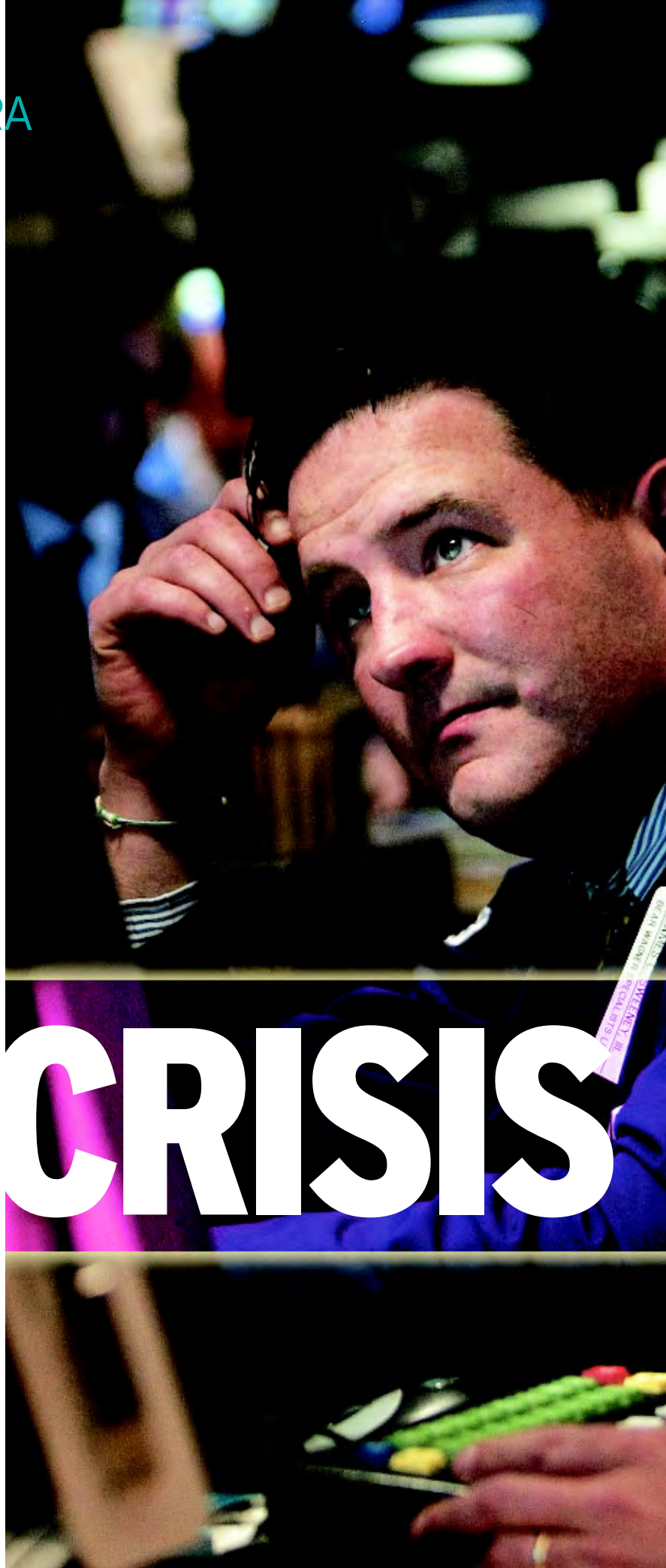
Many continue to make the point that AIG's problems were in its AIG Financial Products Corp. units, not its insurance operations.

"I don't think I've ever seen the balance sheets of insurance companies quite as strong as they are today," said John W. Wicher, principal at industry investment bank John Wicher & Associates Inc. in San Francisco. "The property/casualty industry is healthy."

"I don't lie awake at night worrying about the property/casualty industry," Mr. Wicher said. "I lie awake at night worrying about my own portfolio, as we all should."

"It's in the industry's interests, it's certainly in the interests of state regulators, to get that message out there," said Mr. Mills.

With the federal government putting \$700 billion into a financial services rescue plan and



CRISIS



THE AFTERMATH

Insurance giant's rescue and financial market woes leave industry weighing challenges, opportunities

another \$85 billion into AIG, there's little doubt the new year will see debate over revamping financial services regulation, with most agreeing that insurance will factor into those discussions.

"I think it's safe to assume there will be some massive regulatory response given the current crisis," Mr. Mills said. "There has to be."

Both proponents of state-based insurance regulation and those favoring some sort of federal approach have used aspects of the AIG rescue to bolster their arguments. U.S. Treasury Secretary Henry Paulson recently pointed again to a financial services regulatory reform blueprint released by the Treasury Department earlier this year that included a federal insurance regulatory component, a stance that has drawn a mixed response in the industry.

Florida Insurance Commissioner Kevin McCarty was among those citing the AIG situation as evidence of the success of state-based regulation, saying in a September statement: "The facts of the matter regarding the AIG crisis clearly highlight that the state-based system of insurance regulation employed in the United States has actually worked in this case—as it has in the past and will in the future—to lessen the systemic impact of financial distress in the world financial markets."

Mr. McCarty went on to suggest that the federal government's AIG rescue plan would not have a chance of working if not for a state-based regulatory system that "ensured that the insurance operating companies at the very core of AIG's operations—not its current problems—were solvent and financially strong entities, fully capable of paying policyholder claims."

Others, including the American Insurance Assn. and the Reinsurance Assn. of America, suggested that the AIG situation offered evidence of the need for a federal Office of Insurance Information.

"As the present crisis is analyzed and addressed, it will be critical for Treasury and other public policy leaders at the federal level to develop, retain and institutionalize a deeper and more sophisticated understanding of the insurance industry and its diverse operational and regulatory challenges," AIA President Marc Racicot said in a letter to Mr. Paulson.

Mr. Mills said he believes proponents of an optional federal charter will view the regulatory conversation that will inevitably take place in Congress next year "as their last best hope" to win an OFC for insurance.

The flip side is state insurance regulators can point to the current situation "and say, 'Show me

GETTY IMAGES

CRISIS

THE AFTERMATH

an insolvent insurance company. Show me an insurance company that's failed," Mr. Mills said.

"I think there are a lot of parochial interests associated with state regulation," said Mr. Wicher. "I think it's reflected in the fact that the industry continues to be so fragmented."

He said he thinks a lot of insurers and brokers would probably choose some sort of national oversight, "and the ability to have uniformity in product and pricing and distribution. And certainty." But, Mr. Wicher said, he thinks federal insurance regulation likely will be low on the agenda of those considering financial services regulatory reform in the near term.

"It seems to me that if you take a list of the things that are moving and you want to regulate right now, the property/casualty industry...I think that's way down the list," Mr. Wicher said. "My guess is the congressional committees and, frankly, the executive branch right now and for the next few years have some other things on their plate."

"We'll probably end up at the end of the day with some kind of hybrid," said Mr. Mills, perhaps with the states retaining oversight over such aspects of insurance regulation as consumer protection, while federal authorities view the industry on a systemic basis and oversee such issues as speed to market. But there will inevitably be a federal role, perhaps along the lines of the Treasury blueprint, Mr. Mills said.

The global nature of the current financial crisis may also increase the call that's been growing in recent years among many around the world for international harmonization of insurance regula-

tion and accounting standards.

"I would think it would," said Francine L. Semaya, member of the Cozen O'Connor P.C. law firm in New York, where she chairs the firm's insurance corporate and regulatory practice. "We've been sort of going in that direction to begin with. Even the (reinsurance) collateral issue is because of the global market for insurance and reinsurance."

"There's been a lot of talk about international accounting standards, that we can't have two different standards, so I think there's going to be a lot of talk

'WHAT THESE market conditions do is force you to look at every downside contingency and plan for it.'

CHI HUM
GC SECURITIES

about globalization and harmonization if you can get the parties to agree," Ms. Semaya said.

"It does seem to make the case that look, we're in a global economy and we might as well recognize that, and if not get on the same page get on closer pages," said Mr. Mills.

While the financial services crisis will prompt an examination of regulation, it also will lead some to look for opportunities.

"I think this crisis serves to underscore the vital role the insurance industry can play, and there are opportunities," Mr. Mills said.

"Right now is a very good time for the life industry to be talking about the retirement issue, because there's a great

deal of concern with the baby boomers with regard to retirement," Mr. Mills said.

For some companies, the current situation also might provide some "inorganic opportunities for growth, (in) opportunities to pick up some books of business that nobody could have predicted," Mr. Mills said.

Indeed, several companies moved quickly as AIG struggled to position themselves as alternatives for AIG clients. ACE USA and Zurich North America increased limits for various coverages, while others moved to introduce products that could compete in niches in which AIG had been prominent.

FALLOUT

While there are opportunities for some, an obviously weakened economy could affect some companies' business over the next few years.

"I think there's some collateral issues associated with what's going on in the economy in general," said Mr. Wicher. The "apparent recession" will reduce the amount of business activity, he said, "so insurable interests are going to be reduced in the coming cycle."

Ms. Semaya, who also serves as president of the International Assn. of Insurance Receivers, said she thinks the current climate may lead to more activity on the receivership front.

"It's been very quiet with insurance insolvencies, but I think you are going to see some fallout—at least rehabs if not liquidations," Ms. Semaya said.

"Once the financials are filed for 2008 and 2009, you're going to see some companies really struggling," she said. "You don't come out of a depression—that's my term—without some fallout."

Ms. Semaya pointed to the growing number of directors and officers claims resulting from the financial services crisis as one potential cause for concern. "Think about all the D&O claims that are out there now," she said. "Hopefully you reserved for it, but did you reserve enough? Think about the asbestos crisis. Nobody knew that the policies written in the '70s and '80s would fall apart in the '90s."

But the self-evaluations and business realignments many companies will likely conduct as a result of the financial crisis may result in many that are both stronger businesses and more appealing to consumers, Mr. Mills suggested.

"I think probably the overwhelming lesson that the industry is going to take out of the current crisis is to focus on core competency, focus on being an insurance company," Mr. Mills said. "I think from a consumer perspective, that's what they're going to want to see. Because that will inspire confidence, not all the other bells and whistles and what has gone on here."

Mr. Mills said he also expects to see a greater emphasis on enterprise risk management at insurance companies.

"I think the industry will really be focusing on ERM and revisiting their

preparation for (International Financial Reporting Standards) and some of the other regulatory things that will be coming toward them," he said.

Another possible impact may be in how insurers look at their reinsurance programs, with a greater emphasis on diversification and counterparty credit strength. That could prompt increased interest in the catastrophe bond market, said Chi Hum, managing director at GC Securities, the investment banking arm of Guy Carpenter & Co. L.L.C. in New York.

"Generally, as far as the cat bond market—knock on wood—we haven't been affected that much by what's been happening in the overall market," Mr. Hum said. He noted that last year, as the subprime-mortgage market collapsed, hedge funds put more money into the cat bond market. Now some large hedge funds fully embrace the cat bond market as part of their overall asset allocation, Mr. Hum said.

"The good news is the dedicated (cat bond) funds are bigger, the pension funds seem to be allocating more money to the sector," Mr. Hum said. And, he said, his company's discussions with potential cat bond sponsors haven't been slowed by current economic events.

"The other aspect to think about, though, and I think clients will have to think about...is reinsurance contracts. Basically, they're unfunded contracts," Mr. Hum said. "In normal market conditions, it is less of an issue, but in stressed market conditions...it sort of makes the argument for a funded solution, which a cat bond is."

RATINGS

Because the coverage provided through a catastrophe bond is fully collateralized, the desire by ceding parties to eliminate or reduce counterparty risk in their reinsurance programs might lead to increased cat bond issuance, Mr. Hum said.

"The insurance industry hasn't historically differentiated between a single-A reinsurance provider and a double-A reinsurance provider," Mr. Hum said. But recent events may lead ceding companies to think more about those rating differences as they consider counterparty risk in their reinsurance contract, he said.

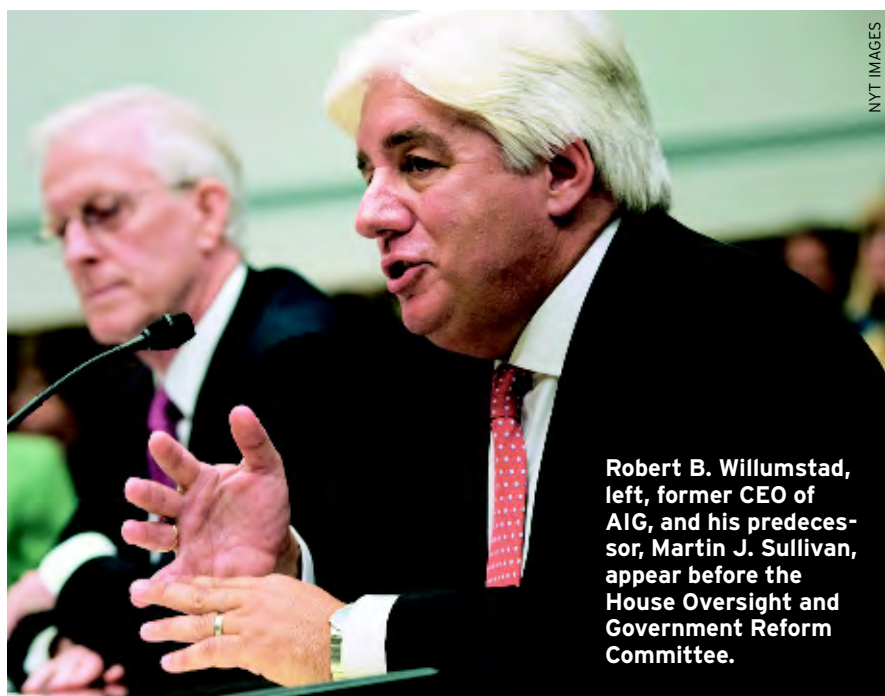
Mr. Hum said he's also seen ceding companies moving from simply issuing cat bonds when it's cheaper to do so than to buy reinsurance to a more strategic approach, in which they're looking to the capital markets for risk transfer as a method of diversifying their reinsurance capacity.

Reinsurance contracts can be totally correlated to a major loss event, whereas the capital markets can offer an uncorrelated source of coverage. Mr. Hum credits that strategic approach with being a factor in 2007's record cat bond issuance.

With the possibility of multiyear terms, cat bonds also offer the potential for diversifying duration across economic and market cycles, unlike reinsurance contracts that are typically single-year agreements.

Current conditions, Mr. Hum said, will "trigger a review of current practices, which is needed."

"What these market conditions do is force you to look at every downside contingency and plan for it," and the way you do that in reinsurance is by looking at issues such as duration and the sources of your risk transfer, Mr. Hum said. ■



Robert B. Willumstad, left, former CEO of AIG, and his predecessor, Martin J. Sullivan, appear before the House Oversight and Government Reform Committee.

NYT IMAGES

SEC's indexed annuity plan riles the industry

By Meg Fletcher

WASHINGTON—Major life insurers, insurance agents and state insurance regulators are challenging a Securities and Exchange Commission proposal that would redefine most indexed annuities as securities rather than insurance, significantly changing regulations that include agent licensing.

Insurance industry objectors say the proposal, which the SEC argues is needed to protect consumers from fraud, is a serious threat to their respective operations and assert it is unneeded because state insurance regulators have toughened sales standards in recent years.

Some observers see the proposal as a turf war between insurance regulators and brokers who are trying to fight off securities regulators and securities firms that want part of the expanding marketplace.

The SEC said life insurance companies began offering the indexed annuities in the mid-1990s, a business that grew to \$24.8 billion in 2007. "In 2007, indexed annuity assets totaled \$123 billion, 58 companies were issuing indexed annuities and there were a total of 322 indexed annuities offered," the SEC reported.

The change is needed to shield seniors and other investors "from fraud and abusive practices," according to an SEC statement. "Equity-indexed annuities are often sold to seniors, for whom they may be unsuitable investments due to substantial early surrender charges that lock up older investors' money for many years," it said.

"Working with the North American Securities Administrators Assn., the SEC has made cracking down on fraud in this area a top priority," SEC Chairman Christopher Cox said in a statement shortly before the proposed rule was published July 1 in the Federal Register.

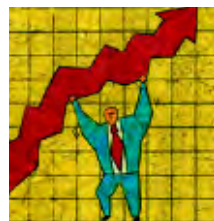
Despite dozens of insurance industry requests for an extension, the SEC kept

its Sept. 10 deadline for comments on the proposal.

Under the SEC's proposal, the terms "annuity contract" and "optional annuity contract" would be redefined under the Securities Act of 1933, which exempts certain contracts.

The proposal would modify federal securities rules for indexed annuities, under which payments to contract holders depend on the performance of a securities index, such as the Dow Jones Industrial Average.

Section 3(a)(8) of the Securities Act exempts certain annuity contracts and optional annuity contracts. The SEC proposal would effectively remove the exemption by defining indexed annuity contracts as being outside the insurance



Sales of indexed annuities for **1998** totaled **\$4 billion** and grew each year through **2005**, when sales totaled **\$27.2 billion**.

exemption "if the amounts payable by the insurer under the contract are more likely than not to exceed the amounts guaranteed under the contract."

That definition "would cause almost all current indexed annuities to be included in the new class" of securities, the Washington-based American Academy of Actuaries said in its comment letter.

Under the proposal, securities regulators that include the SEC, state securities regulators and the Rockville, Md.-based Financial Industry Regulatory Authority would oversee such contracts—not insurance regulators. FINRA was created in July 2007 through consolidating the National Assn. of Securities Dealers and the member regulation, enforcement and arbitration functions of the New York Stock Exchange.

In addition, the sellers of indexed annuities would have to be registered

securities representatives. Insurance agents seeking to meet the new requirements would have to become licensed as securities brokers or arrange to cooperate with them. In addition, insurance agents would have to meet requirements for disclosure, sales material review and suitability determinations similar to those for securities.

The staunchest proponents of the proposal include securities regulators whose authority would be expanded under the plan, while state insurance regulators have stated their opposition.

Equity-indexed annuities "are extremely complex investment products that have often been used as instruments of fraud and abuse," said Karen Tyler, president of the Washington-based North American Securities Administrators Assn. Inc., in her comment letter.

"Contrary to insurance industry claims, EIAs impose significant risks upon investors, including fluctuations in the applicable equity index and potential loss of principal," said Ms. Tyler, who is the securities administrator for North Dakota. "The sales abuses associated with EIAs have been thoroughly documented over the years" in regulatory warnings, governmental enforcement actions, private lawsuits and media accounts. Many often used "free lunch" seminars to attract seniors, she said.

"State insurance laws alone cannot protect the public from the abuses associated with the EIAs. The safeguards they provide are no substitute for the investor protections contained in the federal securities laws," Ms. Tyler said.

Also, "attempts to disparage the rule as part of a regulatory 'turf' battle are also wrong," she added.

One major opponent of the proposal is the Kansas City, Mo.-based National Assn. of Insurance Commissioners.

"This rule is not needed," the four top officers of the NAIC said in their comment letter in which they asked that the SEC withdraw the proposal. They are NAIC President Sandy Praeger of Kansas, President-Elect Roger A. Sevigny of New Hampshire, Vp Jane L. Cline of West Virginia and Secretary/Treasurer Susan E. Voss of Iowa.

"We agree that there have been terrible abuses in the sale of indexed products. Some of these transactions clearly were not in the best interest of the customer," Ms. Voss said in a statement after a summer meeting with Mr. Cox. However, "we believe we have addressed those problems with our revisions," she said.

State insurance officials emphasize that numerous laws protect consumers by regulating advertising, disclosure, suitability, producer licensing and continuing education. Earlier this month, the NAIC adopted a model regulation to protect seniors from unscrupulous sales practices by establishing standards before titles such as "senior adviser" can be used in the marketing of annuities.

In the past few years especially, the NAIC has made progress in getting states to adopt those laws. Consequently, "we aren't getting the complaints" that securities regulators have cited previously, said Ms. Voss, who favors a more collaborative approach to regulation. She is an attorney and oversees both insurance and securities matters in Iowa, which is the leading U.S. domicile for insurers writing equity-indexed products.

"I don't think (securities regulators) have a picture of what is going on in the market right now," said Ms. Voss. "I don't think (NASAA members) have enough to do," she added.

Securities regulators often attempt to justify their involvement in insurance products since a component of the policies' income potential is tied to the growth of the investment markets. "That's like saying that if your ham sandwich contains a slice of lettuce, it's a salad," Ms. Voss said in the statement.

Many insurers and insurance industry organizations also oppose the SEC's proposal.

Among opponents is Aviva USA Corp., a unit of London-based Aviva P.L.C., which is a major issuer of indexed annuity products in the United States. The proposed rule is "a dramatic departure" from previous judicial and commission precedent, said Michael H. Miller, executive vp, general counsel and secretary in Des Moines, Iowa. It is also "fundamentally flawed"



"The SEC has made cracking down on fraud in this area a top priority," said Securities and Exchange Commission Chairman Christopher Cox.

for many reasons, including its failure "to recognize the robust guarantees provided by insurers."

Allianz Life Insurance Co. of North America said the SEC proposal may regulate "fixed-index annuities," which is neither necessary nor appropriate, said Stewart Gregg, managing senior securities counsel for Allianz in Minneapolis. Such products should continue to be defined as insurance. Also, "sales practices have evolved significantly over the last three to five years" to emphasize suitability, disclosure and agent practices, he said.

Many opponents also say the proposed rule would reduce competition because of new burdens on agents as well as insurers.

Requiring insurance agents to become registered broker/dealers may reduce the number of agents selling equity-indexed products and the number of insurer-issuers, especially if the product represents a small part of the insurer's business, Aviva's Mr. Miller said.

The rule would have an "enormous" impact on agents and issuers of fixed indexed annuities, according to Allianz, which had \$40 billion in such assets under management at the end of 2007.

Members of the Alexandria, Va.-based Independent Insurance Agents & Brokers Inc. "strongly" oppose the rule as being "unwarranted and counterproductive," Charles E. Symington Jr., senior vp-government affairs, wrote in a comment letter.

The agents' association predicted that adoption of the SEC proposal may result in fewer agents selling annuities

due to new licensing requirements and the need to associate with a broker/dealer, "who may impose contractual terms, conditions and sales quotas that make it practically impossible to continued to sell indexed annuities."

Like many other opponents, the IIABA disagrees with the SEC's characterization of equity-indexed annuities, which the agent group stresses "are savings and financial protection vehicles" for the consumers who purchase them. "As with other fixed annuities, there is simply no risk to principal (barring the surrender of the annuity) and a guaranteed rate of return regardless of whether the stock market produces positive returns," Mr. Symington said.

The SEC's proposal also raises questions about related issues, including whether general-account life insurance products and traditional fixed annuities are covered by the proposal, according to executives of the Falls Church, Va.-based Assn. for Advanced Life Underwriting.

A few insurers have endorsed the SEC's primary objective, but say it goes too far and may sweep in similar but unrelated products that the SEC is not targeting. Insurers expressing such concern include New York-based AXA Equitable Life Insurance Co. and Hartford, Conn.-based Hartford Financial Services Group.

If adopted, the new definition would apply prospectively and take effect 12 months after publication in the Federal Register.

Also, the SEC proposed exempting insurance companies from filing reports related to indexed annuities and certain other securities that are registered under the Securities Act and regulated as insurance under state law.

The recent financial crisis, however, likely will delay SEC consideration of this topic, Ms. Voss said.

Given the amount of insurance industry opposition to the proposal, "I'd be very surprised" if this proposal gets through, Ms. Voss said. With all the other Wall Street-related activity that is demanding the attention of federal regulators "they may just have to table this," she said. ■

For a price, physicians offer personal health care

By Meg Fletcher

A small but growing niche health care delivery system has many names—retainer practices, proactive preventive care, concierge medicine and executive health programs—but the underlying idea is the same: intensive time with the doctor at an additional cost to the patient.

Participating doctors charge an annual fee of \$1,500 or more per patient and reduce their patient load to about 600, sometimes from four or five times that number.

With fewer patients, doctors are often willing to give patients their cell phone numbers and pledge to provide more individualized care, which can include same-day appointments, house calls, extensive physicals and diagnostic testing, and more consultation about topics such as diet and exercise. Some doctors also provide separate patient waiting rooms and coordinate hospital care. Services typically not covered by the arrangement include hospitalization, major surgery and rehabilitation.

Some insurers, such as Louisville, Ky.-based Humana Inc., are assessing the effects of the nontraditional approaches on disease management.

But Philadelphia-based CIGNA Corp. and Minnetonka, Minn.-based United-Healthcare Corp. found that some new practices—though limited in number—raise serious issues about contractual obligations. Both insurers have dropped a small number of doctors from their networks.

In addition, several insurers protested in recent years when the state of Washington was considering carve-out legislation covering physician practices so they would not have to meet some of the obligations that insurers do. The state enacted a carve-out last year.

“A retainer service is very popular with both patients and doctors,” Mike Kreidler, the Washington state insurance commissioner, said at a legislative

hearing on the carve-out bill last year. “I support their innovation.”

Humana Healthcare Senior Vp and Chief Innovation Officer Dr. Jonathan Lord and his wife, who are participating as patients in a company-sponsored pilot program, said they had a “vastly superior” health care experience in “access to care, communications and explanations of things like test results and always feeling that the doctor is completely knowledgeable about us as a person as well as a patient.”

“Over time, I am confident that we will see physician practices change” and there will be a number of new styles of practices, Dr. Lord said.

The number of doctors adopting the innovative practice is expected to grow, experts say.

GROWING PRACTICE

For example, there are a small but growing number of retainer practices that are concentrated on the East and West Coasts, according to a study by the U.S. Government Accountability Office.

A major advocate of the personalized care is MDVIP Inc., a privately owned Boca Raton, Fla.-based company established in 2000 that has 260 affiliated doctors in nearly half the states plus the District of Columbia, said Darin Engelhardt, president. Nearly 90,000 patients are affiliated with MDVIP programs, he said.

The “VIP” stands for “value in prevention” and emphasizes that preventive services are the focus of the program, Mr. Engelhardt said.

Patients pay an annual fee for MDVIP’s preventive care services that include a comprehensive annual physical examination and personalized wellness plan. All other medical care is handled through patients’ existing insurance plans, according to company statements. “The fee for the program is separate from insurance and is fully compatible with PPO plans, POS plans and Medicare, regardless of whether the doctor is in- or out-of-network,” the

company said.

Approximately 82% of the 90,000 participating patients are seeing in-network doctors, most of whom are involved in traditional medical plans rather than Medicare, Mr. Engelhardt said.

One of the program’s most promising outcomes has been a 65% reduction in the number of Medicare beneficiaries admitted for hospital care, he said.

The biggest issue that members of the America’s Health Insurance Plans have is whether the doctor in a retainer practice abides by the contract he or she has signed with the health insurer, an AHIP spokesman said.

“Aetna’s primary concern is that our members have appropriate access to health care and that they clearly understand any additional charges from their doctors,” an Aetna spokeswoman said. “If an Aetna member decides to participate in concierge medicine and fully understands and agrees to pay the fees involved, Aetna would view that as their decision.”

Hartford, Conn.-based Aetna Inc. will contract with doctors who provide such services as long as they meet Aetna’s credentialing standards and abide by contract terms, which outline circumstances when a physician may bill a member.

“We do not allow network doctors to balance-bill members for covered services and, more to the point with respect to concierge services, Aetna contracts specifically prohibit a physician from billing members for noncovered benefits—such as prescription drop-off services and special waiting rooms—unless they inform the member in advance of the service and the member has agreed in writing to acknowledge they understand and have agreed to pay for the billed service themselves,” the Aetna spokeswoman said.

“Aetna contracts do not allow billing for routine administrative services such as prescription renewals, referrals, returning phone calls, etc. Aetna would not cover the ‘membership fee’ that often is required for concierge services,” she said.

Aetna has had little experience with such practices, so does not see them as

generating any access issues, the spokeswoman said.

While some say retainer practices promote wellness, Aetna's spokeswoman said that "physicians that do not bill for 'wellness consultations' also advise patients on weight and smoking cessation and encourage other lifestyle improvements." Aetna also gives physicians wellness materials they can share with their patients and offers wellness programs through plan sponsors.

"Aetna also increases reimbursement for physicians who actively screen and talk to patients to diagnose depression," the spokeswoman said.

A Tucson, Ariz.-area doctor's retainer practice prompted questions recently that Blue Cross Blue Shield of Arizona's network development committee is reviewing, said a company spokesman. Although the health care insurer has doctors with concierge practices operating under a provider agreement, "we don't have a formal policy yet," he said.

The main issue is if a doctor provides covered services to a BCBS member, then the doctor must file a claim with BCBS and agree to be reimbursed for the amount called for in the contract, the spokesman said. "We are always looking out for the welfare of our members."

UnitedHealthcare Corp. dropped three physicians with retainer practices from its provider networks in Texas because patients are paying extra for services already covered by standard physician contracts, according to reports.

The insurer's concern is that many added benefits for which patients are being charged a fee are covered under most of its benefit plans, a spokeswoman said. These include home visits, wellness and nutrition counseling.

CIGNA HealthCare's contracts with physicians "call for network physicians to provide equal access" for all plan members, a spokeswoman said.

The insurer "has not objected to participating providers offering their CIGNA patients the option of joining their concierge program, provided CIGNA patients who are unable or unwilling to join the program continue to have access to these providers. How-

ever, CIGNA will terminate the contracts of participating providers who have indicated to us that they are willing to accept as patients only those CIGNA participants who agree to pay the concierge program membership fee," the spokeswoman said.

"This is an issue that arises infrequently, and over the past several years, we have terminated only a handful of physicians from our network due to this issue," she said.

For Humana, "Our philosophy is around consumer choice, and it is in that spirit that we have made the (MDVIP) program available" to our employees and a pilot program available to members, Dr. Lord said.

"One of the advantages that MDVIP may offer to our members with significant chronic illness is better and more direct disease management," he said. The person's physician "takes on a more active role" rather than using a disease management organization with nurses that provide support by telephone, he said.

"We want to evaluate if this kind of patient management drives reductions in medical expenses," Dr. Lord said.

REGULATION

Washington state has taken the lead in regulating retainer-based practices for doctors, experts said.

In Washington, several health insurers opposed an initiative by Mr. Kreidler, the insurance commissioner, to carve out an appropriate level of limited regulation under state law because "the full scope of regulation was neither practical nor warranted," according to a legislative report.

"If you accept an advance fee in return for health care services, you are acting as a health care service coordinator" under Washington law, Mr. Kreidler said. "These practices should not be required to meet the same financial standards" as major health insurers, which would have required the physician practices to get licensed as a health care service contractor and maintain \$3 million in reserves.

The alternative is "zero oversight" which Mr. Kreidler said was "irresponsible (because it) would open the market-

place up to abuse."

Insurer complaints about the measure being unfair and favoring the doctors' retainer approach to health care helped scuttle the legislation twice, until a third bill was approved in 2007, said a spokeswoman for Mr. Kreidler.

According to a legislative report on the law, the direct fee must represent the total amount for the services specified in the agreement and providers may charge additional fees for supplies, medications and specific vaccines not covered by the agreement. The direct fee schedule may be increased only annually and fees for comparable services must not vary among patients.

"Providers may sign participating provider contracts with insurance carriers to ensure patients have access to referrals to other participating providers, but direct practice providers may not submit claims for services provided to direct patients," the report said.

The state law prohibits direct practice physicians from rejecting new patients or discontinuing care for an existing patient "solely because of the patient's health status." A physician also must refund any unearned prepayments.

Physicians operating direct practices must register annually with Mr. Kreidler, who will report on usage of the system and its impact. Thirteen practices have registered with the state, the department spokeswoman said.

Retainer-based medical practices, such as MDVIP, that emphasize prevention also can result in lower medical malpractice loss rates for the doctors involved, Mr. Engelhardt said. Fewer patients and more extensive testing both contributed to "a decrease in medical malpractice premiums," he said.

While such niche practices help some patients receive improved health care, they create "ethical concerns regarding discontinuing care for a certain subset of patients due to converting to a retainer practice" and "could further contribute to the tiering of health care and increase the disparities in health care by both wealth and race," according to a study published in the *Journal of General Internal Medicine* that was made available by the AHIP. ■

Subprime mortgage fallout seen boosting D&O losses

By **Rodd Zolkos**

PHILADELPHIA—The subprime mortgage crisis is affecting the professional liability market for the real estate and financial institutions sectors, though the problem thus far seems confined to those two areas of the market.

In the real estate and financial services sectors, “We are seeing a hardening of the marketplace for D&O and professional liability,” said Raymond DeCarlo, executive vp financial institutions at AIG Executive Liability in New York.

Mr. DeCarlo spoke as part of a panel at the annual PCU Society conference last month in Philadelphia examining Emerging Issues in Professional Liability: The Subprime Mortgage Crisis.

Mr. DeCarlo said in the financial institutions and real estate sectors, directors and officers capacity is constrained, some insurers are moving out of the market and others are lowering limits. Also, terms and conditions and deductible levels “will be on the table,” he said.

“I do see it limited to the financial services and real estate sectors right now,” Mr. DeCarlo said.

PRICING REMAINS SOFT

Despite the subprime mortgage crisis’ impact on the professional liability market for the real estate and financial services sectors, overall “the D&O market continues to get softer and, at this point in time, we don’t see that the subprime meltdown is going to be sufficient to turn this overall marketplace,” said David Bradford, executive vp and editor-in-chief at New York-based Advisen Ltd.

Broadly, in the professional liability market, there remains too much capac-

ity and insurers’ results have been favorable, he said.

“D&O tends to be fairly volatile,” Mr. Bradford said. “When it gets hard, it gets really hard; and when it gets soft, it gets really soft.”

In the near term, “the demand for insurance is not going to increase much more than growth in the economy overall,” Mr. Bradford said, so there is “no relief in sight for the immediate future” for insurers.

Likening the subprime crisis to the savings and loan crisis of the 1980s and early 1990s, Richard Bortnick, member of the Cozen O’Connor P.C. law firm in West Conshohocken, Pa., said litigation targets are likely to be numerous. “Everybody’s suing everybody else,” he said.

Among those in the long line likely to be targeted by plaintiffs in subprime-related suits are mortgage bankers, brokers and originators; real estate brokers and agents; appraisers; loan correspondents; commercial banks;

investment trusts; investment banks; investment fund advisers and asset managers; and rating agencies, Mr. Bortnick said. Other targets might include law firms, pension funds, auditors and accountants, bond and mortgage insurers, and securitization trustees.

“Most of the subprime lawsuits are against the actual lenders, being brought by borrowers,” Mr. Bortnick said.

Mr. Bradford said Advisen estimates that D&O losses as a result of the subprime mortgage crisis will be \$3.6 billion, with an estimated range of \$2.6 billion to \$4.4 billion. “The impact will be maybe a 25% loss ratio impact for the D&O marketplace,” Mr. Bradford

said. “It’s going to hurt, it’s going to be painful, but it’s not going to be cataclysmic for the D&O marketplace.”

Mortgage brokers will be the biggest source of subprime errors and omissions losses, Mr. Bradford said. Those mortgage brokers typically “don’t carry very large limits,” he said, but while limits might be relatively low, the number of claims will be substantial.

The top 10 companies in the financial institutions D&O market represent approximately 80% of financial institutions’ D&O premiums, he said. “So the losses are going to be fairly substantial. They’re going to be fairly concentrated as well,” Mr. Bradford said.

“These cases in general are pretty expensive to defend,” said Mr. DeCarlo. “Anytime you have valuation of financial assets, it’s going to be a difficult case to defend” and involve considerable use of experts.

“Companies are buying more and more D&O insurance just to pay lawyers,” Mr. Bortnick said.

MARKETPLACE EXPANDING

Overall, the professional liability market is growing, said William R. Feldhaus, associate professor of risk management and insurance in the J. Mack Robinson College of Business at Georgia State University in Atlanta. “Certainly today there’s been a broadening of the types of professions that are out there,” he said.

The wholesale and managing general agent communities are significant players in the professional liability marketplace, Mr. Feldhaus said. Also, alternative risk transfer entities such as captives, risk retention groups and purchasing groups are prominent in the professional liability market. “A lot of these buyer controlled-type entities exist in the area of professional liability insurance,” he said.

“One of the interesting things about professional liability products is you don’t really have any standard products,” Mr. Feldhaus said. “Most companies have developed their own policy forms.” Consequently, to sell those products, “You really have to home in on some of the unique features of those products,” he said. ■



More than 1,600 attended the PCU Society’s 64th Annual Meeting and Seminars Sept. 6-9 in Philadelphia.

Value can be found in turmoil

By Meg Fletcher

At a time of economic turmoil in the financial services industry, the best innovations come from creating new value in core services, said Joe Plumeri, chairman and chief executive officer of Willis Group Holdings Ltd.

The Willis leader's message offered a challenge as well as encouragement last month at an industry gathering in Dallas, as news surfaced about American International Group Inc.'s problems and subsequent government bailout.

The audience of about 400 at the second annual eInsurance Symposium heard Mr. Plumeri discuss leaving a 32-year career at Citigroup Inc. to join Willis in October 2000, less than a year before the Sept. 11, 2001, terrorist attacks and subsequent disputes over the World Trade Center's coverage that Willis had brokered.

While turmoil may look like "a riot," Mr. Plumeri said, it is important to view it as "a parade (and to) get in front of it and lead it to where you want to go. The status quo is bad. It does not breed the opportunity to do stuff."

Credit risk issues, particularly credit default swaps, contributed to the current economic upheaval that led to the demise of some investment banks and contributed to the "hostile takeover" of Fannie Mae and Freddie Mac as well as AIG's problems, he said.

"The problem with all this stuff is that you have to stick to your core business," Mr. Plumeri said.

In the past, risks could be placed into recognizable categories such as property, casualty, marine and aerospace, Mr. Plumeri said. Today, "risks are different and global—and scary."

Those risks are affected by today's megatrends that include globalization and intricate global supply chains that affect companies of all shapes and sizes. Companies also have to be aware of other trends, including environmental concerns and powerful economic and ideological forces.

The scope of risks has broadened to include "global warming, pandemics,

physical and cyber terrorism, credit risks" and more, expanding the risk of business interruption, he said.

Other concerns include strict liability, product recalls, consumer and shareholder activism, cross-border suits and political risks, he said. In addition, employers continue to shift health care costs to employees, he said.

There is a good/bad news element to the insurance market that these trends create, he said. "In commercial insurance, they have to buy what we sell. The bad news is that everybody already has it."

In that kind of market, insurance is a commodity, selling skills get rusty and many buying decisions are based solely on price, he said. "Price is the issue in



Companies must identify their **'VALUE GAP**. Value is the difference between what you can do for a client and what a client can do for itself.'

JOE PLUMERI
WILLIS GROUP HOLDINGS LTD.

the absence of value because there is no innovation," he said.

Those megatrends have heightened executives' awareness and they are demanding differentiated value, Mr. Plumeri said.

The demand from the boardroom is for "exceptional quality and best cost, driven by reliability, efficacy, consistency, measurability and accountability," Mr. Plumeri said.

In their demand for efficiency and "entrepreneurism," big companies are acting like small companies in demanding creative answers, he said.

Companies must identify their "value gap," Mr. Plumeri said. "Value is the difference between what you can do for a client and what a client can do for itself." The wider the gap, the more valuable a service provider is to its client, he said.

In addition, he said a broker should "use power to serve the client," which is one of the reasons he opposes payment of contingent fees to brokers by insurers.

To cope with the effects of megatrends in the marketplace, a company needs to embrace technology so it can better serve clients, Mr. Plumeri said.

The convergence of the capital and insurance markets is now becoming a reality, Mr. Plumeri noted.

That trend is being fueled by growth in the financial acumen of the risk management community, the availability of large pools of capital and advances in modeling.

It's "imperative for organizationwide capital efficiency," he said.

In addition, capital is being managed through risk- and value-based analysis. "Clients recognize the need to measure, map and manage their exposure to aggregation risk," he said.

In the midst of this upheaval, regulatory issues are "all over the place," Mr.

Plumeri said. "Regulation is stronger and more complex," but at the same time it can be uneven and create an unlevel playing field.

Coping with the various megatrends creates a demand for professional talent in the insurance-related field, he said. "Insurance is the DNA of capitalism," he said.

A wide variety of skills are needed, including "client-facing, technical, analytical, market-making and advisory," Mr. Plumeri said.

It is important for companies to have top professionals from the insurance sector and others and to "grow our own," he said. It is not enough to hire good quality people, they must be retained by providing opportunities for professional and career development.

The eInsurance Symposium was presented by Dallas-based insurance exchange MarketScout and its conference partners—Seattle-based SAFECO Corp.; Redmond, Wash.-based Microsoft Corp.; and *Business Insurance*. ■



Free lunch anyone?

Seminars for seniors end up as hard-sell pitches for financial products

By Howard Mills

Nobel Prize-winning economist Milton Friedman is credited with popularizing the phrase, "There's no such thing as a free lunch."

Mr. Friedman, who also wrote a 1975 book by that title, was a wise man.

It has been well-reported that for thousands of senior citizens across the country, so-called "free lunch" seminars come at a hefty price, not just for seniors but, in the end, for insurers as well.

At issue is the sale of life and annuity products that are touted at events bearing such titles as Seniors Financial Survival Seminar and Senior Financial Safety Workshop. While advertised as purely educational seminars where "nothing will be sold" the seminars turn out to be hard-sell pitches for financial products that are often unsuitable.

Lingering beneath the radar of these events is the variety of professional des-

ignations held by the sellers of legitimate investment products. With credentials running the gamut from "certified senior adviser" and "certified elder planning specialist" to "certified retirement financial adviser" and "registered financial gerontologist," the names may sound impressive. In actuality, such "expertise" may be purchased for as little as \$149 after completing a brief online course or by sitting in a classroom for less than a week.

These transactions are not going unnoticed by our nation's regulators, legislators and judicial system.

As of March 2008, the evidence of fraud involving questionable senior financial adviser designations had led to 3,600 enforcement actions, \$61 million in penalties, \$900 million in restitution and over 900 years of jail time. Meanwhile, states such as Massachusetts and Iowa have taken steps to bar agents from using such titles.

To be sure, there's a dangerous trend

under way that places many of the country's leading insurance firms at risk of being just one press release away from great harm to their good reputations.

Annuities represent the insurance sector's fastest-growing product, with sales increasing 30% since 2001 to \$182.8 billion last year, according to the Insurance Information Institute. The target audience is \$16 trillion in U.S. retirement accounts.

PUBLIC PERCEPTION

While questionable sales practices represent a small part of the overall industry activity, it's the headlines that tend to shape the public's perception of an otherwise legitimate business.

A July 2007 article in the New York Times that sparked the interest of lawmakers and regulators alike details a lawsuit in Massachusetts against an insurance agent with a certified senior adviser designation (which he obtained

via a \$1,095 correspondence course). The suit alleges that the agent enlisted a 73-year-old widow caring for a son with Down syndrome to purchase insurance contracts that left her unable to pay common household bills. The agent, authorized by leading U.S. insurance companies, sold his wares over “free” chicken lunches and has become a poster child for the issue nationwide.

Adding fuel to the fire, too, are stories such as the one out of Florida that tells of the scores of Sunshine State seniors in their 70s and 80s being routinely persuaded to turn their savings over to salespersons peddling high-commission equity-indexed annuities with surrender periods that sometimes stretch past age 100.

Two months after the Times article was published, the Securities and Exchange Commission, the Financial Industry Regulatory Authority and a handful of regulators gathered at the SEC’s annual Seniors Summit to announce aggressive action, including a new rule imposing suitability obligations tailored to variable annuities and the results of a sweep of 110 investment firms and branch offices that offer free-lunch seminars.

Testifying before the U.S. Senate Special Committee on Aging during a hearing in December, Kansas Insurance Commissioner and National Assn. of Insurance Commissioners President Sandy Praeger stressed that state and federal regulators must remain vigilant

in monitoring annuity sales to ensure that producers and insurers sell suitable products, given the “troubling trend” that is being seen in the increasing number of consumer complaints regarding the sales of annuities. “Since 2004, more than 75% of these annuity complaints reported by state regulators to the NAIC have been resolved in favor of the consumer,” Ms. Praeger told the panel.



Howard Mills is director and chief advisor in the Insurance Industry Group of Deloitte L.L.P. in New York. Previously, he was New York’s Superintendent of Insurance.

Yet bad practices continue. Some insurance agents are dropping their broker-dealer registration or their investment adviser registrations in order to avoid federal and state oversight. Meanwhile, complaints of questionable sales practices continue to filter into regulators nationwide.

To avoid the potential for worse to come, responsible insurers have acted on their own to improve agent oversight and to create better suitability standards for sales of investment products. Leading companies have embarked on background investigations of all

agents and are screening product sales to ensure that they are suitable and appropriate for the buyer. Representatives found to be using improper sales practices have been terminated.

FINRA, the largest nongovernmental regulator for all securities firms doing business in the United States, has advised firms and brokers on the issue, suggesting best practices that include:

- Centralizing the review and approval process for proposed seminars

and related advertising;

- Creating specific time frames for supervisory review and approval of sales seminars’ content and material;

- Providing written guidance—including checklists—to people involved in sales seminars, including the registered representatives, the branch manager and other supervisors or compliance staff;

- Using standardized, preapproved materials and advertisements;

- And sending “mystery shoppers” who are firm employees to randomly attend seminars and point out potential compliance weaknesses.

MORE DISCLOSURE

Currently, the trend on a national and global scale has been to raise the bar for firms in disclosure and transparency. Indeed, regulatory tolerance for messy headlines touting harmed consumers is at an all-time low.

Rewind to Milton Friedman’s notion of “there’s no such thing as a free lunch.” The idea is that in the end, someone pays for what is initially touted as coming at no cost.

Certainly the exposure to significant reputational risk ought to keep many a CEO awake at night and lead the industry to some serious enterprise risk analysis and management.

The issue of adviser designations and free-lunch seminars has received enough press. Insurance companies have already paid a cost, both monetarily and by way of reputation.

The entire industry would do well to follow those insurers, who, having seen the forest for the trees, have made changes to avoid further harm.

That’s smart thinking.

No free lunch is worth that kind of price. ■

WHILE QUESTIONABLE SALES PRACTICES represent a small part of the overall industry activity, it’s the headlines that tend to shape the public’s perception of an otherwise legitimate business.

Flexible, clear IT structure promotes agile businesses

By **Jamie Bisker**

Business agility in insurance is the cousin of flexibility in information technology.

In order for a business to be responsive to changing environments in complex markets (i.e., to be agile), it is increasingly the task of the back office to present options instead of impediments to executives (via IT flexibility). An insurance company must be able to change products, business plans or distribution strategies quickly enough to meet strategic business goals or tactical challenges.

The challenge of funding long-term projects, applying adequate governance, wrestling with technology in a changing infrastructure and coordinating vendors takes considerable effort in any insurance company. The current state of the art that enables an insurer's IT shop to facilitate these requirements is a combination of data modeling, process mapping and a services orientation. But even as these tools and others make IT more responsive to business needs, technology and its implementation are only part of what an insurer needs to be agile.

Even if an insurer successfully coordinates all the components of business and information system projects, there are several elements that drag on their ability to succeed. One of those elements to which all insurers need pay attention is corporate culture and its generally negative impact on innovation, infrastructure flexibility and business agility. The culture question is complex and should be reviewed in the context of modern insurance operating environments.

With all the progress we see in other industries, insurance companies should be experiencing a revolution of sorts these days, shouldn't they? To explore this question, we have to consider that the world of insurance is dominated by two things—risk and data.

In today's world, the nature of any given risk is becoming more discoverable. Insurers can use tools such as the global positioning system, the Internet, complex catastrophe modeling as

well as predictive analytics for underwriting and fraud detection. Modern enterprise risk management systems are also being leveraged at several companies.

The ability to access, manipulate, analyze and store data (i.e., the other half of the insurance equation) is going through equally powerful improvements. The use of industry data models, as well as global transaction and process standards, are becoming more the rule than the exception from many

insurers. The actual computing power and storage technology are increasing in terms of their efficiency, processing power and portability, which serves both sides of the equation.

With the aforementioned improvements in risk management, data handling and information processing that are available, insurers should be able to leverage flexible IT and business processes to focus on providing business agility. In summary, we have the tools we need or we can get them. However, on closer examination, it seems that the challenge lies not only in a company's technical ability but in mustering the will to innovate beyond the optimization of existing products and processes.



Jamie Bisker is global solutions manager, non-life with the IBM Global Team in Cambridge, Mass.

Establishing a new corporate culture can provide insurers with the basic direction needed to compete more successfully in today's challenging business environment. Instead of trying to change old behaviors and existing cultures, insurance executives need to consider the creation of a parallel culture that is based on a vision that incorporates the changes occurring in markets, technology and demographics around the world.

The will to change and innovate is often straightforward, driven by the need to engage the ever present value levers of cost reduction and increased revenue generation. What often compromises attempts to use either of these is a disconnect between what a business unit or the company as a whole needs to accomplish and the ability of an insurer's systems area to deliver modern solutions quickly. The often touted business heuristic of "thinking outside the box" is difficult if IT budgets continue to be consumed by maintenance of existing systems, and business direction is controlled by constantly catching up to regulatory changes or reacting to competitive price movements by peers.

Keep in mind that many times these are vestiges of existing cultures that were born from point solutions (also known as "silver bullets"). While the activity often needs to continue (i.e., the "what" of state-by-state regulatory changes for example), the idea of working inside of a new culture provides primary direction as to "how" to proceed. A new culture can be created with the establishment of new corporate values and a commitment to sharing knowledge to promote internal and external transparency. For example, the burgeoning concept of customer centricity could be the basis for a central value in a new culture.

Insurance companies need to be armed with a flexible IT infrastructure as well as the vision and sense of purpose that comes from the creation of a culture that is based on achieving strategic goals. This combination is the key to achieving business agility. ■

When they need financial advice, help with a merger or acquisition, or capital to fund business expansion, insurance industry companies frequently employ the services of investment bankers. With that in mind, several investment banking firms have developed active insurance industry practices. Here's a quick look at some of the key investment banking firms active in helping insurance-related companies gain access to capital and make the right financial moves.

BNP Paribas

HEADQUARTERS: Paris, with offices in financial centers around the world.

2007 REVENUE: \$45.32 billion

WEB SITE: www.bnpparibas.com

SERVICES: The Corporate and Investment Banking division of BNP Paribas offers a full range of advisory and financing services to companies. BNP Paribas' Financial Institutions Group covers insurance companies throughout the world.

Deutsche Bank A.G.

HEADQUARTERS: Frankfurt, Germany, with offices around the world.

2007 REVENUE: \$44.83 billion

WEB SITE: www.db.com

SERVICES: Through its Corporate and Investment Bank Group, Deutsche Bank is involved in the origination, sales and trading of capital markets products, together with corporate advisory, corporate lending and transaction banking businesses.



Fox-Pitt Kelton Cochran Caronia Waller Ltd.

HEADQUARTERS: Chicago, London and New York

2007 REVENUE: \$17.4 million [est.]

WEB SITE: www.fpk.com

SERVICES: Fox-Pitt Kelton and Cochran Caronia Waller merged in 2007 to create a global specialist investment bank focusing on the financial services industry. The firm has offices in London; New York; Chicago; Boston; Hartford, Conn.; Hong Kong; and Tokyo.

Goldman Sachs Group Inc.

HEADQUARTERS: New York, with offices in financial centers around the world.

2007 REVENUE: \$45.99 billion*

WEB SITE: www2.goldmansachs.com

*Fiscal year ending Nov. 30, 2007

SERVICES: Taking a team-based approach to its business, transactions conducted by Goldman Sachs Investment Banking Division include mergers, acquisitions, divestitures, the issuance of equity or debt capital, or various combinations.

Keefe, Bruyette & Woods Inc.

HEADQUARTERS: New York

2007 REVENUE: \$427.5 million

WEB SITE: www.kbw.com

SERVICES: Keefe, Bruyette & Woods is a full-service investment bank specializing in the financial services sector. The investment banking practice is based on long-term relationships developed by professionals in New York; London; Boston; Chicago; San Francisco; Richmond, Va.; Columbus, Ohio; and Houston.



LARRY GOANOS is the president of Professional Indemnity Agency, a subsidiary of HCC Insurance Holdings, and author of the forthcoming book "Claims Made & Reported: A Journey Through Professional Lines Insurance."

Perception needs a dose of reality

It's regrettable that an article like this has to be written. But open a newspaper these days and you'll see that it's in vogue to bash the insurance industry. Whether it's bid rigging, coverage litigation involving Hurricane Katrina, the Sept. 11, 2001, terrorist attacks and other high-profile losses, or the Gen Re/AIG finite trial, there is no shortage of fodder for press and prosecutors' offices eager to criticize the people and companies of the insurance business.

Discounting the presumption that their actions increased a company's stock price, thereby enhancing the value of their personal holdings—a tenuous connection at best—almost none of the insurance professionals being vilified today profited personally from their alleged wrongful behavior.

Contrast this with criminal convictions flowing from, say, the securities industry. There you'll find violations like insider trading, rogue trading and laddering claims, misdeeds intended to enrich the wrongdoer and often hurting clients and employers.

The insurance defendants, in contrast, were doing what they perceived to be their jobs, acting for what they thought was the good of their employer. Of course, legitimate violations of the law should be punished appropriately. But to me, the fact that today's high-profile insurance defendants did not line their pockets sets them apart from many wrongdoers implicated in financial crimes, which any punishment should reflect.

It's not my intent to make the insurance industry look better by pointing a finger at investment banking or other financial services. "We're not as bad as the other guys," is not a noble defense. But I believe that the insurance industry possesses an exceedingly high percentage of honest and hard-working individuals whose efforts help keep society's economic engine running smoothly.

The insurance industry also gives back quite a bit to the community. I can think of many very worthy insurance-related charities such as the Insurance Industry Charitable Foundation, the PLUS Foundation, the St. Baldrick's Foundation, the Statesman Dinner and the St. Thomas Charity Classic.

I've just written a book on the professional lines insurance industry. My research entailed discussions and e-mail exchanges with more

than 400 insurance people. Everyone I approached was cooperative and more than generous with their time. They were informed that all net proceeds will go to charity.

Greed and ego never came into play. In fact, many people weren't concerned about their own inclusion in the book, but instead advocated on behalf of beloved mentors, a heartwarming affirmation of the basic goodness and loyalty of insurance people.

A typical story: John Semeraro, an industry veteran, worked under Joe DeAlessandro, "the Father of D&O," according to many, as a youngster at AIG's National Union.

John was a low-level underwriter when his wife, a nurse, landed a higher-paying job at a hospital on Long Island. Shortly before starting, the hospital notified her that the position had been eliminated due to financial cutbacks. It would've been a major setback for the couple. "We were young," John says,

MANY PEOPLE weren't concerned about their own inclusion in the book but, instead, advocated on behalf of beloved mentors.

"and counting on the money from her job to help make ends meet."

Somehow, Joe, a senior executive many levels above John, heard of the problem. He contacted the hospital's professional lines insurer and asked if it would intercede to help an industry colleague and get the position reinstated. The hospital called John's wife soon after to tell her the job was again available. Joe never mentioned his efforts to John.

Similar stories abound in the industry.

It seems to me there is little substance in many of today's allegations. Complex accounting principles and antiquated laws are invoked to show that people who thought that they were acting in the good-faith furtherance of their employers' business interests are criminals. I would suggest that some of the laws governing financial services need to be reviewed and reformed, and unbridled prosecutorial zeal curtailed, so that hard-working professionals who inadvertently commit violations don't end up receiving disproportionate punishments. **IF**

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CRISIS THE AFTERMATH

Insurance giant's rescue and financial market woes
leave industry weighing challenges, opportunities

BENEFITS & FINANCIAL SERVICES
Annuity proposal prompts industry objections PAGE 14
Insurers examine concierge care PAGE 16



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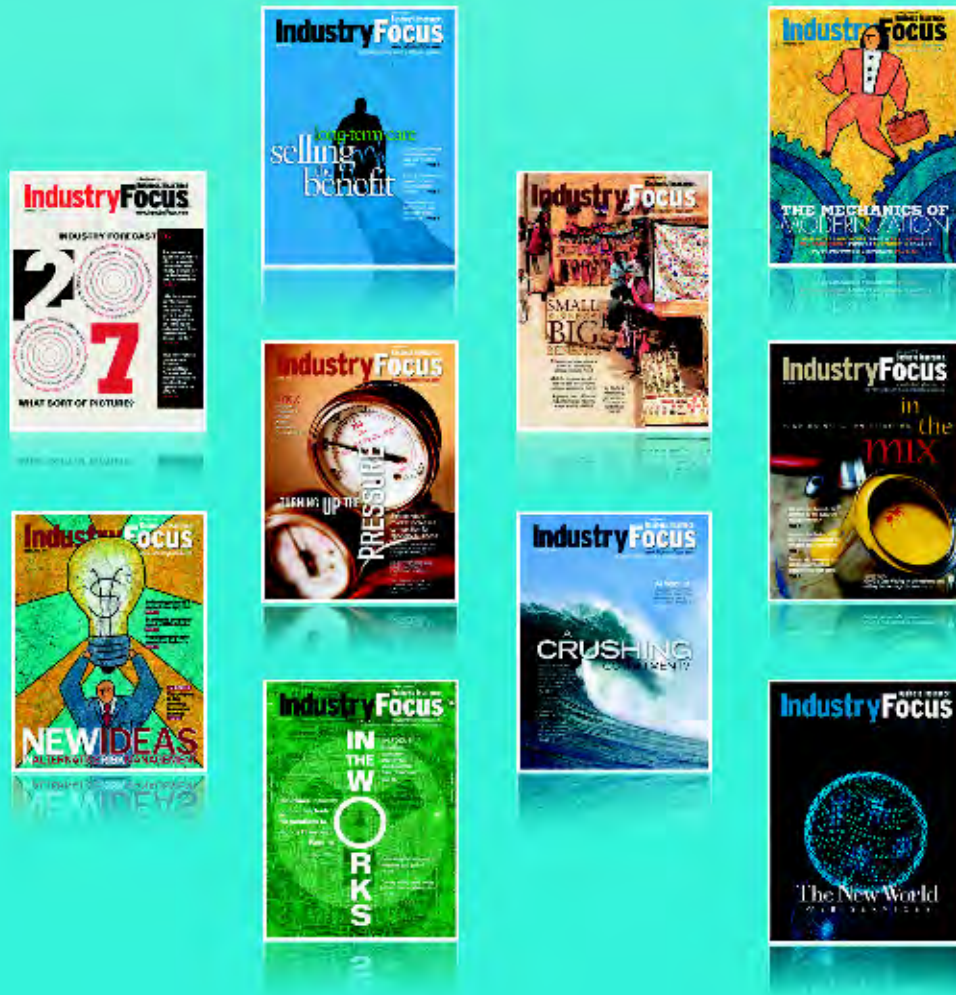
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