

# Business Insurance

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**PROPOSED IRS REGULATIONS EXPECTED TO GIVE BOOST TO CASH BALANCE PLANS / PAGE 3**

**MARKET REMAINS SOFT IN THIRD QUARTER, RIMS STUDY FINDS / PAGE 3**



**LLOYD'S EXECUTIVE SEAN MCGOVERN LOOKS AHEAD / PAGE 3**

## In Brief

### AIG raises \$18B in AIA IPO

American International Group Inc. raised proceeds of \$138.3 billion Hong Kong (\$17.8 billion) in its initial public offering for AIA Group Ltd., the insurer said in a Securities and Exchange Commission filing. AIG sold 7.03 billion shares, or a 58.4% stake in the company, after the full exercise of an offer size adjustment option, and before the exercise of an over-allotment option, at \$19.68 Hong Kong (\$2.54) per share. The shares will trade in Hong Kong. U.K. insurer Prudential P.L.C. previously bid \$35.5 billion for AIA, but its shareholders rejected that price and AIG rejected a lower offer.

### Buffett increases Munich Re stake

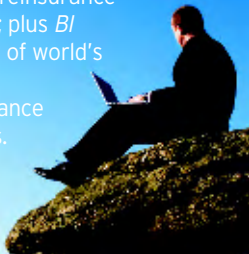
Warren Buffett has increased his stake in Munich Reinsurance Co.

See **IN BRIEF** page 25

## SPOTLIGHT

### REINSURANCE: TRENDS & ISSUES

Reinsurers expected to cut rates again at year-end renewals; interest rises in MGAs as reinsurers seek to grow business; conditions ripe for more consolidation; reinsurers offer big tranches of capacity for energy risks; cat bonds becoming integral part of reinsurance market; plus *BI* ranking of world's largest reinsurance brokers. **PAGE 9**



### RISK MANAGEMENT



AP PHOTO

Bedbug infestation is becoming an issue for a wide variety of companies.

## Employers wake up to bedbug problems

By **JEFF CASALE**

Bedbugs don't need beds to bite—any old cubicle might do.

Amid growing concerns about commercial bedbug infestations—particularly in New York, where the bloodsuckers have been reported in retail stores, movie theaters and office buildings—employers need to know what to look for and how to react when potential problems arise, experts say.

In addition, it's not just ridding themselves of bedbugs that can be costly and troublesome for employers; the presence of bedbugs in a workplace also could potentially generate workers compensation issues, legal experts say (see story, page 22).

See **BUGS** page 22

### P/C INSURERS

## Greenberg liable for offshore deal

*Capco ruling may yield damages; Gen Re trial looms*

By **MARK A. HOFMANN and SONJA RYST**

**NEW YORK**—Former American International Group Inc. Chairman and CEO Maurice R. Greenberg plans to appeal a New York Supreme Court justice's decision holding him liable for damages arising from the smaller of two reinsurance transactions the state attorney general charged were fraudulent.



Mr. Greenberg

But in his ruling last week, New York State Supreme Court Justice Charles E. Ramos also refused to grant summary judgment for the state on another count related to a sham finite reinsurance deal between AIG and Berkshire Hathaway Inc.'s General Re Corp., paving the way for the matter to be considered at trial.

In its civil suit, the New York

attorney general's office alleges that Mr. Greenberg and former AIG Chief Financial Officer Howard Smith had used the AIG/Gen Re deal—a 2001 loss-portfolio transfer—to hide AIG's losses and inflate the insurer's reserves.

In early 2008, federal prosecutors obtained five criminal convictions against four former Gen Re executives—including former Gen Re CEO Ronald Ferguson—and former

AIG Vp of Reinsurance Christian Milton in connection with the 2001 finite deal. The prosecution charged that the sham transaction had increased AIG's reserves by about \$500 million without any actual risk transfer. The convictions are on appeal.

Justice Ramos said in last week's decision that the facts regarding the Gen Re transaction in the case "strongly suggest knowledgeable conduct on the part of Greenberg." But in the absence of direct testimony about his knowledge of the structuring of the deal

See **GREENBERG** page 23

### MERGERS & ACQUISITIONS

## Low prices for Lloyd's firms stir interest

By **SARAH VEYSEY**

**LONDON**—Low valuations of Lloyd's of London companies triggered more merger and acquisition activity last week as Beazley P.L.C. had its bid for a rival rejected, while Brit Insurance Holdings N.V. kept its

door open to an offer by an investment consortium.

But the flurry is unlikely to develop into a storm of takeover deals in the market, several analysts said. Uncertainty over future capital requirements under Solvency II and the long-term investment strategy

of many Lloyd's investors likely will limit the number of potential deals, they say.

Beazley P.L.C. last week said that on Oct. 6 it had offered to buy Hamilton, Bermuda-based Hardy Underwriting (Bermuda) Ltd. for £158.4 million (\$253.2 million). Hardy, which operates Lloyd's syndicate 382 and a managing general agency in Bermuda, rejected the offer on Oct. 8.

In a statement, Hardy said it believed Beazley's offer undervalued the company and said it viewed the proposal "as an attempt to acquire the company opportunistically, when valuations of listed Lloyd's companies are at a cyclical low and to exploit the impact on Hardy of a series of exceptional international



LLOYD'S OF LONDON

**A flurry of takeover activity at Lloyd's of London is not expected to result in major market consolidation.**

property treaty losses."

Beazley said it "was surprised and disappointed" to receive an outright

See **LLOYD'S** page 21

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### VIDEO: TAKING A LOOK AT CLIMATE REGS

In a new Risk of Going Green video, *Business Insurance* looks at the effects climate change regulations can have on corporations.



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### MOST POPULAR STORIES Week of October 18, 2010

1. Zurich reorganizes insurance operations
2. Workers compensation costs rise as claims frequency drops: NCCI
3. N.J. school official, insurance broker charged with corruption
4. IRS issue rules on cash balance plan interest rates
5. Torus taps Chubb exec to lead U.S. professional lines
6. Zurich's John Amore to retire
7. Judge to rule on constitutionality of health care reform law
8. Deepwater Horizon insured losses may be \$6 billion: Fitch
9. Chubb reports higher profit, makes management changes
10. Firms lose more to electronic than physical theft: Kroll

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### ERM WEBCAST

"Value in Enterprise Risk Management: Making ERM Pay Off" will explore ERM's value in strategic planning, with risk experts John J. Hampton and Laura L. Brooks, on Oct. 27 at 2 p.m. EDT. To register, go to [www.BusinessInsurance.com/webcasts](http://www.BusinessInsurance.com/webcasts).



## RETIREMENT BENEFITS

# IRS rules add clarity for cash balance plan sponsors

Agency also removes concerns about age discrimination

By **JERRY GEISEL**

**WASHINGTON**—Proposed and final Internal Revenue Service rules released last week are likely to give a modest boost to cash balance pension plans, experts say.

The proposed rules end years of uncertainty created by a 2006 pension law that allows plan sponsors to use a “market rate” to credit interest to participants’ account balances. The IRS had not provided definitive guidance on what would

be considered a market rate until last week.

The proposed regulations are to take effect on Jan. 1, 2012, but employers can rely on this interim guidance.

“Through very simple statements in the regulations, the uncertainty has been eliminated,” said Alan Glickstein, a senior consultant with Towers Watson & Co. in Dallas.

Under the proposal, employers that use a fixed percent to credit interest to participants’ cash balance accounts would have a rate cap of 5% a year. Cash balance plans provide an accumulated benefit that is based on pay-related and interest credits and is expressed as cash lump sum.

## CASH BALANCE PLANS

IRS rules resolve design questions

- Employers using a fixed rate to credit interest to employees’ accounts can provide an annual credit up to 5%.
- Employers crediting interest based on certain indexes can guarantee annual interest up to 4%.
- Benefits accrued in a plan converted to a cash balance plan automatically vest if the employee participated in the plan for three years.

In addition, for employers that use a design formula that credits the greater of either the interest rate on certain bond-based indices or a

fixed percentage, the fixed percentage cannot exceed 4%.

For employers that use a design in which the interest credit is linked to an equity-based rate, the interest credit could be either the rate of return earned by the equity index or a certain percentage, whichever is greater, up to 3% cumulatively.

Take the case of an employee who enrolled in a plan with such an indexing feature and a 3% interest credit guarantee. The employee retired after five years. The employee’s account balance would be the greater of the amount based on the results of the equity fund index or the amount based on crediting 3% interest to the account balance each year.

Few employers now use such an approach.

On a related front, the IRS last week also released final rules that largely affirm cash balance plan rules proposed by the IRS in 2007.

For example, one provision involves vesting of accrued benefits. Under the 2006 law, the Pension Protection Act, participants’ cash balance accounts must be fully vested after three years of participating in the plan.

Employers, though, weren’t sure how the provision would apply to other plans with longer vesting schedules if those plans were converted to cash balance plans. Typi-

See **CASH** page 25

## Questions & Answers

Lloyd’s of London General Counsel Sean McGovern oversees the worldwide legal and regulatory affairs of the 322-year-old marketplace as well as its relationships with brokers and managing general agents, or coverholders. Mr. McGovern spoke recently with *Business Insurance* Editor Regis Coccia about his role and how Lloyd’s is faring with regulatory and other market challenges.



## Lloyd’s strives to thrive as industry evolves

**Q: What are some of Lloyd’s biggest regulatory challenges at the moment?**

One of the challenges for all of the industry is the response to the financial crisis. We’re seeing a significant change in how financial services are regulated. Lloyd’s is being caught up in regulations and mechanisms brought up to address a perceived lack of regulation. We’ve been trying to get the message across to policymakers and regulators that insurers did not cause the crisis; we provide an important service, and without us, commerce would grind to a halt. There is a lot of debate in the United States about systemically important institutions and the same debate is emerging in Europe as well. You can have financial institutions that are systemically important. Insurers in the U.S. and Europe are going to get dragged into systemic risk regulation and that’s wholly inappropriate. Insurers are fundamentally different from banks; it’s a prefunded business. You

can’t get a run on an insurer the way you can with a bank. A new regulatory architecture is being established in the U.K. and in Europe (with the Financial Services Authority being replaced by a prudential solvency regulator of banks and insurers, and a new systemic risk board in the European Union). At a time when the whole architecture is changing and the form of solvency regulation is changing fundamentally, insurers have to put regulation at the top of the list of challenges they’re facing.

**Q: What has Lloyd’s been doing to get its message across?**

We’re having a lot of dialogue with politicians and regulators. The insurance industry has coalesced around the Geneva Assn.’s “Systemic Risk in Insurance” report (issued in March). The document is a thorough piece of work that has positioned the industry very well and has tried to articulate that insurers do not

See **McGOVERN** page 6

## BI editor to take industry position

**CHICAGO**—After nearly 18 years with *Business Insurance*, Regis J. Coccia has resigned as editor to pursue a new career in the insurance industry.

Mr. Coccia, who has served as editor since 2004, will relocate to Atlanta from Chicago and become director of marketing and communications at Aon Corp.

In the newly created role, Mr. Coccia’s responsibilities will include the development of client-focused communications for the Chicago-based brokerage.

Until a new editor is named, Paul D. Winston, associate publisher, online general manager and events director, will manage editorial operations at *Business Insurance*.

During his tenure as editor, Mr. Coccia oversaw the publication’s coverage of some of its most challenging risk management and employee benefits news stories including Eliot Spitzer’s pursuit of wrongdoing in the insurance industry; the federal rescue of American International Group Inc.; and the sweeping health care reform law enacted this year, among many others.

His tenure also has been marked by the growth and transformation of *Business Insurance* beyond publishing a weekly newspaper to also include breaking news online and in e-mail; new multimedia and video reports; expansion of webcasts and white papers; blogs and social media; and awards and events, among other initiatives to serve the *BI* audience.

“Regis has led our editorial staff through a period of great change in how media is delivered and consumed, as well as considerable change and volatility in the industry we cover,” Mr. Winston said. “Regis will be greatly missed, but he leaves behind a talented journalism team that has benefited from his leadership and will carry us forward.”

Mr. Coccia joined *Business Insurance* in 1993. Prior to being named editor in 2004, he was managing editor for six years and before that served as assistant managing editor and copy editor.

He graduated from the University of Notre Dame in Indiana with a Bachelor of Arts degree in American studies.



Mr. Coccia is joining Aon Corp. as director of marketing and communications.

## P/C INSURERS

## Buyer’s market for insurance persists

By **JOANNE WOJCIK**

Soft market conditions continued for most lines of commercial insurance coverage in the third quarter of this year as premiums fell an average of 2.3%, though reductions in premiums slowed for general liability and workers compensation insurance, according to a survey released last week by the Risk & Insurance Management Society Inc.

The average property insurance premium declined about 3% in the third quarter, while the average directors and officers liability premium dropped 4%, according to the “RIMS Benchmark Survey” administered by New York-based Advisen Ltd. Meanwhile, average premiums for general liability and workers compensation fell less than 1% on

### RATES DECLINE

Prices continued to fall for most lines of commercial insurance during the third quarter.

Property	General liability	D&O	Workers comp	All lines
3.0%	less than 1%	4.0%	less than 1%	2.3%

Source: Advisen Ltd.

average.

Despite the slowdown in reductions, general liability and workers comp insurance premiums are either at or below the level they were at the depth of the last soft

market in 2000, said Dave Bradford, executive vp of Advisen.

General liability “never drops very much in a particular quarter,

See **BENCHMARK** page 25

## INTERNATIONAL

# U.K. mulls reform of personal injury claims process

*Suggested changes focus on simplifying current system*

By SARAH VEYSEY

**LONDON**—The system for processing personal injury claims in the United Kingdom should be simplified, and the insurance industry should draw up a code of practice on health and safety, according to an independent report.

Among a raft of recommendations, Lord David Young of Graffham recommended this month that the framework of the Road Traffic Accident Personal

Injury Scheme, introduced in April, be extended to cover low-value personal injury claims.

That system, which is funded by the insurance industry, provides a timetable for settling claims by which claimants' and defendants' lawyers must abide, and sets out fixed costs for different stages of the claims process.

Lord Young also said insurance companies should reconsider the practice of "routinely requiring business to employ health and safety consultants" and recommended that such consultants be accredited.

His report, published this month, also recommended that advertising by claims management companies should be regulated.

## REFORM RECOMMENDED

Key changes proposed for processing U.K. personal injury claims.

- Simplify system for low-value personal injury claims.
- Regulation of advertising by claims management firms.
- Health and safety guidance for low-risk industries.
- Civil litigation reforms.

Lord Young also said the Health and Safety Executive, a government-backed body that enforces health and safety law, should pro-

duce guidance for small- and medium-size companies that operate in low-risk environments and said the United Kingdom should take a lead role in cooperating with other European Union member states to ensure that health and safety rules for low-risk businesses are not overly onerous.

Lord Young also said recommendations of Lord Justice Rupert Jackson's January report on the cost of civil litigation should be implemented.

That report recommended that success fees and after-the-event insurance premiums no longer should be recoverable from unsuccessful opponents in litigation and that lawyers should be able to enter

into contingency fee arrangements but that those arrangements should be regulated, among other things.

"It is my firm belief that the United Kingdom's compensation system should focus on delivering fair and proportionate compensation to genuine claimants as quickly as possible—not fueling expectations that injury means automatic compensation regardless of the circumstances," Lord Young said in the introduction to the report "Common Sense, Common Safety."

The Assn. of Insurance and Risk Managers welcomed Lord Young's review which, it said, "should help foster a much more balanced and

See **CLAIMS** page 24

## RISK MANAGEMENT



NICK DUNCAN

Panelists for the Katie School Insurance Executive Forum. L-R: Gene Bader, Abbott Laboratories; Shaun Kelly, Ironshore Services; John Lumelleau, Lockton Cos.; John Beckman, CNA; and Rodd Zolkos, Business Insurance.

## Economic crisis changed risk management: Panel

*Buyers now need in-depth knowledge of complex issues*

By JEFF CASALE

**CHICAGO**—The insurance industry is looking to return to "business as usual" as the economy recovers slowly, but some industry leaders say the insurance business never will return to the days before the fall of 2008.

Changes in the economy have spurred changes in the insurance industry through regulatory reform, revised risk management strategies, advancing technology and ongoing globalization, and insurance industry executives and professionals have had to do more with fewer resources.

"No way is it going back to the way things were before the fall of 2008," Eugene Bader, director of corporate risk management for Abbott Laboratories in Abbott Park,

Ill., told the audience during the Katie School of Insurance and Financial Services' 20th annual Insurance Executive Forum in Chicago. "In these post-economic (recession) times, we are going to have to do more fact-based risk management than doing it by the seat of your pants."

Three other executives joined Mr. Bader in the panel discussion sponsored by Illinois State University's Katie School that focused on how the changed economy will affect the insurance industry. One of those changes is the role of the risk manager within a company.

Risk managers no longer can be just insurance buyers who need to know how limits and deductibles work, Mr. Bader said. Instead, they need to be able to analyze loss probabilities and determine how much risk their company is willing to take.

"Buying insurance is just one aspect of the job," said John Lumel-

See **KATIE** page 24

## SELF-INSURANCE

## Technology viewed as key claims tool

*But limits on use seen as human element remains vital*

By RODD ZOLKOS

**CHICAGO**—Technology offers opportunities to improve interactions between employers, claimants and third-party administrators, but it must be used appropriately and not as an end in itself, according to a group of top TPA executives.

Speaking this month as part of a TPA executive panel at the annual educational conference of the Self-Insurance Institute of America Inc., which was held in Chicago, Scott R. Hudson, president and CEO of Itasca, Ill.-based Gallagher Bassett Services Inc., noted that mobile technology offers "the potential to create communities" around differ-

ent business sectors "enabling the sharing of ideas."

But, he warned, it's important that those involved in the claims process not get overly dependent on technology.

David A. North, president and CEO of Memphis, Tenn.-based Sedgwick Claims Management Services Inc., said when TPAs and employers consider implementing technology in the claims process, "the question isn't how...it's why."

"Adopt technology that's a means to an end, not an end in its own," Mr. North said.

"We can produce reports a lot of different ways, but how are you using those reports? How are you using the information?" he asked.

Kenneth F. Martino Jr., president and CEO at Plantation, Fla.-based Broadspire Services Inc., said, "We have been focused as an industry on

efficiency." But, he said, "the issue is really effectiveness."

"How do we utilize that effectively to produce a better result?" Mr. Martino asked.

Mr. Hudson noted that the ability to capture and analyze information is significantly greater in the claims industry these days because of technology, and said, "I don't think the appetite for additional information in our business is going to subside."

Asked about employer expectations of their TPAs, Mr. North said each employer has a different approach to business, and it is the nature of the employer's approach that defines what the TPA must deliver to provide a suitable match.

"For this match to be effective, you can't buy in to what we do," Mr. North said. "We have to buy in

See **SIIA** page 21

## WORKERS COMPENSATION

## Comp claims frequency eases again

*But severity rises as claims costs keep increasing*

By ROBERTO CENICEROS

Indemnity and medical severity for workers compensation claims continued to increase in 2009, but the frequency of such claims continued to decline, according to NCCI Holdings Inc.

In a research brief released earlier this month, the Boca Raton, Fla.-based unit of the National Council on Compensation Insurance Inc. said the frequency of workers comp claims dropped 4% in 2009, after a 3.4% decrease in 2008. A downward trend in claims frequency that start-



ed in 1991 likely will continue through this year, NCCI said.

"Given the continued weakness in the labor market, it is likely that claim frequency will continue to decline in 2010" because "lessened

job creation" typically means more experienced workers who are less likely to be injured remain on the job, NCCI said.

The rating and research organization also said frequency declines have been widespread, stretching across all industries, geographic regions and employer sizes. However, large employers that can afford safety programs saw the steepest decline in injuries.

Factors such as increased use of robotics, ergonomic designs, an increased use of "power-assisted processes" as well as an aging workforce have contributed to the continuing frequency decrease, NCCI said.

Employers' continued focus on

See **NCCI** page 24



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Ms. Ryst

## Associate editor joins *BI*

*Business Insurance* has added to its editorial staff in New York.

Sonja Ryst has joined the magazine as an associate editor. She succeeds Zack Phillips, who resigned to pursue other opportunities.

Previously, Ms. Ryst was a reporter for *BusinessWeek.com*, covering personal finance.

Prior to that, she held report-

ing positions at Dow Jones Newswires and Thomson Financial.

At *BI*, Ms. Ryst will report on a variety of news and features relating to risk management for the weekly magazine, website and *BI*'s multimedia platforms.

She can be reached at 212-850-7615 or at [sryst@businessinsurance.com](mailto:sryst@businessinsurance.com).

## McGovern: Lloyd's strives to thrive as industry evolves

CONTINUED FROM PAGE 3

pose systemic risk. We at Lloyd's have been using that as a tool to educate regulators, and that has been particularly successful. We're having a lot of engagement, meeting with new ministers on financial services and I've been in Washington. The challenge is that the environment is not particularly conducive to constructive proposals.

**Q: How is Lloyd's trying to expand access to the market, particularly for U.S. business?**

Our profile in the U.S. is good and we have good access to business there, but what we're not complacent about is the need to expand our penetration in the U.S. We're trying to significantly increase our

outreach into the U.S. market. For us, it's our most important market, yet knowledge and understanding of Lloyd's and how to access Lloyd's is not as established as it should be. We do have good penetration among many MGAs. A survey of them last year was very good, but a negative for them was that Lloyd's "makes it very difficult for us to do business with you." Part of the difficulty is we don't have on the ground bricks-and-mortar operations in the U.S.; all our underwriters are in London. We've set about work to standardize information MGAs are expected to provide to the market, and we've expanded our audit process so an MGA doesn't have to undergo multiple different audits and so the experience of dealing with Lloyd's syndicates will be the same with every syndicate.

We're taking some tangible steps to improve our processes.

**Q: Will the move to create efficiencies through electronic data flow eventually mean the end of face-to-face business, for which Lloyd's is famous?**

It's difficult to see how Lloyd's will ever move away from face-to-face transactions. We're trying to make sure that's supported. Our aim is to let underwriters focus on underwriting and let brokers focus on broking. We're essentially an over-the-counter market for underwriting. There will always be a need for face-to-face interaction. In fact, we've had to open up more room in our building for box space. Clearly, the underwriting businesses at Lloyd's see a need for this. It goes to the core of what makes Lloyd's different from other underwriting organizations. It's difficult to see the sorts of specialty and unusual risks Lloyd's writes declining, so there is going to be an increasing need for bespoke solutions.

## Commentary

# Time spent at *BI* taught many valuable lessons

This is my last column as editor of *Business Insurance*.

After nearly 18 years at the publication and the past seven as editor, I have decided to pursue a new career path.

I joined *BI* in early 1993 and, truth be told, thought I might stay a year or two before moving on to another job in journalism. I had no intention initially of making a career here. Little could I have imagined that I would find so many compelling reasons to stay.

I have been privileged to work with a great group of people in one of the world's great cities, meet many interesting businesspeople and learn firsthand how important insurance and risk management are to the global economy and witness some of the most significant events in recent insurance history.

And I've learned so much. If it's true that the more one knows, the more one knows how much one doesn't know, then it's safe to say my ignorance is vast.

Seeing the insurance industry up close, I've gotten to know many of its leading innovators. I have been impressed by how much good the industry does overall for policyholders, despite the occasions where it falls short. There is plenty of room for improvement, but too often, public focus on the industry is disproportionately negative. Businesses and individuals would have much bigger challenges if not for insurance.

*BI* has never been an apologist for the insurance industry, however, and I've had many spirited debates with executives who took issue with our stand on certain things. From its beginning in 1967, the publication has strived to be an advocate for the insurance buyer, and we've done a pretty good job of that. In fact, a lesson for the insurance industry—and all industries—is to put the interests of its customers first. Do the best job possible of serving their needs, and you'll meet your own.

That's what I had in mind when I decided to pursue an interesting professional opportunity in the industry. I am joining Aon Corp. as director of marketing and communications, with responsibility for helping develop strategic client-focused content across its business units. In that role, I will continue to work



## REGIS COCCIA

Former *BI* Editor Regis Coccia can be reached at: [regis.coccia@att.net](mailto:regis.coccia@att.net)

with insurance industry executives and risk managers, something that I have been privileged to do at *Business Insurance*.

I am proud to say that I've forged many friendships during the past 18 years, and the *BI* staff has been my second family. Without my hard-working colleagues in editorial, sales, marketing and circulation, I could

**From its beginning in 1967, the publication has strived to be an advocate for the insurance buyer, and we've done a pretty good job of that. In fact, a lesson for the insurance industry—and all industries—is to put the interests of its customers first. Do the best job possible of serving their needs, and you'll meet your own.**

not have been nearly as effective in my role as editor. My successor, who should be named soon, will inherit a great team. Because of them, *Business Insurance* will continue to thrive as the leading publication serving risk management and commercial insurance professionals.

Among the people to whom I'm indebted are our readers. You have been the inspiration for my colleagues and me to do what we do every day. I sincerely hope you will continue to rely on *Business Insurance* for valuable content to help you do your jobs.

Thanks to all of you for the memories. I'll treasure them.



## Congratulations to W. Brown & Associates.

Catlin is pleased to congratulate W. Brown & Associates Insurance Services on ranking in the Business Insurance list of the ten largest MGAs for the sixth consecutive year. As a proud partner of W. Brown & Associates, we know their success is built upon technical expertise, more than 20 years of aviation market experience and the industry's most responsive client service.



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# Business Insurance OPINIONS

## A lot to consider on health care changes

WILL HEALTH CARE REFORM lead to the unraveling of the employment-based health care system?

That is a reasonable question to ask in light of the economic incentives the law will give employers to terminate coverage in a few years.

Starting in 2014, the federal government will provide health insurance premium subsidies to lower- and middle-income uninsured legal U.S. residents to purchase coverage in new state exchanges.

In light of those subsidies, employers and their advisers will examine whether employers might come out ahead by eliminating their plans, leaving employees to buy coverage through the exchanges.

Employers will have to calculate how much they will have to bump up salaries so employees don't pay more for exchange coverage than they paid for employer coverage. And employers will have to add the annual \$2,000 per employee penalty assessed on companies that don't offer coverage.

Still, the savings could be substantial in many cases. Tennessee Gov. Philip Bredesen estimated that shifting state employees to exchanges, increasing their salaries and paying the \$2,000 penalty would cost the state about \$200 million in 2014 vs. the \$346 million cost of continuing to offer coverage.

So should employers begin to prepare their exit strategies? On that, we urge extreme caution.

If a significant number of employers fold their plans, leading to far bigger health care costs for the government than anticipated, would Congress stay on the sidelines? We doubt it. Legislators might, for example, substantially hike the \$2,000 assessment or find other ways to stop an employer exodus.

On paper, the savings could be dramatic, but they could evaporate in a flash depending on what Congress does. Employers should keep that in mind as they consider the pros and cons of continuing or terminating their plans.

*On paper, the savings could be dramatic, but they could evaporate in a flash depending on what Congress does.*

## Soft market will turn eventually, so plan now

THE HARD MARKET may be a long way off, but it is never too early for risk managers to start planning for the inevitable.

Barring a major catastrophe, the market is expected to continue to remain soft with reinsurers awash in excess capital, as we report in our spotlight, which begins on page 9. Observers generally expect 5% to 10% rate reductions come January reinsurance renewals, depending on the line of business.

Without a major catastrophe, observers say it might take a combination of several factors to spark a turn in the market.

This could be years away, but the market will turn and risk managers would do well to be prepared. As reported in a *Business Insurance* white paper, "Hard Market Game Plan: Steps Risk Managers Need to Take Before Rates Rise," mitigating the pain of the eventual hard market requires sound risk management practices, most of which are worth following all the time, not just when the market is changing.

Advice that experts dispense include locking up broad coverage today that may not be available later, buying only net limits to avoid the impact of reinsurance rate hikes, refraining from buying all of an underwriter's net limits and leaving spare capacity to use in a tight market, spreading limits globally and investigating the multiyear policies to lock in costs.

By following this advice, risk managers will be able to demonstrate to their top executives that they are well-prepared when the rate cycle inevitably swings back to harder pricing.



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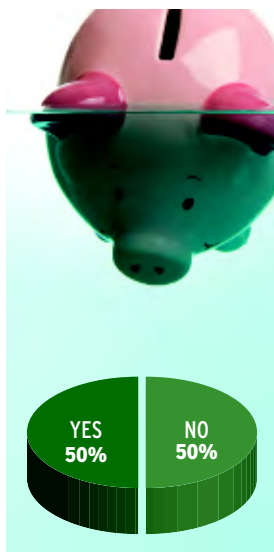
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Q Has the recession created greater interest in enterprise risk management?



#### NEXT WEEK'S QUESTION

Q: Will AIG fully repay its federal bailout?

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## Fac marketplace helps cedents to be profitable

As the soft market continues, insurance buyers are enjoying more capacity and cheaper coverage, but insurers and reinsurers must work to carefully manage their exposures to ensure profits, says Rory Cline of Ascot Underwriting Inc. By carefully managing their portfolios and forging strong relationships with brokers and buyers, underwriters should be able to generate profitable business in any part of the cycle, he says.



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Reinsurance:  
Trends & Issues

## SPOTLIGHT

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**'We're seeing a continuing of the slow and steady decline in rates. It's a fairly dormant market. I think people are just trying to keep their powder dry, and waiting for better days where they can.'**

Stephen K. Bolland, Gill & Roeser Inc.

## Reinsurance market to remain soft

*Too much capital, slow economy, few cat losses will keep renewal rates low*

By **JUDY GREENWALD**

The reinsurance market is awash in capital, which means continued soft rates during the upcoming January 2011 renewals, market participants say.

The softening, however, will be moderate, generally about 5% to 10%, and depend on the risk, the observers say. They also note that reinsurers continue to be relatively disciplined compared with the primary sector, although both sectors are hampered by the slow economy.

While there have been several catastrophes this year, including the New Zealand and Chilean earthquakes, their impact largely was local. While predictions that there would be more hurricanes this year proved accurate, they largely avoided making landfall resulting in insured losses.

Observers have said that unless there is a \$50 billion catastrophe this year, the market is likely to turn only when reinsurers, which

continue to post strong earnings, start losing money on their underwriting and run out of reserve releases, which is probably at least a year away.

Meanwhile, many observers expect there will be some increased merger and acquisition activity, as reinsurers seek to efficiently deploy their excess capital, although it is likely to be dampened by reinsurer stocks' low valuations (see story, page 12).

Challenges facing the market include excess capacity, restrained demand, pressure on profitability and a weak equity market, said James Eck, vp and senior analyst in the financial institutions group at Moody's Investors Service in New York, which has a negative outlook on the sector.

Pierre Ozendo, Armonk, N.Y.-based chairman and CEO of Swiss Reinsurance America Corp., a unit of Swiss Reinsurance Co., said, "We still see competitive pricing in the casualty market." In the catastrophe market, "we see a little bit of competitive pricing, but not much" because companies have to make sure their catastrophe protection is adequate for their exposures.

"The only fix over time is to get prices a little bit more reasonably up. We've been arguing for that to take place," Mr. Ozendo

said. However, "it's still a slow economy and people are loathe" to be the first ones to do so. "Underwriting returns cannot make up the shortfall because there's no investment return to do it," he said.

A record \$442 billion in reinsurance capital is outpacing demand, said Bryon Ehrhart, chairman of Aon Benfield's analytics and investment banking divisions in Chicago. As a result, clients are having an easier time finding needed capacity "and paying less for it," he said.

"The underlying theme of the industry right now is tremendous overcapacity," said Richard DiClemente, president and CEO of New York-based THB Intermediaries Inc. "It's going to be very competitive going forward," he said. "There's too much capacity chasing too little premium."

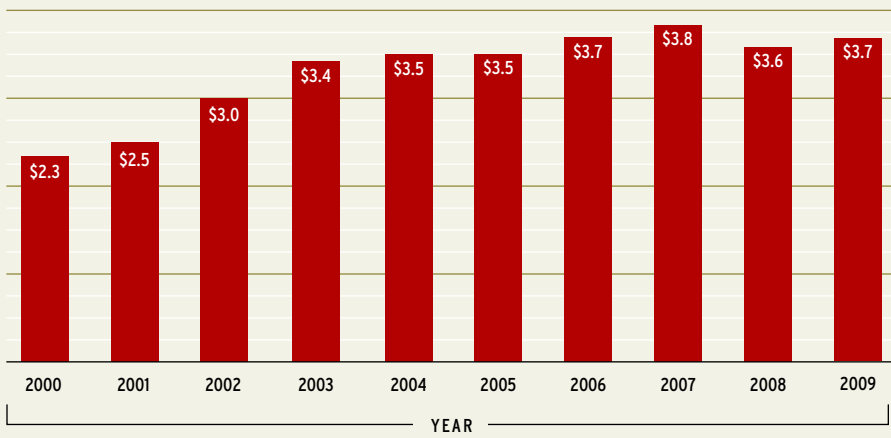
"There hasn't been one single event that's really moved the industry towards a reduction in capital and a reduction in capacity," Mr. DiClemente said.

"People are trying to work in a softening rate environment and still achieve potential growth as well as the returns they're looking for," said Rod Fox, CEO of TigerRisk Partners

See **MARKET** page 11

**GROWTH IN REINSURANCE BROKERAGE REVENUES**

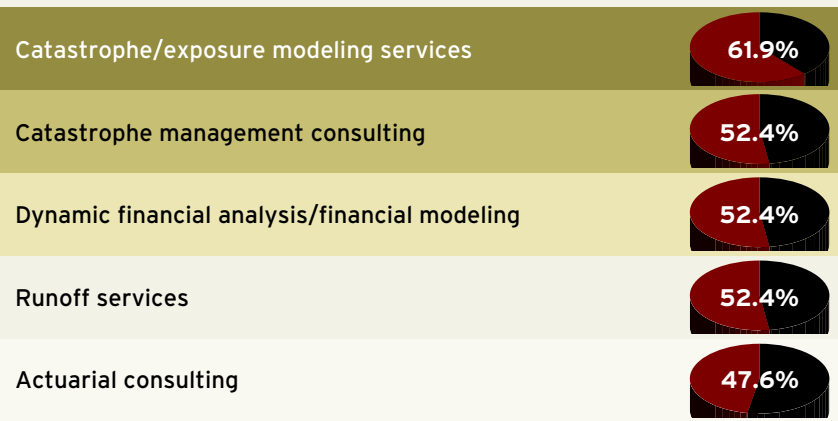
For nine of the past 10 years, the world's 10 largest reinsurance brokers experienced increased revenue, in billions of dollars.



Source: BI survey

**SERVICES PROVIDED BY REINSURANCE BROKERS**

Based on percentage of companies offering services other than reinsurance brokering.



Source: BI survey

# World's largest reinsurance brokers

Ranked by 2009 gross revenues from reinsurance brokerage and related services\*

Rank	Company/Address	Phone/website	2009 reinsurance gross revenues	2008 reinsurance gross revenues	% change	2009 reinsurance employees	Principal officers
<b>1</b>	<b>Aon Benfield</b> Aon Center, 200 E. Randolph St., Chicago, Ill. 60601	312-381-5300 <a href="http://www.aonbenfield.com">www.aonbenfield.com</a>	\$1,485,000,000	\$1,479,800,000 <sup>1</sup>	0.4%	3,400	Michael Bungert, Dominic Christian, co-CEOs
<b>2</b>	<b>Guy Carpenter &amp; Co. L.L.C.<sup>2</sup></b> 1166 Ave. of the Americas, New York, N.Y. 10036-2708	917-937-3000 <a href="http://www.guycarp.com">www.guycarp.com</a>	\$911,000,000	\$803,000,000	13.4%	2,349	Peter Zaffino, CEO
<b>3</b>	<b>Willis Re</b> 51 Lime St., London, EC3M 7DQ England	44-203-124-6000 <a href="http://www.willisre.com">www.willisre.com</a>	\$614,000,000	\$586,000,000 <sup>3</sup>	4.8%	1,356	Peter Hearn, CEO-Willis Re Global
<b>4</b>	<b>Towers Watson &amp; Co.</b> Centre Square East, 1500 Market St., Philadelphia, Pa. 19102-4790	215-246-1600 <a href="http://www.towerswatson.com">www.towerswatson.com</a>	\$166,427,000	\$162,000,000	2.7%	389	William H. Eyre Jr., managing director
<b>5</b>	<b>Cooper Gay Swett &amp; Crawford Ltd.</b> 52 Leadenhall St., London, EC3A 2EB England	44-207-480-7322 <a href="http://www.coopergay.com">www.coopergay.com</a>	\$157,393,050 <sup>4</sup>	\$153,923,500 <sup>3,5</sup>	2.3%	660	Toby Esser, CEO
<b>6</b>	<b>Jardine Lloyd Thompson Group P.L.C.</b> 6 Crutched Friars, London, EC3N 2PH England	44-207-466-1300 <a href="http://www.jltre.com">www.jltre.com</a>	\$146,586,960 <sup>4</sup>	\$134,451,250 <sup>5</sup>	9.0%	N/A	Alan Griffin, chairman/CEO- JLT Reinsurance Brokers Ltd.
<b>7</b>	<b>BMS Group</b> 1 America Square, London, EC3N 2LS England	44-20-7480-7288 <a href="http://www.bmsgroup.com">www.bmsgroup.com</a>	\$73,487,676 <sup>4</sup>	\$79,055,481 <sup>5</sup>	-7.0%	267	Carl Beardmore, group CEO
<b>8</b>	<b>UIB Holdings Ltd.</b> 69 Mansell St., London, E1 8AN England	44-207-488-0551 <a href="http://www.uib.co.uk">www.uib.co.uk</a>	\$44,320,630 <sup>4</sup>	\$40,799,000 <sup>5</sup>	8.6%	256	Bassem Kabban, CEO
<b>9</b>	<b>Axiom Re Inc.</b> 940 Golf House Road W., Stoney Creek, N.C. 27377	336-446-4222 <a href="http://www.axiomre.net">www.axiomre.net</a>	\$31,346,112	\$24,739,224	26.7%	70	Horace M. Johnson Jr., president
<b>10</b>	<b>Lockton Cos. International Ltd.</b> 138 Houndsditch, London, EC3A 7AG England	44-207-933-0000 <a href="http://www.lockton.com">www.lockton.com</a>	\$31,037,000 <sup>6</sup>	\$28,708,000 <sup>6</sup>	8.1%	87	Paul Jack, CEO-Lockton Re

\* Includes all reinsurance revenue reported through holding and/or subsidiary companies.

<sup>1</sup> 2008 revenue reflects the fully adjusted actual GAAP figure for the combined Aon Benfield business. <sup>2</sup> Includes aviation reinsurance business placed by Marsh Inc. <sup>3</sup> Restated. <sup>4</sup> Fiscal year 2009 British pound=\$1.5661.

<sup>5</sup> Fiscal year 2008 British pound=\$1.8545. <sup>6</sup> Fiscal year ending April 30. N/A=Not Available.

Source: BI survey

Researched by Kevin Edison

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# Market: Reinsurance market expected to remain soft

CONTINUED FROM PAGE 9

L.L.C. in Stamford, Conn.

John R. Berger, CEO of reinsurance at Bermuda-based Alterra Capital Holdings Ltd., said, "We're kind of in a steady state of rate deterioration almost across the board."

"There's been a frequency of relatively large events," including the Chilean and New Zealand earthquakes and the Deepwater Horizon losses, but "it isn't enough to change anything."

Mr. Berger said people in the market are "just turning every stone over in every market everywhere, just looking for things that make

**'Reinsurers seem to feel that rates are adequate, and there will undoubtedly be pressure for modest rate reductions' at the Jan. 1 renewals.**

John N. Gilbert Jr., Holborn Corp.

sense. But at the end of the day, there's lots of capacity out there trying to do the right thing. I don't see any new dynamic trends at all."

"Unfortunately, it's very boring," said Stephen K. Bolland, president of reinsurance intermediary Gill & Roeser Inc. "We're seeing a continu-

ing of the slow and steady decline in rates."

"It's a fairly dormant market," he said. "I think people are just trying to keep their powder dry, and waiting for better days where they can."

In addition to a calm cat season, "the ceding companies are looking

for any way to keep revenues on the top line, rather than ceding them out to reinsurers," said Stewart Johnson, a portfolio manager with Stamford, Conn.-based Philo Smith & Co.

But, Jeffrey Palmer, managing director at Devon, Pa.-based consulting firm LECG L.L.C., said there has not been predatory pricing. "People haven't been going out and buying the market. They're keeping their underwriting standards fairly high,"

There do not "seem to be any loose cannons or major issues that are going to slow things down," said John N. Gilbert Jr., chairman of reinsurance intermediary Holborn

Corp. in New York. "Reinsurers seem to feel that rates are adequate, and there will undoubtedly be pressure for modest rate reductions" at the Jan. 1 renewals.

It depends on the business, however, said Gregory Coda, president of national/broker clients at Munich Reinsurance America Inc. in Princeton, N.J. For instance, "Casualty prices won't be decreasing in the same range as you might expect for property cat."

"We have the view that now's the time to make sure you're keeping your expenses in check and watching how you're spending your money, because it's the one thing you can control better than anything else in this type of an environment," Mr. Coda said.

## Reinsurers' MGA interest growing

There has been increased interest on the part of reinsurers in managing general agency business as they seek to generate more premium volume, observers say.

Steve McElhiney, president of Dallas-based intermediary EWI Inc., said he is seeing more interest in managing general agency programs. "We're very busy right now with new MGA formations."

"There's pressure to show growth and MGAs provide very quick access to new markets and new revenue streams. There's clearly a risk in MGA program business, but it seems that the level of interest is much higher than, say, a year ago," said Mr. McElhiney.

More MGA business is being written than a few years ago, said Stephen K. Bolland, president of reinsurance intermediary Gill & Roeser Inc. "If you look at the MGA space, there are some very good companies with some great expertise in certain lines of business," he said. "Forming a relationship with an MGA is a good way to diversify a portfolio."

Hugo Crawley, chairman of the London-based BMS Group Ltd., said insurers and reinsurers "have a greater appetite to support MGA business."

"They tend to lean towards a starting point of looking for MGA business" that has at least \$20 million in premium volume and are willing to write "anything that is described as specialty," he said.

The business is safer than it once was, say observers. Unlike the situation in the 1990s when there was some irresponsible underwriting, "there's still a strong requirement that MGAs have some capital at risk," said Mr. McElhiney.

"Obviously, it comes with certain risks, but I think over the years companies have learned to manage it correctly and, therefore, it isn't such a big concern if done properly," Mr. Bolland said.

—By Judy Greenwald



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# Low stock valuations slow M&A activity

*But reinsurance sector conditions are good for deals: Experts*

By JUDY GREENWALD

Conditions are ripe for mergers and acquisitions in the reinsurance sector, although there have been few this year in part because of low stock valuations, observers say.

Some observers say they would have expected the trend to materialize by now as reinsurers seek to shed excess capital. They say reinsurers

are reactivating their stock buyback programs, after a brief hiatus to see whether there would be a bad catastrophe year, but they may not be sufficient to significantly reduce capital.

"You get the sense that investment bankers are at least proposing, or pitching, the idea of different deals, but still at this point in time we've seen very few deals getting done. So somewhere along the way, deals will come to fruition," said Greg Eisner, senior financial analyst at Oldwick, N.J.-based A.M. Best Co. Inc., said.

Stewart Johnson, portfolio man-

ager with Stamford, Conn.-based Philo Smith & Co., said most companies "are trading below book value, and it's tough for a management team to go back to their shareholders and say they've agreed to be acquired below book."

Reinsurers are refraining from using M&As to increase market share, said Jeffrey Palmer, managing director at Devon, Pa.-based consulting firm LECG L.L.C. "They're willing to stay the line as opposed to making some monumental leap."

James Eck, vp and senior analyst in the financial institutions group

**'At some point, you have to believe (M&A activity has) got to pick up.'**

John R. Berger,  
Alterra Capital Holdings Ltd.



at Moody's Investors Service in New York, said there "may be issues

related to whether a company can find a partner that would be complementary to a strategy."

David Brown, CEO of Bermuda-based Flagstone Reinsurance Holdings S.A., said while "everybody's talked about mergers" during the past couple of years, he is not sure, with the exception of one or two, that there are "any unexplored opportunities that are left."

M&A activity will develop "once people get more confidence in where things are headed," said Mr. Palmer. "They just want to make sure things are stable before they go out and make a large purchase."

"At some point, you have to believe (M&A activity has) got to pick up," said John R. Berger, CEO of reinsurance at Bermuda-based Alterra Capital Holdings Ltd. "We're getting to a time where the weaker, smaller companies really have to be scratching their heads. How do they survive? You put on top of that Solvency II and compliance issues...I don't know how smaller companies make it through this."

M&As will continue, but at a slow pace, said Laline Carvalho, a director at rating agency Standard & Poor's Corp. in New York. "It's kind of a logical result of a softening environment."

"Because companies don't see the opportunity for organic growth, they're going to be looking for a way to grow otherwise, so they may be looking for acquisitions or maybe they just can't grow on their own" because they are too small or not well diversified, Ms. Carvalho said. "Given the soft market cycle, they might be better off combined with a different entity."

James H. Veghte, chief executive of reinsurance operations for XL Capital Ltd. in Stamford, Conn., said many companies' stock valuations are "very, very low right now and I would expect there are certain companies that might have less confidence in their ability to build their business and may be willing to be absorbed by others. It would suggest we should see an acceleration of M&A activity around the market. I guess time will tell."

M&As that happen may involve "smaller companies that feel like they need larger partners to maintain relevance in the market," said Moody's Mr. Eck. "There's a number of companies in Bermuda that may be in that situation. Also to the extent a company's private, you may have private equity investors that may want to monetize their stake, or get stock in a company

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that's traded so they can sell down."

William H. Eyre Jr., Philadelphia-based managing director of Towers Watson & Co.'s reinsurance brokerage business, said what is more likely "is certain companies exiting lines of business" because it is not core to their operation or is generating poor results and they "may not be able to correct it and get the right underwriting talent to improve those results." This could be perceived as an opportunity that will be seized upon by others, he said.

David Flandro, London-based global head of business intelligence for reinsurance intermediary Guy Carpenter & Co. L.L.C., said he expects to see "bolt-on acquisitions," which are "relatively small to medium-size acquisitions of small operating companies where the reinsurer thinks they can use the acquisition to deploy excess capital in a region where they think they can grow profitably."

In addition, some reinsurers that own only part of subsidiaries are buying out the remainder as a way to deploy capital, he said.

**M&As that happen may involve 'smaller companies that feel like they need larger partners to maintain relevance in the market. There's a number of companies in Bermuda that may be in that situation.'**

James Eck,  
Moody's Investors Service

There has already been some activity in the specialty area, said John Daum, New York-based executive director of Lockton Re, a unit of Kansas City, Mo.-based Lockton Cos. L.L.C. He pointed to London-based RSA Insurance Group P.L.C.'s announcement this month that it has entered into an agreement to acquire Toronto-based GCAN Insurance Co., a mid-market, large risks and specialty commercial insurer for \$420 million Canadian (\$415 million), which he said amounted to 1.6 to 1.7 times book value. "It was fairly small, but that's the kind of acquisition activity that I see happening."

In addition, ACE Ltd. this month said it had signed a definitive agreement to acquire Jerneh Insurance Berhad, a general insurance company in Malaysia for about \$200 million.

Tal Piccione, chairman and CEO of intermediary U.S. Re Cos. Inc. in Pearl River, N.Y., said some reinsurers are considering acquisitions in the primary sector. He pointed to Munich Re Group's 2009 acquisition of Hartford Steam Boiler & Inspection Co. from American International Group Inc.

Greg Nelson, Pearl River, N.Y.-based senior vp of U.S. Re Securities L.L.C., U.S. Re Group's investment banking arm, said reinsurers in some cases may make strategic investments in primary companies that are short on capital in return for multiyear reinsurance opportunities.

However, he also said that "private equity funds are looking to take money off the table, maybe even shutting businesses down" so they can extract the capital and return money to their partners' shareholders. As an example, he cited Pfäffikon, Switzerland-based Glacier Reinsurance A.G., which was put into runoff in August (BI, Aug. 27). "This way they can free up capital and return money to their

sponsors," he said.

Some observers say Bermuda, in particular, is a likely site of M&As.

Jason Howard, London-based CEO of Willis Re International & Specialty, said the May merger of Max Capital Group and Harbor Point Ltd., which led to the formation of Alterra, is a good sign of what can be expected in the future. Companies "need to have a certain physical size these days in terms of capital needed to be able to differentiate" themselves, he said.

Several reinsurers in Bermuda "all look quite the same," Mr. Howard said. He said he imagines the investor base is saying that if such companies could be combined, they could achieve economies of scale.



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# Multiple factors needed for reinsurance market to firm

*\$50B catastrophe or several smaller cats needed to cause turn*

By JUDY GREENWALD

Given the amount of capital in the reinsurance market and barring a \$50 billion catastrophe, it will take a combination of factors to harden pricing, observers say.

Reinsurance market-turning factors could include multiple smaller catastrophes, diminished cash flow,

low investment yields and the depletion of prior-year loss reserves, the observers say.

But they also say a turn is not likely to happen any time soon, because reinsurers still are relatively profitable and continue to maintain underwriting discipline despite the soft rate environment.

William H. Eyre Jr., Philadelphia-based managing director of Towers Watson & Co.'s reinsurance brokerage business, said there are several factors that could turn the market, although none is highly likely in the foreseeable future. They include

a \$50 billion catastrophe; a sharper erosion of prior-year accident-year reserves; continued escalation of combined ratios, "particularly for some casualty lines;" and, most importantly, continued deterioration in primary insurers' cash flow, he said.

Rod Fox, CEO of intermediary TigerRisk Partners L.L.C. in Stamford, Conn., said a combination of midsize catastrophes, casualty development and low interest rates could lead people to say, "Enough is enough." However, he said, "I'm not going to try to tell if it's in six

months or three years."

For now, he said, "Everybody should be prepared to operate in this type of market, and we all have to be more efficient and thoughtful and not sit around waiting for the market to turn."

Pierre Ozendo, Armonk, N.Y.-based chairman and CEO of Swiss Reinsurance America Corp., said, "There is a real risk that you don't need to have one \$50 billion storm, but a number of storms that are small, of several billion dollars, hitting several times in fairly populated and expensive areas," which

could "start to drag results. The industry has to be prepared for that," he said.

However, Hugo Crawley, chairman of the London-based BMS Group Ltd., said, "Historically, it has always taken a major event to change the marketplace. This seems to be a market in which it's like death by a thousand cuts. It's taking an awfully long time."

A major catastrophe is the most likely event to turn the market because of the excess capital, said Steven K. Bolland, president of New York-based reinsurance intermediary Gill & Roeser Inc. "Until something happens to get rid of that excess capital and capacity, we will continue down this path, I believe," he said.

Bryon Ehrhart, chairman of Aon Benfield's analytics and investment banking divisions in Chicago, said, "We don't know when it will turn, but we do know the criteria for a



**'Everybody should be prepared to operate in this type of market, and we all have to be more efficient and thoughtful and not sit around waiting for the market to turn.'**

Rod Fox, TigerRisk Partners L.L.C.

turn are in place," which include a drop in premium volume. Generally, however, it has "taken a catalyst of short-term nature like a hurricane" to cause rates to harden, "and we just haven't had any of those."

If there is no hurricane, reserves could be a factor leading to a turn, observers say.

"I think we should keep a close eye on the level of prior-year reserve releases in 2010," said James H. Veghte, chief executive of reinsurance operations for XL Capital Ltd. in Stamford, Conn.

"If they begin to accelerate as we expect, we may be poised for a market turn," Mr. Veghte said. "It would seem to me the market has really lived off of prior-year releases for a couple of calendar years, and at some point has got to slow down," which would be a "huge

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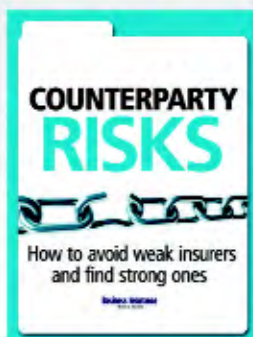


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factor" leading to a market turn, he said.

Gregory Coda, president of national/broker clients at Munich Reinsurance America Inc. in Princeton, N.J., said claims inflation could be a factor in an eventual turn as well.

"That's the one item that will start bringing losses up into the excess layers above the attachment points for most of the casualty and property reinsurance treaties today," Mr. Coda said.

David Flandro, London-based global head of business intelligence for reinsurance intermediary Guy Carpenter & Co. L.L.C., said another factor that could change pricing

is market consolidation.

"If you have fewer reinsurance players out there, those remaining reinsurers have more pricing power and that could eventually change the market," Mr. Flandro said.

The regulatory environment also could be a factor in a market turn, said Swiss Re's Mr. Ozendo. The Dodd-Frank Wall Street Reform and Consumer Protection Act, for instance, is leading to 300 to 400 new rules and European Union's Solvency II regulatory framework could be a factor as well, he said.

As a result of the regulatory environment, "We believe capital requirements will go up, not down," which means companies "must put more capital to risk, not less," which he said will increase

volatility. "In simple terms, we believe that the industry will work through this to make appropriate returns," Mr. Ozendo said.

Barring catastrophes, the soft market could continue for some time because there is "not a lot of pain in the market," with firms still profitable and favorable reserve releases remain from the hard market years of 2002-06, said James Eck, vp and senior analyst in the financial institutions group at Moody's Investors Service in New York.

David Brown, CEO of Bermuda-based Flagstone Reinsurance Holdings S.A., said, "I think we're looking at 18 months to two years from now," when the effect of the reduction in reserve releases "starts to bite."

The soft market's duration "is anybody's guess," said Munich Re's Mr. Coda. "It's our expectation that 2011 will be more of the same with what we saw in 2010, and perhaps 2012 will be the time we can expect to see hardening of the market."

"If we continue to have profitable years, it might be several years" before the market hardens, said Cliff Gallant, an analyst with Keefe, Bruyette & Woods Inc. in New York.

Laline Carvalho, a director at rating agency Standard & Poor's Corp. in New York, said there "may be a protracted period of gradually worsening premium rates," that could last two or three years.

"It kind of depends on what happens to the economy," Ms. Carval-

ho said. "The investment environment is such you can't make a lot of money on your investments. That should call for prudence, because if you can't make money on the underwriting side, you can't compensate on the investment side."

Even if there is a market hardening, not necessarily all lines will harden, she said. In 2001, she noted, all lines of business got price increases after the Sept. 11 terrorist attacks. But after Hurricane Katrina in 2005, "mostly it was property and short-term lines that enjoyed substantial price increases," while casualty continued to soften.

"So, what it's going to look like and how many lines of business harden" remains to be seen, Ms. Carvalho said.

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Tropical Storm Paula bears down on Havana in mid-October. Few hurricanes have resulted in high insured losses this year.



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## Catastrophe bonds become more popular for insurers

By JUDY GREENWALD

Catastrophe bonds are becoming an integral part of insurers' reinsurance protection, observers say.

While purchasers may have only experimented previously with catastrophe bonds, today they are part of structured programs developed in conjunction with insurers' traditional reinsurance coverage, generally at higher layers, observers say.

In the second quarter of 2010,

there were eight catastrophe bond transactions totaling \$2.05 billion, making it the second-most active quarter on record, according to an August report by G.C. Securities Ltd. and Guy Carpenter & Co. L.L.C.

Some expect total cat bond issuance to reach about \$5 billion this year. That compares with a record \$7 billion in cat bonds that were issued in 2007.

"Clearly, it's been a good year as far as (insured losses from catastrophic) events are concerned," said Gary Martucci, director, financial institutions ratings at Standard & Poor's Corp. in New York. "There haven't been many major hurricanes that have hit the United States."

"We anticipate a good level of new issuance" this year that will continue into 2011, said Paul Schultz, president of Chicago-based Aon Benfield Securities. It also is likely that the absence of losses in the cat bond market will lead to lower spreads and a lower cost of issuance for sponsors as well as "slightly lower return to investors in this space."

However, Mr. Martucci said, "The companies that have issued cat bonds over the last several years will continue to stay but, given the price

**'The emphasis is going to be on companies trying to consider how to better integrate their traditional reinsurance and the cat bond capacity.'**

William Dubinsky,  
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ing, we believe they will shift" somewhat back to the traditional reinsurance market.

While several insurers initially tried out cat bonds to understand the mechanisms and how they work, they now use it as an integral part of their reinsurance programs.

"The emphasis is going to be on companies trying to consider how to better integrate their traditional reinsurance and the cat bond capacity," said William Dubinsky, New York-based managing director and head of insurance-linked securities for Willis Capital Markets & Advisory, a unit of Willis Group Holdings P.L.C.

Beat Holliger, managing director at Munich Re Capital Markets in New York, said cat bonds are being used as strategic risk management tools.

Chi Hum, global head of distribution at G.C. Securities Ltd. in New York, said traditional reinsurance tends to be in working layers, while cat bonds are at high excess layers, "so it's actually complementary from a risk tower perspective."

Also complementary is that traditional reinsurance tends to be for 12 months while cat bonds tend to be issued for three to five years, he said.

# Deepwater Horizon spill prompts new excess liability facilities

*Munich Re, Torus to provide billions of dollars in capacity*

By MICHAEL BRADFORD

Reinsurers would have billions of dollars in new excess liability capacity to offer if two recently proposed facilities prompted by the Deepwater Horizon spill in the Gulf of Mexico come to fruition.

Whether energy insurance buyers decide they need the extra coverage or are willing to pay for it will determine the fate of a \$1 billion facility led by Torus Insurance Holdings Ltd. that is expected to begin underwriting soon, experts said.

Separately, Munich Reinsurance Co. plans to offer as much as \$20 billion in excess casualty limits, a plan that will hinge on whether U.S. lawmakers raise the \$75 million liability cap set by the Oil Pollution Act.

Buyers will have a lot to consider when weighing whether to buy the

**'We know there's interest. In terms of market appetite, once we have our products out in the stream of commerce in the form of quotes, we'll find out whether there's a desire to bind, but we know for sure there's an interest.'**

David Perez,  
Torus Insurance Holdings Ltd.

high-layer limits, should they become available, experts said.

"It depends on their exposures in the Gulf, pricing and regulatory issues" said Jerry Rivers, senior vp and chief operating officer of Bermuda energy insurer Oil Casualty Insurance Ltd. "It also depends on the magnitude of required limits" that could be mandated by governments, he said.

The facility backed by Torus—known as "excEED" for Excess Energy Exploration and Development—is getting attention from potential policyholders, according to the facility's backers.

"We have several applications that we are evaluating and we're hoping to have our first quotes out in the next few weeks," David Perez, president and chief underwriting officer at the global casualty unit of Hamilton, Bermuda-based Torus, said in mid-October.

"We know there's interest," Mr. Perez said. "In terms of market appetite, once we have our products

out in the stream of commerce in the form of quotes, we'll find out whether there's a desire to bind, but we know for sure there's an interest."

The facility was developed with Torus by brokers Aon Benfield Inc. and Guy Carpenter & Co. L.L.C. It aims to offer up to \$1 billion in excess casualty and pollution capacity in tranches of \$250 million

through a consortium of reinsurers and insurers.

It will offer third-party liability insurance for seepage and pollution related to well blowouts, a 25% sub-limit for operators extra expense, and up to \$100 million of Side A directors and officers liability insurance, said Edward A. Sweeney Jr.,

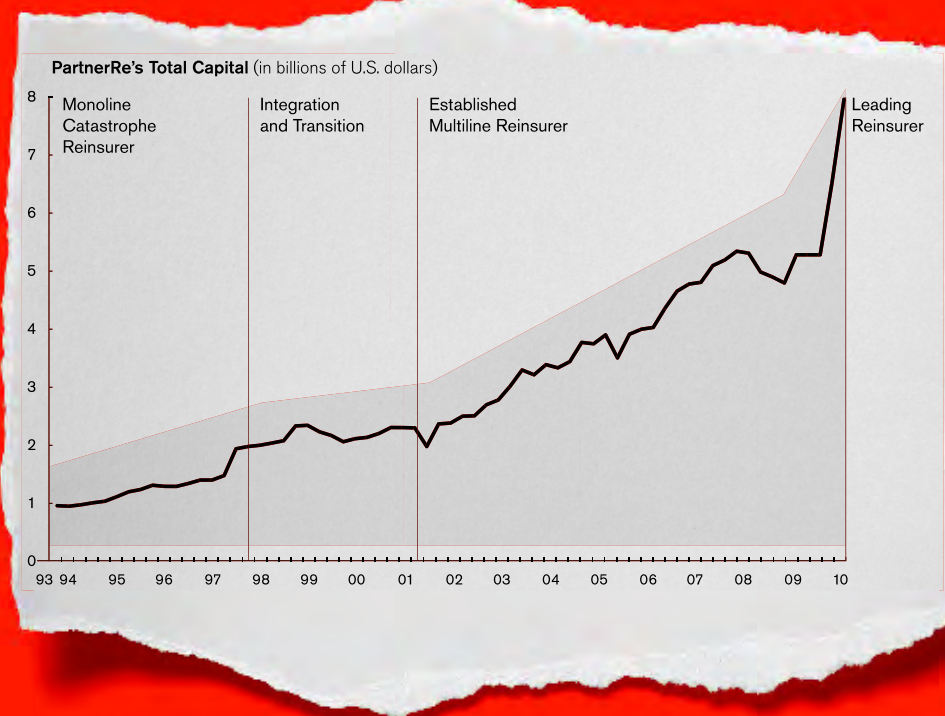
See **OIL** next page



EPA/LANDOV

**Ships work on cleanup of the Deepwater Horizon oil spill in the Gulf of Mexico in June.**

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# Oil: Deepwater Horizon spill prompts new facilities

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executive vp at Guy Carpenter in New York.

"It has enormous traction right now," Mr. Sweeney said of excEED. "We're not at the \$1 billion capacity, but have every expectation that we will get there soon."

The facility is backed by \$100 million, half of which comes from Torus and half from First Reserve Corp., a London-based energy investment firm.

"It was the direct result of a number of different parties thinking about what the Deepwater Horizon means in the current insurance world," Mr. Sweeney said. "They were pretty unanimous" that more limits were needed to cover potential of losses the size of the Deepwater Horizon spill, he said.

There are about 120 potential policyholders that would be interested in the coverage from excEED, Mr. Sweeney said.

Mr. Rivers said OCIL will consider participating in the facility if it begins underwriting. "It's certainly something we could take a look at," he said.

## Small limits

If OCIL participates, it is unlikely to commit capacity at the level it provides under its own programs, Mr. Rivers said. "We can put up as much as \$100 million. It is not my expectation that we would look at those type limits. We would be small-limit players."

Separately, Munich Re has proposed offering drilling exploration and production operations liability limits of \$10 billion to \$20 billion above a \$1 billion to \$1.5 billion retention. The coverage would involve multiple reinsurers and insurers.

The Munich Re program would cover cleanup and removal costs,

impairment of natural resources and third-party property damage. Loss of earnings for businesses, such as those involved in fishing and tourism, also would be covered.

Torsten Jeworrek, a member of the Munich Re board, said he is convinced there will be demand for the coverage if it is offered.

"If coverages are available, companies will buy them because inability to pay high compensation claims can lead to insolvency, and mere speculation about such an eventuality can hit their share price," Mr. Jeworrek said in a statement.

At the annual meeting of reinsurers in Monte Carlo, Monaco, at the Rendez-Vous de Septembre last month, Mr. Jeworrek said Munich Re's concept is contingent partly on the United States raising the \$75 million liability cap. The U.S. House of Representatives has approved legislation to raise the cap to \$10 billion, but the U.S. Senate has not acted on the proposal.

Munich Re would not comment on its plan beyond the statement the reinsurer issued in September.

Petter Kapstad, chief risk officer at StatoilHydro A.S.A., said he is watching development of the energy facilities, but is uncertain whether the Stavanger, Norway-based oil company would purchase the high-limit excess layers.

"We are not at that stage yet," said Mr. Kapstad. "These are interesting," he said of the facilities, but pointed out that StatoilHydro prefers to wait until they are functioning before deciding whether to participate.

The Munich Re facility calls for strict safety standards to be in place on business written under its program, a requirement Mr. Kapstad said companies such as his would have no trouble meeting.

"We have been working with catastrophe scenarios since 2003," Mr. Kapstad said, ensuring that the company has the proper risk management and mitigation procedures to protect against a catastrophic spill such as that experienced by the Deepwater Horizon.

## Adaptable facility

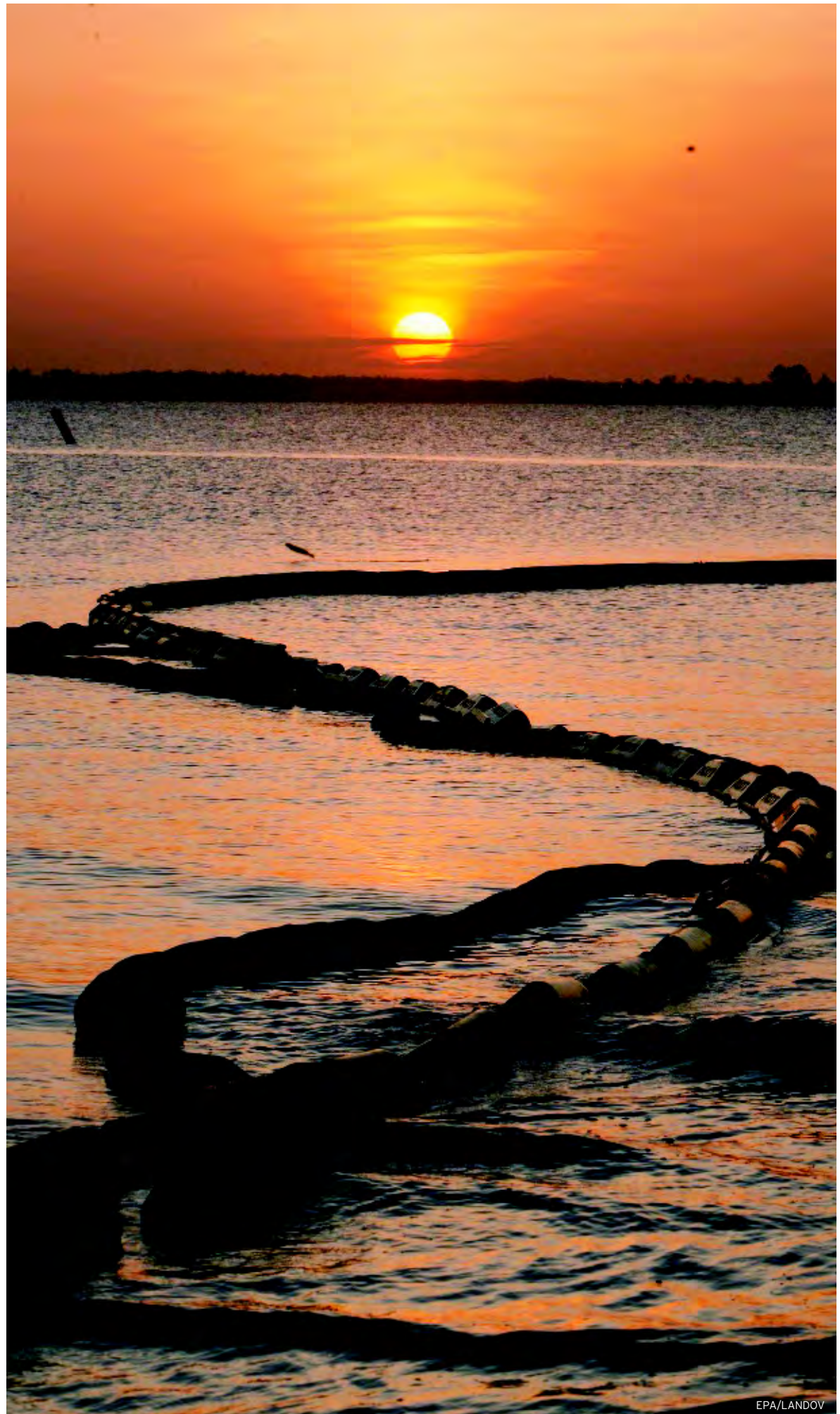
Though the Munich Re facility is being proposed for risks in the U.S., Mr. Jeworrek said in the statement that it could be adapted for use elsewhere, possibly to cover renewable energy risks.

Dave Obenauer, president of Crump Insurance Services Inc. in Roseland, N.J., said that if such an expansion happened, his company might access the facility.

"To the extent that it's focused on renewable energy, I think that's certainly of interest," Mr. Obenauer said. "We've had a few renewable energy placements that have been multiyear, high-limit. So I think that's an on-target opportunity for us, and for them."

If both facilities begin operations, they won't be competitors, Mr. Sweeney said.

"There has been extensive dialogue between excEED and Munich Re," Mr. Sweeney said. "These are



EPA/LANDOV

# \$75M

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# \$10B

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not competing facilities at all."

"Their concept is pure liability," he said of Munich Re's proposed facility. "They are not providing the operators extra expense and D&O. They will just provide third-party liability."

Willis Group Holdings P.L.C. mentioned in its "Energy Market Review" this month that primary energy rates could rise if the excEED facility starts up and charges a high price for its excess coverage.

"If it emerges that the facility rates are considerably in excess of current primary rates," Willis said in the review, "it seems clear to us that such an anomaly will be swiftly rec-

tified by primary insurers, who may be unwilling to continue to provide cover at current primary terms when more advantageous terms can be secured on an excess basis."

Energy companies will have the last word in the success or failure of the facilities, said OCIL's Mr. Rivers. They are the ones who will decide whether they are underinsured in the Gulf, he said.

"It's not like a 'Field of Dreams' and 'if you build it, they will come,'" he said of the facilities' potential for attracting buyers. "If they feel it's not necessary or it's not in the right ballpark in terms of price, they are not going to come."

**Barrier and absorbent boom float in Bay St. Louis, Miss., in July. The Deepwater Horizon oil spill in the Gulf of Mexico has prompted two recently proposed facilities that would provide reinsurers billions of dollars in new excess liability capacity. Torus Insurance Holdings Ltd. has proposed a \$1 billion facility, while Munich Reinsurance Co. has outlined a proposal for as much as \$20 billion in excess casualty limits.**

## Products & Services

### IronPro offers security, privacy breach cover

**NEW YORK**—IronPro is offering a stand-alone policy to address professional liability risks from network security and privacy breaches.

Enterprise PrivaProtector 9.0 aims to protect directors and officers in managing their network security and privacy risks in the event of a data breach, which can result in financial and reputational losses, the New York-based professional liability unit of Ironshore Inc. said in a statement.

"In today's business environment, every enterprise faces increased liability and regulatory scrutiny regarding adequate protection for nonpublic personal and confidential corporate data," Tom Monaghan, senior vp of IronPro, said in the statement. "A data breach can result in a significant expense for any business."

The policy provides Side A excess D&O liability coverage, including privacy breach expenses, protection against liabilities stemming from unauthorized access or use of an insured's computer, denial-of-service attacks, malicious software, and optional Internet media liability coverage, among others.

Enterprise PrivaProtector 9.0 also provides access to IronPro's online risk management resource, eRisk Hub, which provides privacy breach training, response plans, and contact with third-party experts, such as public relations firms and attorneys.

For more information, contact Kurtis Suhs, assistant vp for IronPro, at 770-353-0728 or [kurtis.suhs@ironshore.com](mailto:kurtis.suhs@ironshore.com).

### Munich Re cover targets solar panels

**PRINCETON, N.J.**—Munich Reinsurance America Inc. has established performance warranty insurance for concentrated photovoltaic solar systems.

The insurance covers only CPV solar panels manufactured by SolFocus Inc., a Mountain View, Calif.-based renewable energy company specializing in solar energy systems, the Princeton, N.J.-based reinsurer said in a statement.

SolFocus already offers its customers a 25-year power performance warranty. The Munich Re insured-performance warranty cover attaches in the event that a product fails to meet the specific standards of the SolFocus warranty.

Munich Re said the insurance allows solar plant operators and investors greater planning security and "manufacturers of modules can take the long-term, technical guarantee risk off their balance sheet, thus easing the financial burden and giving their customers greater security."

Similar performance-warranty insurance has been developed for other manufacturers of photovoltaic cells based on different technology, but this coverage is the first CPV offering, Munich Re said in the statement. Other products for

renewable energy technologies, such as wind or solar thermal energy, are close to being marketed.

For more information, contact George Schulz, Munich Re's business development manager, at 212-887-6006 or [gschulz@munichre-america.com](mailto:gschulz@munichre-america.com).

### Advocate iPhone app helps patients find doctors

**OAK BROOK, ILL.**—Advocate Health Care Network has launched an iPhone application that allows patients to search for physicians.

The Advocate Physician Finder iPhone application aims to enhance patient access to health care, the Oak Brook, Ill.-based managed care provider said in a statement.

The application allows users to search by location, specialty or insurance provider and delivers detailed information about the selected doctors who are associated with Advocate. The feature also allows users to contact the physicians and request appointments directly through their iPhone.

The application is free and can be downloaded from the Apple Store.

For more information, contact Kelly Jo Golson, Advocate senior vp of public affairs and marketing, at 630-990-5615 or [Kellyjo.Golson@advocatehealth.com](mailto:Kellyjo.Golson@advocatehealth.com).

### Willis Re develops Latin America models

**LONDON**—Willis Re has developed

flood models for Latin America, including detailed risk estimates and large-event scenarios.

The models aim to help insurers, reinsurers and government organizations identify and manage exposures to flash floods caused by intense rains and coastal overflow, said the London-based reinsurance arm of Willis Group Holdings P.L.C.

Brighton, England-based Ambiental Ltd., Willis Research Network member, developed the models to provide risk estimates and scenarios for major cities including Santiago, Chile; Sao Paulo and Bogota.

"The cat modeling companies haven't yet focused on Latin America and the lack of tools has made it extremely difficult for insurers to evaluate flood risk," Justin Butler,

managing director of Ambiental, said in a statement. "We've now gone some way to solving the problem with simple prototype flood models, which can be expanded as more data is collected."

For more information, contact Gero Michel, managing director of Willis Research Network, at 44-203-124-6567 or [Gero.Michel@willis.com](mailto:Gero.Michel@willis.com).

#### TO SUBMIT ITEMS

BI's Products & Services column reports on new product offerings. Please send Product & Services news to Mike Tsikoudakis, 360 N. Michigan Ave., Chicago, Ill. or e-mail [mtsikoudakis@businessinsurance.com](mailto:mtsikoudakis@businessinsurance.com).



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- Health Care Providers
- Brokers and Insurers
- Captives/ART Providers
- Technology Vendors

**Business Insurance**



# Lloyd's: Flurry of takeovers unlikely to become a storm

CONTINUED FROM PAGE 1

rejection. "Beazley remains committed to establishing a constructive dialogue with Hardy's board and shareholders with the intention of agreeing a recommended transaction," Beazley said in the statement.

Beazley—which specializes in professional indemnity, property, marine, reinsurance, accident and life, political risks, and contingency business—manages a U.S. admitted insurance company, Beazley Insurance Co. Inc., and has offices in Europe, Asia and Australia.

About 60% of Beazley's business comes from the United States, while Hardy set up its MGA coverholder business in Bermuda to have a strong emphasis on the United States, it said.

Potential benefits of a merger between Beazley and Hardy would include a 22% increase in Beazley's gross written premiums, making it one of the largest operations at Lloyd's, and a diversification of Beazley's casualty-focused book of business with Hardy's property, marine and aviation specialty, said Christopher Hitchings, an analyst at investment bank Keefe, Bruyette & Woods Inc. in London.

Meanwhile, Amsterdam-based Brit Insurance Holdings N.V. extended until today the deadline for a consortium of funds interested in buying the company to make a formal offer.

Funds managed by Apollo Management VII L.P. and CVC Capital Partners Ltd. have been engaged in long-running talks to buy Brit, which writes multiline insurance and reinsurance through a Lloyd's syndicate and a U.K. insurer.

## Me & A hurdles

Even if the deals go ahead, they likely don't signal a wave of consolidation in the Lloyd's market, experts say.

"Barriers to consolidation still exist," said Greg Carter, a managing director at Fitch Ratings Ltd. in London.

Any company looking to use its own stock to make an acquisition likely would be doing so at a dis-

## ICAT execs, private investors launch Paraline

**HAMILTON, Bermuda**—A new insurer and reinsurer focused on underwriting property catastrophe business at Lloyd's of London launched last Thursday and made its first acquisition.

Hamilton, Bermuda-based Paraline Group Ltd. will focus initially on U.S. commercial property catastrophe business, but Chairman and CEO Jack Graham said the company plans to diversify to other areas over time.

Paraline Group was set up by the executive team of Boulder, Colo.-based ICAT Holdings L.L.C. and has acquired ICAT from its previous owners, private investor Vulcan Inc. Paraline is backed by private investors including Elliott Corp. and Wand Partners Inc.

Terms of the deal were not disclosed.

ICAT operates syndicate 4242 at Lloyd's, which underwrites commercial property business in hurricane-exposed areas of the United States and residential property business in Hawaii.

Syndicate 4242 will post gross written premiums of about \$120 million for 2010 and, as a

result of the current soft market conditions, has said it intends to reduce its underwriting to about \$115 million for 2011, Mr. Graham said.

The syndicate is rated A by A.M. Best Co. Inc., A+ by Standard & Poor's Corp. and A+ by Fitch Ratings Ltd.

Paraline will seek to grow its business when market opportunities present themselves, said Mr. Graham, who previously was chairman of ICAT.

In an interview, he said that while it may seem counterintuitive to launch a business during a soft market, it is crucial to be present in the market to be able to "turn on the jets and take market share" when the timing is right.

The company has funding to grow when the time is right and will recruit underwriters whom it believes share its vision, Mr. Graham said.

Paraline has received regulatory approval from the Bermuda Monetary Authority and Lloyd's of London.

—By Sarah Veysey

count, so the deal would be expensive, he said.

The fact that many Lloyd's of London companies' shares are trading at or below their book value means that they may be seen as potential takeover targets, said Mr. Carter. But potential acquirers would need to feel confident that they would be able to trade profitability through the underwriting cycle, he added.

Solvency II—the upcoming risk-based capital regulatory regime for insurers and reinsurers in the European Union—may prompt some companies to look to acquire others in an effort to diversify, which could lower their capital requirements, Mr. Carter said. But Solvency II, which is slated for introduction in 2012, also could add uncertainty for potential acquirers, he said. For example, one company could buy another and then find it needs to boost capital because of the Solvency II rules.

Shareholders in potential

takeover target companies may consider a sale if they fear the company in which they have invested is highly specialized and, therefore, may be penalized under the requirements of Solvency II, Mr. Carter said. Such shareholders likely would be particularly receptive to a merger approach if it meant they might have to contribute less capital under Solvency II, he noted.

Most investors in Lloyd's businesses, however, are long-term specialty investors and, as such, are unlikely to rush to sell their stakes, Mr. Carter said.

Another barrier is that Lloyd's likely would not favor widespread consolidation of its membership as it needs to retain internal diversification of capital providers, said an analyst who asked not to be named.

There are several types of companies that might be interested in making an acquisition at Lloyd's, said Ivor Edwards, a partner in the corporate insurance division of law firm Clyde & Co. in London.

Those include other Lloyd's businesses that are looking for ways to add to their current business model, non-Lloyd's insurance companies that are interested in gaining access to Lloyd's trading licenses and private equity investors who believe Lloyd's companies' stocks are undervalued.

But many Lloyd's businesses are personality driven, with underwriters or teams of underwriters representing the real value of the business. With any acquisition, there is a risk of losing this expertise if staff decide to leave, Mr. Edwards said.

Meanwhile, an insurer and reinsurer focused on underwriting property catastrophe business at Lloyd's of London launched last week and made its first acquisition.

Hamilton, Bermuda-based Paraline Group Ltd. was set up by the executive team of Boulder, Colo.-based ICAT Holdings L.L.C. and has acquired ICAT from its previous owners, private investor Vulcan Inc. (see box).

## Insurers' ERM performance mixed: Study

By MARK A. HOFMANN

A variety of factors—including the impending implementation of Solvency II and rating agency expectations—are leading insurers to bolster their enterprise risk management efforts, according to a study by Towers Watson & Co.

But insurers that participated in Towers Watson's sixth biennial insurance industry ERM survey indicated that they viewed their ERM performance as mixed, with 58% of participants being satisfied with their ERM capabilities during the past 18 to 24 months, 31% neutral and 11% dissatisfied.

More than two-thirds of respondents said their risk management programs contributed to enhanced business performance in areas such as core risk control technologies and a strengthened risk culture.

Among the top ERM areas cited by insurers as contributing to enhanced performance were management of individual risk exposures, cited by 69%; risk monitoring and reporting, cited by 65%; and risk limits and controls, cited by 64%.

"The encouraging signs that ERM is being embedded in organizations are underscored by the fact that 64% of respondents said a strong risk culture served to enhance their company's performance, while 56% said the use of economic capital in decisionmaking enhanced business performance as well," Towers Watson said in a statement announcing the results.

The study was based on the responses of 465 insurance and reinsurance executives in life and property/casualty insurance industries around the world. Thirty-one percent of the respondents represented North America; 21%, Europe; 19%, Asia Pacific; and the remainder, multiple regions.

Further information about the study is available at <http://www.towerswatson.com/research/3068>.

# SIIA: Use tech tools to build relationships

CONTINUED FROM PAGE 4

to what you do."

"Our role is to work in partnership with the employer," Mr. Hudson said, adding that part of that is understanding the appropriate communications channel for each employer and at various stages of claims, such as recognizing when e-mail might be appropriate or when voice communications are the better approach.

"Over the course of a claim, there are probably times that an e-mail or an iPhone app are perfectly appropriate," said Mr. North. But e-mail probably isn't appropriate in instances such as the first contact with a claimant, he said.

Whatever efforts brokers and

## SIIA conference brings 1,700 to Chicago

**CHICAGO**—This year's 30th Annual National Educational Conference & Expo of the Self-Insurance Institute of America Inc. drew approximately 1,700 attendees to Chicago.

The theme of this year's Oct. 12-14 SIIA gathering was "Sharing the Success of Self-Insurance...With You."

Next year's SIIA annual conference is scheduled for Oct. 9-12, 2011, at the JW Marriott Desert Ridge Resort & Spa in Phoenix.

For more information on next year's gathering, visit the association's website at [www.siiia.org](http://www.siiia.org).

—By Rodd Zolkos

insurers might make to serve their customers, the quality of the claims process ultimately determines how their efforts are viewed, said Mr. North. "All insurance that happens

results in a claim," he said. "And if the claims don't process effectively and at the lowest possible cost, none of (the brokers and insurers) get credit for anything."

"What do our customers always ask about? Quality, consistency and outcomes in our claims," said Mr. Martino. However, in the current economic environment, he said he sometimes sees a tendency of some employers being "short-sighted" and focusing on direct costs rather than overall loss costs.

Mr. Hudson said many TPA clients are facing "a very complex and changing environment" given the pressures from C-suite executives on financial results. Meanwhile, though, "People are looking at our organizations, the TPAs, to be real business partners," he said, offering companies like his a tremendous opportunity to help employers.

Asked about the effect of the economy on the work that TPAs do with clients, Mr. North said the most significant impact has been on return-to-work programs.

"The jobs by which we're trying

to return people to work are gone," he said. There's no "silver bullet" solution to that issue, Mr. North said. Instead, it drives a need for TPAs to partner with clients and continually examine employers' return-to-work programs, he said.

"What everybody's looking for are good results," said Mr. Martino, and a critical element of those results is returning injured employees to work. "It's going to be a long time before there's enough employment base for people to be able to do that," he said.

"The other side of the equation is what you guys pay for our services," said Mr. Hudson. "There clearly is an intensity around pricing for our services."

On the positive side, Mr. Hudson said, conditions that force companies to examine their pricing and services typically result in improved quality.

# Bugs: Biters hit offices

CONTINUED FROM PAGE 1

This month, reports surfaced that bedbugs had invaded the main offices of The Wall Street Journal and of its parent company, News Corp., in New York.

According to a spokesman with Dow Jones & Co. Inc., a subsidiary of News Corp. that publishes the Journal, a staffer at Barron's, a weekly financial newspaper, informed Dow Jones that he had bedbugs in his apartment.

As a precaution, Dow Jones "acted proactively and in an abundance of caution to forestall any issue" relating to bedbugs and promptly tested the area around the employee's desk and other areas of the newsroom. Staff members also were alerted to the problem.

Bedbug-sniffing dogs were brought in and, although no bugs reportedly were found, a steam cleaning of the area was done as a precaution.

Once thought to only be a home or hospitality industry issue, bedbugs are increasingly likely to turn up in an office space due to their increasing presence in places like retail stores and movie theaters along with their ability to "hitchhike" in bags, purses, suitcases and clothing.

"It's a common misconception that bedbugs only affect places where people sleep—hotels, apartments, homes—but bedbugs are migrating into offices and other commercial spaces," Ron Harrison, director of technical services with Atlanta-based pest control company Orkin L.L.C., said in a statement. "Tenants can easily and unknowingly transport bedbugs from their home or travels to their workplace, where the bugs can infest practically any soft surface like chairs, rugs, sofas, and even cubicle dividers."

While the hospitality industry has become increasingly vigilant in prevention efforts, including stepping up education of staff on how to recognize signs of bedbugs, corporate travelers need to be aware of the risk and how to minimize it (see story).

The resurgence of bedbugs in the United States started about eight years ago, said Michael Batenburg, president of New York-based fumi-

gation consultants Bed Bugs & Beyond Consulting and Treatment Specialists, which acts as a liaison between the infested customer and pest control services. In some areas, bedbug populations are increasing by 500% to 1,000% on a yearly basis, depending on geographic location, he said.

Orkin said in a statement that commercial offices are becoming increasingly susceptible to bedbugs, noting that from 2008 to 2009 the company's bedbug service in office properties more than doubled.

Experts stress the need for employers—and their workers—to understand the nature of the problem.

"Education is the key to combat this bug," said Mr. Batenburg. "Businesses need to be proactive in educating employees about bedbugs so they don't accidentally bring an infestation into the workplace."

**'Businesses need to be proactive in educating employees about bedbugs so they don't accidentally bring an infestation into the workplace.'**

Michael Batenburg,  
Bed Bugs & Beyond Consulting  
and Treatment Specialists

Informing employees about what bedbugs are, how to detect them, how they behave and how they can travel is key, risk management and pest control experts said, mostly because "there are so many misconceptions out there" about the bugs, including the idea that they are a result of unclean conditions, Mr. Batenburg said.

"Knowledge is power," said Lisa C. Hartman, Needham, Mass.-based director of claims and loss control for Albert Risk Management Consultants. "If you get educated, you will be more careful in what you're doing and what you should be looking for."

The Centers for Disease Control and Prevention offers a guide to bedbugs at [www.cdc.gov/nceh/ehs/publications/bed\\_bugs\\_cdc-epa\\_state\\_ment.htm](http://www.cdc.gov/nceh/ehs/publications/bed_bugs_cdc-epa_state_ment.htm).

In addition to bites, telltale signs of infestation include molted

exoskeletons, rust-colored stains on fabrics and the presence of a "sweet, musty odor," according to the CDC.

Experts say employers also should identify areas where bedbugs could hide, including drapery, cluttered areas and baseboards. Other recommendations include conducting regular pest control checks and removing clutter in office spaces. And when a problem is identified, employees should be informed, experts note.

Neal Nakashima, corporate director of risk management and insurance for Outrigger Enterprises Inc. in Honolulu, said there really isn't a set practice on dealing with employees who report that they have bedbugs in their homes.

"We'd have to handle it on a case-by-case basis, because that's a little tougher to deal with than if we were to find them in a hotel," he said.

If a problem is identified in the workplace, remediation can be costly. And because those costs likely will be uninsured, early detection is important.

Bedbug elimination costs can range from \$2,000 to \$5,000 without any discounting being offered for volume, said Mr. Batenburg of Bed Bugs & Beyond.

K-9 services that specialize in sniffing out bedbugs can range from \$100 to \$400 per hour depending on the size of the area they are canvassing, while fumigation costs can start at \$500 to \$1,500, he said, adding that traditional pest control services have an average cost range of \$200 to \$500.

But despite the high costs, risk managers may face difficulties in recouping expenses with insurance, as policies generally have exclusions for vermin (*BI*, Aug. 9).

Steam cleaning has proven to be an effective way to kill bedbugs, and fumigating with sulfuryl fluoride, Mr. Batenburg said, is generally effective in one treatment. Fumigation and cleanings can take between 24 and 48 hours.

But employer responsibility regarding bedbug prevention remains "an undeveloped area," said Richard Greenberg, a New York-based partner with Jackson Lewis L.L.P.'s labor practice.

"You have to be reasonable in remediation and post incident actions, because bedbugs can give a company negative press, which is something employers are going to want to avoid with this issue because it's (already) generating a lot of media coverage."

## DON'T LET THE BEDBUGS BITE

Bedbugs don't necessarily need a bed to bite people, pest control experts say. The tiny bloodsuckers are roughly the same size and shape as an apple seed and can hitchhike to new locations in people's suitcases, clothing, books, purses, etc. Differences to note when looking for bedbugs in a home vs. the office include:

### AT HOME

- Bedbugs tend to concentrate in sleeping and resting areas such as beds, couches or chairs.
- Populations can grow at a rapid rate if constant food (blood) is available.
- Bedbugs can live in cracks in furniture, baseboards and door frames.
- They are active primarily at night.

### AT WORK

- Bedbugs can spread into less predictable locations such as cubicle walls, office chairs and baseboards.
- Populations tend to grow slowly.
- Bedbugs may shift their activity to daylight hours, when potential food is available.

Source: Bed Bugs & Beyond Consulting and Treatment Specialists and Terminix Service Inc.

# Vigilant communication can help avoid claims

By JEFF CASALE

Bedbugs typically feast on their victims while they sleep, but they are starting to turn up in some untraditional places, including offices, which some attorneys say could lead to a workers compensation claim.

Bedbugs in the workplace can cause disruption and the issue can pose challenges to employers, experts say.

With bedbugs spreading into areas beyond hotels and homes, employers may wind up facing them in their offices. And it is likely the bugs were spread by their own employees.

According to the U.S. Occupational Safety & Health Administration, employers have the obligation to maintain a safe workplace, including preventing "the entrance or harborage of insects." And while there are no standards on how employers should deal with a bedbug infestation, legal and pest control experts agree it is best to address the threat of an office invasion before it happens.

"We've had quite a few questions about how to handle (bedbugs) in the workplace from employers," said Richard Greenberg, a New York-based partner with Jackson Lewis L.L.P. who specializes in labor law and preventive practice issues. "We try to give them some common-sense advice on how to deal with them, but there is no real legal guidance when it comes to bedbugs...It's difficult to find someone at fault."

Bedbugs can hitchhike from one location to another through items such as luggage or clothing, so employers face the threat that they could wind up in their office.

If bedbugs make their way into the workplace, it is highly likely an employee unknowingly brought them in, pest control experts said. Although the employer is not at fault, an employer that does not address the bedbug issue once it's found—either by an employee or through the employer's investigation—could be held liable if bedbugs found their way into an employee's home, Mr. Greenberg said.

Further, a workers compensation claim could be filed if an employee were bitten by a bedbug while on the job, Mr. Greenberg said. The

bug causes a red, itchy welt that could be determined to be a physical injury, and the idea of being bit at work by bedbugs could create a psychological issue.

"I have not personally seen a workers compensation claim related to bedbugs, but bedbugs could certainly fall under the workers compensation benefit," Mr. Greenberg said.

Yet a workers compensation claim would be a bit of a "stretch," said Dr. Charles R. Kelley, director of sales-special markets in charge of risk management at Outrigger Enterprises Inc. in Honolulu.

"It would take too long for the claim to go through the workers compensation system and you wouldn't be able to prove (the employer) is at fault," he said. "It's just not practical."

To mitigate a bedbug problem before it begins, employers can educate their employees about bedbugs and their characteristics, said Michael Batenburg, president of New York-based fumigation consultants Bed Bugs & Beyond Consulting and Treatment Specialists.

"Education should be proactive and immediate," Mr. Batenburg said, adding that employers can do this through e-mail, an on-site seminar with a consultant, traditional mail, or internal websites or message boards.

If an employee brings bedbugs in from home, he or she should be sent home immediately, legal and pest control experts said, however both agreed there is no set protocol for that situation.

An employee cannot be fired due to a home bedbug infestation that may require the employee to miss work until the issue is resolved, said Robert Buch, Los Angeles-based partner with Seyfarth Shaw L.L.P. who specializes in workers comp law.

Mr. Greenberg agreed with Mr. Buch, adding that those employees would be protected under the Family & Medical Leave Act. FMLA also could apply to employees with psychological problems due to bedbugs.

"People want to say bedbugs aren't a health issue, but that's not accurate," Mr. Batenburg said. "People that experience bedbugs suffer from sleep deprivation...their mental state is compromised."



**TIPS FOR TRAVELERS TO AVOID BEDBUGS**

Corporate travelers can take steps to avoid bringing bedbugs home with them.

In hotel rooms, bedbugs can hide in drapery, mattresses, headboards and at the base of the bed, said Neal Nakashima, corporate director of risk management and insurance for hospitality company Outrigger Enterprises Inc. in Honolulu.

Because the bugs can crawl into luggage or hide around the wheels, travelers should keep their luggage off the floor and the bed, he said.

Guests also can look for small, rust-colored stains on sheets, pillowcases at mattresses, as well as checking around headboards and drapery for bugs.

"If you see a bug or droppings notify the hotel," Mr. Nakashima said, adding that the hotel will then take the proper steps to secure the room.

—By Jeff Casale

Telltale signs of infestation include bites, molted exoskeletons, rust-colored stains on fabrics and the presence of a "sweet, musty odor," according to the CDC.

AP PHOTO

# Greenberg: Liable for offshore deal: Judge

CONTINUED FROM PAGE 1

without enough risk transfer from the other participants in the scheme, the evidence against him is "too remote" to charge him when confronted with his denials, Justice Ramos wrote.

Concerning New York Attorney General Andrew Cuomo's allegations that Mr. Smith was the individual primarily responsible for improperly accounting for the Gen Re transaction as insurance, "credibility determinations" also must be made regarding Smith's testimony. For example, Mr. Smith said he has no recollection of a meeting in late 2000 at AIG's headquarters that he allegedly attended, in which AIG was advised how Gen Re was going to account for the deal.

## Capco liability

Justice Ramos held that Messrs. Greenberg and Smith are liable for the alleged improper use of an offshore vehicle—Barbados-based Capco Reinsurance Co. Ltd., as a shell corporation to take on auto warranty losses AIG had generated in the mid-1990s as way to remove them from the insurer's books.

The Capco deal constituted "fraudulent or deceitful practices that tended to mislead the investing public as to the true financial health of AIG," wrote the justice. Messrs. Greenberg and Smith were "indisputably aware" of the deal and they spearheaded its deceptive aims, according to the court documentation. They failed to show that the Capco deal didn't cause any damage, and the purported amounts involved have "yet to be litigated," according to the decision. Any damages will be determined later.

The state civil lawsuit against Messrs. Greenberg and Smith initially was brought by then New York Attorney General Eliot Spitzer in 2005.

Attorneys for Messrs. Greenberg and Smith stressed that Justice Ramos refused to grant summary judgment for the state regarding the Gen Re transaction.

"Justice Ramos denied the New York Attorney General's motion for summary judgment on the Gen Re transaction, which constitutes the bulk" of the attorney general's claims, Lee Wolosky, a partner in

the New York law firm Boies, Schiller & Flexner L.L.P. who represents Mr. Greenberg, said in a statement.

He called the Capco transaction "not material, constituting less than 1% of AIG's net income during pertinent periods. Mr. Greenberg expects to prevail on his appeal of the court's decision granting summary judgment on liability on this single transaction."

Vincent Sama, a partner with Winston & Strawn L.L.P. in New York who represents Mr. Smith, issued a statement saying that Justice Ramos "properly denied the New York attorney general's

motion for partial summary judgment with respect to the Gen Re transaction." He noted that the attorney general's office "had repeatedly called" that transaction "the 'guts' of its case."

Mr. Sama said in his statement that "we believe that Justice Ramos misapplied the relevant law and ignored the substantial evidence regarding the Capco transaction, which was not a material transaction for AIG," and which involved the participation of more than 20 AIG lawyers. "Available evidence demonstrates that Mr. Smith did nothing wrong with respect to the Capco transaction, and the court's



AP PHOTO

New York Attorney General Andrew Cuomo alleged Howard Smith was responsible for improper accounting.

disposition of the motion with respect to the Capco transaction is particularly unfortunate since the court did not give the parties an opportunity to provide oral argument on that transaction."

He added that "we are confident that Mr. Smith will be fully vindicated on appeal."

The attorney general's office did not return a call for comment.

A legal expert with no ties to the case said the fact that the Gen Re allegations can proceed to trial increases pressure for a settlement.

"The Capco side is certainly the smaller of it," said Peter Henning, a professor at Wayne State University Law School in Detroit. "I think the important thing is that it's heading to trial now so the pressure to settle has increased. This is all that's left of the Gen Re/AIG case. The criminal side of the case is gone.

"It's all that's left of the all the litigation since Mr. Greenberg left AIG," he said.

**St. Baldrick's Foundation**

On behalf of all the kids like us, fighting cancer, *thank you* for your care and support!

Photo by Dave Vanderploeg

Andrew, 10 - St. Baldrick's Honored Kid  
Medullablastoma, In Remission

Zoe, 6 - 2010 Ambassador Kid  
Acute Lymphoblastic Leukemia, In Treatment

Rachel Kemble Photography

The St. Baldrick's Foundation funds the most-promising research to find cures for childhood cancers and give survivors long and healthy lives.

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# Claims: U.K. mulls personal injury claims process reform

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realistic view on all health and safety issues."

Paul Hopkin, technical director at AIRMIC, said the organization was pleased that Lord Young has made recommendations that likely would have the effect of reducing insurance costs.

He said AIRMIC was pleased that Lord Young recommended the adoption of Lord Justice Jackson's report, many of whose recommendations AIRMIC also supports.

"The challenge now is how many of Lord Young's recommendations are put into action and how long it takes," said Mr. Hopkin.

In a statement, John Hurrell, CEO of London-based AIRMIC, said Lord

Young had listened to the views of AIRMIC and others "who believe the system for making personal injury awards needs to be reviewed."

"This is good for business and good for genuine claimants who will hopefully see faster settlements incurring lower legal costs," he added.

"Lord Young's report should put common sense back into the system, reduce bureaucracy and improve our approach to managing risk," said John Cridland, London-based deputy director general of the Confederation of British Industry.

Adam Marshall, London-based director of policy and external affairs at the British Chambers of Commerce, said the recommendations had the potential to reduce

business costs and bureaucracy.

The HSE also welcomed the report.

"Publication of the report is a tremendous opportunity to refocus health and safety on what it is really about—managing workplace risks," Judith Hackitt, chair of the HSE, said in a statement. "Getting this right is good for employers, employees and Britain as a whole."

The International Institute of Risk and Safety Management said that, in particular, it welcomed Lord Young's commitment to raising standards in the health and safety profession.

The London-based Assn. of British Insurers also welcomed the report.

"We are very pleased that the

report recommends a crackdown on irresponsible claims management firms," said Nick Starling, the ABI's director of general insurance and health. "Not only do they help fuel public belief that behind every accident there is a claim, but they add costs to the legal system that ultimately are borne by all insurance customers," he said.

The ABI said it looked forward to working with the government to enact the recommendations of Lord Justice Jackson's review, endorsed by Lord Young, to "ensure that claimants get fair compensation as quickly as possible."

The London-based Assn. of Personal Injury Lawyers, however, said the report missed an opportunity to dispel the myth of a "compensation

culture" in the United Kingdom.

APIL said Lord Young's recommendations about claims management companies' advertising did not go far enough. "What is needed is education so people understand that they cannot be sued for any old accident, but that everyone has a responsibility to avoid the negligence which leads to needless injury which can shatter people's lives," said Muiris Lyons, president of APIL.

APIL added that the Road Traffic Accident Personal Injury Scheme still is in its infancy and that small-value claims are not necessarily simple—"especially in workplace and medical claims."

The Trades Union Congress labor union also slammed the report that, it said, "contains not a single proposal that will reduce the high levels of workplace death, injuries and illness."

## College students concerned about job outlook

**CHICAGO**—Job growth is something everyone is concerned with these days, and that can be a particular concern for students about to graduate college and looking to break into the workforce, including the insurance industry.

With an abundance of competition, college graduates need to differentiate themselves from other students and industry veterans seeking jobs, a group of soon-to-graduate college students said during interviews at the Katie School of Insurance and Financial Services 20th annual Insurance Executive Forum.

"There's definitely a diverse group of people trying for the same jobs and it's not easy as a young adult going into the (job market)," said Drew Hannan, 21, a senior at Illinois State University's Katie School. "It's a tough task for all (upcoming graduates) going into the unknown."

Mr. Hannan was part of a group of seven students from the Katie School that attended the Chicago gathering last week. After the panel discussion, the students described different opportunities that the world of insurance and risk management can offer and why they chose to go into it.

They also talked about how they are using real data from the current soft market in the classroom, learning what it takes to be competitive from an insurer's perspective

**'We've learned that risk management requires us to look at some of the most abstract things that can happen.'**

Keith Gallagher, senior at the Katie School of Insurance and Financial Services

and what to look for from the buyer's end to ensure they get the best product for their needs.

Through their education, the students said they also found that being a risk manager is more than just being an insurance buyer; analyzing loss trends and understanding risk also are part of the job.

"Being an insurance buyer is just a small role that risk managers have. They have to look at the big picture," said Keith Gallagher, a 21-year-old senior at the Katie School. "We've learned that risk management requires us to look at some of the most abstract things that can happen....You have to understand those risks."

It's the diversity of the insurance industry that attracted several of the students to study it and seek jobs within it. They also

said the industry offers an opportunity for growth and development in a job climate that appears stagnant.

"It's a very diverse industry," said 21-year-old senior Rebecca Kagan. "There are jobs like being a broker that allow you to be more personal with clients and there are some more behind-the-scenes roles like underwriters."

Elyse Klimek, 22, said landing a job in the insurance industry with an insurer or broker or in risk management requires students to "distinguish themselves" from one another and that researching companies to find areas to which they can apply their expertise is important in the job search.

Attending events like the Insurance Executive Forum gives Katie School students a leg up in terms of networking, the students said. It also allows them to get an idea of what is taking place in the industry as well as meet prospective employers face to face.

"Sometimes, our professors don't know if we're ready to talk about some of the real issues that are going on right now (within the insurance industry), but attending events like this allow us to spark that conversation in the classroom," said Jake Timmins, 21, a senior at ISU's Katie School. "It also encourages other students to go to events like this."

—By Jeff Casale

## NCCI: Comp costs up, but less frequent

CONTINUED FROM PAGE 4

safety also has helped reduce claims frequency as have reforms that tightened compensability standards in the 1990s, NCCI said. Since 1990, injury rates have dropped nearly 55%.

Complex claims, such as those related to lower back issues and carpal tunnel syndrome, declined more than average during the past five years, NCCI added.

### Several key factors

Several factors have contributed to the decline in carpal tunnel cases, NCCI said.

The Occupational Safety and Health Administration proposed an ergonomics standard in 2000, for instance and, although it was revoked by the Department of Labor, it focused attention on the issue.

"As a result, many employers proceeded to implement the recommended improvements and safety precautions," according to NCCI's research brief.

The Great Recession also hit assembly line jobs where carpal tunnel injuries are common.

Increasing claim costs, however, have partially offset the decline in frequency during 2009. Average indemnity costs increased about 4.5% in 2009 despite a decline in average weekly wages.

"It remains to be seen whether changes in average wage and indemnity cost per claim will begin to converge in 2010," NCCI said. Average medical costs for workers comp claims, meanwhile, rose 5% last year, the smallest increase in the past 15 years, NCCI said.

NCCI's research brief is available at <https://www.ncci.com/nccimain/IndustryInformation/ResearchOutlook/ResearchNewsletters/Pages/WC-Claim-Frequency-Continues-to-Decline-in-2009.aspx>.

## Katie: Economy changed field: Panel

CONTINUED FROM PAGE 4

leau, president and CEO of Kansas City, Mo.-based Lockton Cos. L.L.C. "I think there is a challenge to finding out what the tolerance for risk (within a company) is, and I think that the broker and underwriter should also be a part of that discussion."

Another change is adapting and using technology. While brokers, insurers and catastrophe risk modelers have upgraded their use of technology throughout the years, Mr. Bader said many risk managers still lack the tools to do their jobs to the fullest.

"If you see the tools that are available and look at the tools that the risk management industry

uses, the gap is huge," Mr. Bader said. "When we talk to brokers and insurers about working on closing the gap, we get a lot of head nodding that they want to do that, but we don't ever see the rubber hitting the road and that's discouraging."

The increased need for data and using that data are becoming more critical in risk assessment, the panel members said, noting that risk managers need to be sure they are getting value from the money spent on technology used to mitigate risk.

However, some panel members also said that while technology is helpful, it shouldn't be relied on as the only source of risk mitigation.

"Technology has to be able to be applied to real-world events rather than be abstract," said

Shaun Kelly, president and CEO of U.S. operations for Hamilton, Bermuda-based Ironshore Inc. "Technology can be an advantage, but it needs to be balanced."

On another front, the panelists said new talent is needed in the insurance industry as baby boomers retire, and they urged companies to recruit and develop that talent.

The panelists agreed that despite what some might call an aging industry, students graduating from insurance schools similar to the Katie School are well-equipped to handle the changes taking place within the economy and, as a result, in the industry.

"I have great faith that this industry will be better tomorrow than it is today," said Mr. Lumelleau. "I thought that the graying of the industry was a bad thing, but it's not, because it allows for new talent to come in."

## News In Brief

CONTINUED FROM PAGE 1

to more than 10% and has indicated he may further increase his shares within the next year, the reinsurer said last week. Mr. Buffett owns the stake through Berkshire Hathaway Inc., National Indemnity Co. and OPBH L.L.C. Munich Re said in its statement that the investment "serves the purpose of making trading profits and not of implementing strategic objectives." Munich Re also said that Mr. Buffett does not intend to influence management, nor significantly change the reinsurer's capital structure.

### Expected Megi insured losses limited: EQECAT

Insured property damage in China as a result of Typhoon Megi should be relatively low, according to catastrophe modeler EQECAT Inc. It said economic damage from the typhoon, which is expected to make landfall in China this week, could range from \$500 million to \$1 billion. However, in an analysis of the typhoon's potential impact, EQECAT said "the insured loss from this event is expected (to be) far less, given that the insurance penetration is low; approximately only 15% of the property is insured in China."

### Nonfatal workplace injuries down in '09

The U.S. Department of Labor's Bureau of Labor Statistics reported nonfatal workplace injuries declined to 3.3 million in 2009, down from 3.7 million in 2008. The rate of such injuries fell to 3.6 cases per 100 equivalent full-time workers, a decrease from 3.9 per 100 in 2008. In a statement announcing the decrease, the Labor Department did not cite a reason for the lower numbers.

### Michigan Blues sued over hospital contracts

Federal and state authorities have sued Blue Cross & Blue Shield of Michigan, alleging the health insurer's pricing agreements with various Michigan hospitals were designed to raise its rivals' costs and resulted in higher premiums.

According to the civil antitrust lawsuit, filed jointly by the U.S. Department of Justice and Michigan authorities, since at least 2007

the Blues plan used its dominant market position to secure most-favored nation agreements with numerous Michigan hospitals. The agreements varied, but they frequently included requirements that the hospitals charged other insurers more for services than they charged Blue Cross, according to the lawsuit.

### Montana's rate highest in workers comp: Analysis

A national ranking of state workers compensation rates has found Montana to be the most expensive, followed by Alaska and Illinois and Oklahoma, while median rates nationwide dropped 10% over the past two years. The rankings in the Oregon Department of Consumer and Business Services biennial study are based on workers comp rates that were in effect as of Jan. 1. Employers in Montana paid an average of \$3.33 per \$100 of payroll, or 163% of the national median; while North Dakota had the lowest rates at \$1.02 per \$100 of payroll, or 50% of the national median. The study found that California was the fifth most-expensive state, moving from No. 13 in 2008 as its rates jumped to \$2.68 per \$100 of payroll, or 131% of the national median. Wisconsin also saw a significant change in its ranking, moving from No. 34 in 2008 to No. 19 this year, with its average rates at \$2.21 per \$100 of payroll, or 108% of the national median. The nationwide median for 2010 rates dropped to \$2.04 per \$100 of payroll, 10% less than the 2008 median, according to the study prepared for Oregon's Legislature.

### Noted

Ronald A. Williams, chairman and CEO of **Aetna Inc.**, said he will retire from the health insurer in April 2011. The company also announced that as of Nov. 29, Mr. Williams will become executive chairman and that Mark T. Bertolini, Aetna's president and head of business operations, will be appointed CEO and elected to the company's board of directors....The base annual premium that employers with defined benefit plans pay to the **Pension Benefit Guaranty Corp.** will stay the same in 2011. The base annual premium will remain at \$35 per plan participant next year.

## Cash: IRS rules add clarity for sponsors

CONTINUED FROM PAGE 3

cally, final average pay plans—the most common type of defined benefit plan—offer full vesting after five years of service. In such conversions, the three-year full vesting requirement would apply to employees who earn benefits under both designs.

Like the proposed rules, the final rules also make clear that a cash balance plan participant never can receive less than the pay-related credits he or she has earned. That requirement would apply most directly when the interest credit is tied to the rate of return on an equities fund, which then earns a negative return.

The final rules also retain numerous safe harbors, such as employers crediting interest to employees' account balances based on U.S. Treasury note and bond rates.

In addition, the rules also make clear that the basic design of cash balance plans is not age discriminatory, which was congressional intent when legislators wrote the 2006 law.

Prior to the PPA, numerous lawsuits were filed against cash balance plan sponsors challenging the design because younger employees would receive interest credits for more years than older employees. However, five federal appeals courts all rejected the age discrimination allegations.

"The regulations are one more piece of weight" on the age discrimination issue, said Doug German, chief actuary-retirement with Buck Consultants L.L.C. in St. Louis.

Plans will not be considered age discriminatory as long as pay credits do not decrease with age, said Eric Keener, a senior consultant with Aon Hewitt Inc. in Norwalk, Conn.

By providing definitive guidance, especially in defining a market rate of interest, the regulations likely will encourage more employers with the plans to keep them.

The IRS "has provided certainty in some key areas that will give enough comfort to some cash balance plan sponsors so they may stay in the game," said Ethan Kra, chief actuary for Mercer L.L.C. in New York.

For prospective cash balance plan sponsors, "you have a road map and can design your plan and move on," Mr. Kra added.

"Most of the uncertainties that have been a deterrent to establishing new plans have been eliminated," said Jeff Davis, a managing director with PricewaterhouseCoopers L.L.P. in Washington.

Still, amid the multiyear march by employers away from defined benefit to defined contribution plans, which have more predictable costs and shift investment risk to employees, experts said the IRS rules will result in only modest plan growth, not a surge of new cash bal-

ance plans.

Hundreds of such plans are offered by larger employers, though a chunk of them, as is the case with traditional plans, have been partially frozen, with the plans closed off to new employees. In other cases, employers have completely frozen the plans with current employees not earning new benefits.

The plans blossomed as they were attractive to employers looking to make pension benefits more visible and easy to understand for employees. The plans also appealed to mobile workforces, because they provide a more rapid buildup of benefits than traditional final average pay plans.

But plan formation ground to a halt after a wave of suits were filed in the late 1990s, charging that the plan design was age discriminatory.

While the PPA and courts ended the age discrimination issue, only about a dozen large employers—including Coca-Cola Co. in Atlanta and Dow Chemical Co. in Midland, Mich.—have set up cash balance plans since the passage of the PPA.

There has been greater interest in the plans among smaller employers that are attracted by arrangements that can provide greater benefits to top executives than defined contribution plans, consultants say.

Employers can submit comments on the proposed regulations, which were published the Oct. 22 Federal Register.

## Benchmark: Buyer's market persists

CONTINUED FROM PAGE 3

but it keeps going down," Mr. Bradford said. Although workers compensation is "the most regulated line," he said, it "is insulated a little bit from competitive pressures, there were a rash of regulatory reforms that drove premiums down."

Mr. Bradford attributed continuing soft pricing to the weak worldwide economy, which has caused companies that either downsized or went out of business to purchase less or no insurance coverage, forcing insurers to compete for their share of a shrinking market, he said.

"If you have fewer employees, you don't buy as much workers comp; and if you have lower revenues, you don't buy as much general liability," Mr. Bradford said.

He added that while the slow-

**'I don't think we're quite at the bottom yet. If there had been some significant cat activity in terms of any hurricanes making landfall, it might have wrung out the rest of the excess capacity.'**

Dave Bradford, Advisen Ltd.

down in premium reductions in general liability and workers comp might suggest that the commercial insurance market is poised for a turn, competition is still intense in those and other lines of coverage.

"I don't think we're quite at the bottom yet. If there had been some

significant cat activity in terms of any hurricanes making landfall, it might have wrung out the rest of the excess capacity. It was an active year, but nothing hit shore (in the United States). So I am not seeing anything that will cause the market to turn," Mr. Bradford said.

The "RIMS Benchmark Survey" is used by risk managers to compare the structure of their commercial insurance programs, retained loss costs, exposure demographics and total cost of risk against a group of peer companies.

The survey is produced by Advisen, which analyzes data submitted online either directly from risk managers and other buyers of commercial insurance or from their brokers. The results are available online or in an annually published book. Visit [www.RIMS.org/benchmark](http://www.RIMS.org/benchmark) for details.

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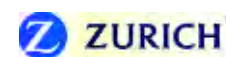
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## Defendants want off hook in tuna case

A New York man with a love of tuna fish has sued the manufacturer and a grocery store alleging the canned fish led to mercury poisoning.

Lee Porrazzo, a car salesman from White Plains, N.Y., filed a lawsuit in New York federal court alleging Bumble Bee Foods L.L.C. and Stop & Shop Supermarket Co. put their profits ahead of the health of their patrons.

Mr. Porrazzo, 48, said he ate 10 cans of tuna a week for nearly three years, according to the lawsuit. He said he consumed Bumble Bee tuna in such high amounts because the company touted its product as "heart healthy" and an "excellent and safe source of high-quality protein."

In 2006, Mr. Porrazzo reportedly noticed he was having chest pains and heart palpitations several times a week, but doctors couldn't find out what was wrong with him.

Then in 2008, his doctor ordered a blood test for heavy metals, which found that he had 23 micrograms of mercury per liter, well above the recommended level of less than 10 micrograms, according to reports.

San Diego-based Bumble Bee "strongly contests" Mr. Porrazzo's claims, according to reports, and the tuna company and Quincy, Mass.-based Stop & Shop are expected to file motions to dismiss the case.



## 'Condom'-ent not on menu

In the seemingly endless parade of unsavory things allegedly showing up in otherwise savory food, a recent case in Vermont deserves special attention.

If humorist Dave Barry had written about this one, odds are he'd feel compelled to begin the tale with his trademark, "I'm not making this up."

The case began in 2007 when college student Van Miguel Hartless sued the owners of a Burger King in Rutland, Vt. He alleged that he'd bitten into a Whopper and found a most unwelcome condiment—an unwrapped condom.

According to published reports, Mr. Hartless said the discovery caused him "sustained pain and suffering, vomiting, nightmares, mental and emotional distress" and medical expenses.

But the restaurant's owners countersued, alleging that forensic

analysis of the condom as well as surveillance cameras showed that it did not originate in the fast-food outlet.

But this month, the case was ended by mutual consent.

Suit and countersuit were dropped. According to published reports, Mr. Hartless, who since has relocated to El Paso, Texas, was unavailable for comment, but an attorney for Syracuse, N.Y.-based Carrols Restaurant Group Inc.—which owns and operates the Rutland Burger King—said "the parties agreed to pay their own legal costs, so you can draw your own conclusions."

Under terms of the agreement, the case was sealed, so the details of the case of the alleged condom-as-condiment may never be fully known, which may be the best possible ending to a most unsavory tale.



## Man makes threat so he can get bombed

A government worker in London allegedly phoned in fake bomb threats so he could leave work early and go home, where police found a sizable quantity of marijuana.

Andre Lake, 26, reportedly admitted last week in a Westminster, England, court that he placed the two emergency phone calls within the Ministry of Justice building because "he no longer enjoyed his work, had no annual leave left and he wanted to leave early," prosecutors reportedly said.

According to court statements, Mr. Lake said he had a £200 (\$314) per month addiction to cannabis after police found 12 bags of the substance when they searched his home.

Mr. Lake, who worked as an administration officer in the Youth Justice Office for four months, placed the first call at 7:15 a.m. and a second at 8:20 a.m. in which he alleged there was a bomb in the building.

Police traced the phone calls to the fifth and seventh floors of the London building, which are accessible only through a Ministry of Justice identification card.

It was determined that Mr. Lake was the only one to have swiped his card at those times. He was apprehended later that same day and reportedly told the arresting officer he was "foolish and stupid."

Mr. Lake, who had been employed at the Ministry of Justice just four months, reportedly admitted to charges of communicating false information about a bomb and possession of cannabis. A court will determine what justice to impose later this year.

## City residents barking mad over proposed dog liability law

Dogs that might bite someone brought howls of protest in Sheboygan, Wis.

Alderman Scott Versey had proposed an ordinance that people who own "dangerous" dogs, including breeds such as pit bull terriers, buy \$300,000 of liability insurance to cover any damages their furry friends might inflict.

Owners reportedly would have had to keep dangerous pets in their homes, fenced-in yards or muzzled on a leash, according to the proposal.

What about dogs that assist peace



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officers in law enforcement duties? Even those with a known propensity

to attack would not have been subject to the ordinance.

Dog owners barked about their complaints at a city council meeting on Oct. 4, according to the Sheboygan Press.

The Sheboygan council rejected Mr. Versey's proposal but approved setting up a 10-member committee to study how to regulate dangerous dogs in the community without singling out breeds.

The committee, which includes a veterinarian and a Humane Society representative, reportedly is expected to meet during the next few weeks to help write a new ordinance.



# ANNOUNCING THE 2010 READERS CHOICE FINALISTS

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Aon Global Insurance Managers	CIGNA Behavioral Health	Aon Hewitt	Aetna Inc.	AmWINS
Marsh Captive Solutions	ComPsych	Gallagher Benefit Services	CIGNA Healthcare	C.V. Starr & Co.
Willis Management	Magellan Health Services	Mercer	UnitedHealthcare	Swett & Crawford Group
<b>Liability Insurer</b>	<b>P/C Reinsurer</b>	<b>Property Insurer</b>	<b>Risk Management Consultant</b>	<b>Reinsurance Intermediary</b>
ACE Ltd.	Lloyd's	Chartis Inc.	North American Risk Management	Aon Benfield
Chartis Inc.	Munich Reinsurance Co.	Chubb Corp.	RMI Consulting	Guy Carpenter & Co.
Chubb Corp.	Swiss Reinsurance Co.	FM Global	Risk International Services	Willis Re
<b>Retail Agent/Broker Revenues &gt;\$250 M</b>	<b>Retail Agent/Broker Revenues \$50 m to \$250 M</b>	<b>Retail Agent/Broker Revenues \$25 m to \$50 M</b>	<b>Retail Agent/Broker Revenues &lt;\$25 M</b>	
Arthur J. Gallagher Risk Management Services, Inc	Beecher Carlson	DeWitt Stern Group	Alper Services	
Aon Risk Solutions	Integro	Riggs, Counselman, Michaels & Downes	Mid American Group	
Marsh Inc.	Mesirow Financial Services	William Gallagher Associates Insurance Brokers	R.C. Knox & Co.	
<b>Surplus Lines Insurer</b>	<b>Third-Party Administrator Specializing in Benefit Claims</b>	<b>Third-Party Administrator Specializing in P/C Claims</b>	<b>Workers Comp Insurer</b>	
ACE Westchester Specialty	CoreSource	Gallagher Bassett Services	Chartis Inc.	
Arch Specialty	Health Plans Inc.	Sedgwick Claims Management Services	Liberty Mutual Group	
Lexington Insurance Co.	Principal Financial Group	Specialty Risk Services	Zurich Financial Services Group	

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