Business Insurance

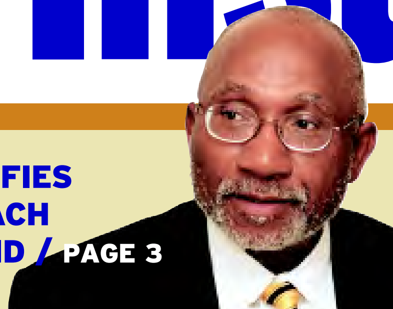
$5

October 27, 2008

www.businessinsurance.com

EMPLOYERS IN MASSACHUSETTS WELCOME CHANGES TO RULES IN HEALTH REFORM LAW / PAGE 3

OFFICIAL CLARIFIES FEMA'S APPROACH TO DISASTER AID / PAGE 3



PENSION PLAN ASSETS HIT AS STOCK PRICES PLUMMET AMID FINANCIAL CRISIS / PAGE 3

In Brief

RMS ups estimate of losses from Ike

Risk Management Solutions Inc. has increased its estimates for U.S. onshore and offshore insured losses from Hurricane Ike to $13 billion to $21 billion, from its preliminary estimate of $7 billion to $12 billion. The catastrophe modeler said that $10 billion to $15 billion of its new estimate is for wind and storm surge damage in Texas and Louisiana. The estimate also includes losses of $2 billion to $3 billion from inland wind and flood damage and $1 billion to $3 billion in offshore losses, but does not include losses covered by the National Flood Insurance Program.

Group seeks rehearing of S.F. health law ruling

The Golden Gate Restaurant Assn. has filed a petition with the

See **IN BRIEF** page 46

SPOTLIGHT

REINSURANCE: TRENDS & ISSUES

Direction of market remains unclear as results worsen; reserves sound but redundancies running short; capital crunch expected to curb consolidation activity; N.Y. exchange revival moving forward; cat bond deals slow this year.

Page 13

REUTERS

A defense contractor's vehicle comes under attack in Iraq in 2006. Workers comp arrangements for overseas contractors may be revamped next year.

Comp fix planned for defense firms

Measure calls for single insurer for contractors

By ROBERTO CENICEROS

Workers compensation coverage for defense contractors working overseas could to shift to a single insurer under a law recently signed by President Bush.

The measure is supposed to reduce the cost of coverage, which has ballooned in recent years, by creating a larger pool of risks, say supporters of the law.

But observers question whether a single insurer will be willing to take on the huge coverage contract.

The 2009 Defense Authorization Act, which was signed into law Oct. 14, recommends finding a single insurer to provide Defense Base Act workers compensation insurance for all Department of Defense contractors.

Pentagon contractors currently obtain DBA coverage from among a handful of competing insurers approved by the Department of Labor. The coverage is mandated under federal law to provide workers comp benefits for the employees of contractors working overseas for U.S. governmental entities.

Companies can also self-insure with Labor Department approval.

The Congressional recommendation to move to a single source of insurance is in language in the new law instructing the Pentagon to reduce DBA expenses, which have increased sharply in recent years, by revamping the way its contractors obtain workers comp cover.

Within nine months, the Secretary of Defense must submit a report to Congress on the new acquisition strategy it has adopted.

During 2007, nearly 12,000 DBA claimants that suffered injuries or died while working under government contract received more than $170 million in indemnity and medical benefits, according to a Congressional Research Service

See **CONTRACTORS** page 45

AIG bows to pressure, pulls lobbying efforts

Insurer's expenses placed under microscope

By MARK A. HOFMANN

WASHINGTON—American International Group Inc.'s agreement to halt federal lobbying activities could have unintended consequences, according to lobbyists both inside and outside the insurance industry.

The move could cut off a source of information for Capitol Hill as lawmakers wrestle with the economic crisis, lobbyists said. But a consumer advocate said the move is more than justified.

AIG's decision came after Sens. Dianne Feinstein, D-Calif., and Mel Martinez, R-Fla., sent a letter to AIG Chairman and Chief Executive Office Edward Liddy. The letter asked him to end lobbying activities by AIG, which has received federal loans and guarantees of more than $100 billion.

Following AIG's decision, Sen. Feinstein issued a statement last week saying she plans to introduce legislation that would prohibit companies that receive federal funds as part of the economic bailout from lobbying.

"AIG has halted its lobbying efforts, and other companies that have received federal funds as part of the economic rescue bill should do the same," she said in the statement. "I will introduce legislation to prohibit the use of federal rescue funds or government loans for lobbying purposes."

Similar restrictions already have been imposed on mortgage giants Fannie Mae and Freddie Mac, but previous efforts to ban lobbying by so-called government-sponsored enter-

See **AIG** page 45

CUOMO: NY AG pushes insurer to freeze payments to former executives. Page 45.

LOAN: AIG's total borrowings from federal government exceed $90 billion. Page 45.

Benefits staff battle to field worker calls

Market turmoil causes concern over plan losses

By KRISTIN GUNDERSON HUNT

The current financial climate isn't just keeping those on Wall Street busy.

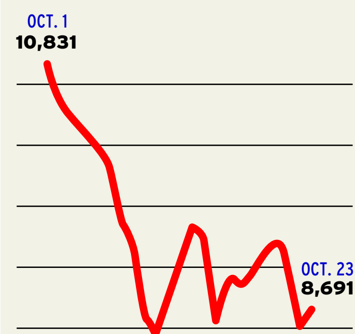
Benefit management departments in recent weeks have been fielding questions and addressing concerns from employees worried about their 401(k)s and other employer-sponsored investment vehicles as the stock market plummeted and continues to show signs of instability.

"Employers are very busy trying to keep an eye on what's happening," said Pamela Hess, director of retirement research for consulting

See **CRISIS** page 42

STOCK MARKET TUMBLES

The DJIA fell 2000 points in three weeks



Source: Yahoo! Finance

crain Entire contents copyright © 2008 by Crain Communications Inc. All rights reserved.

INDEX

Advertiser Index 43
Business Resources 40
Regis Coccia 6
End Page 46
International 41
Opinions 8
Perspective 8
Professional MarketPlace 40
Stocks 45

Results.

Just Ask our Clients.

Aon Re Global provides distinctive value to clients through our unique integrated capital solutions and services. Clients are better able to differentiate and meet their business objectives with Aon Re Global's best-in-class treaty and facultative reinsurance placement services, capital markets expertise and relevant analytics.

Just ask our clients. Aon Re Global has been named "Best Reinsurance Intermediary" numerous times in recent client surveys and has been ranked as the #1 Broker for 13 consecutive years.

Visit aon.com to download our latest thinking.

AON RE GLOBAL

On the Web

RISK MANAGER OF THE YEAR

Nominations open for 2009 award

Business Insurance is accepting nominations for the 2009 Risk Manager of the Year award, which will feature a new collaboration with the Risk & Insurance Management Society Inc. The award recognizes excellence in risk management, and anyone involved in risk management for a corporation, financial institution, nonprofit or governmental entity can be nominated. For details, go to *www.BusinessInsurance.com/RMOY.*

BI DIRECTORIES

Reinsurance brokers directory updated

Business Insurance has updated its Directory of Reinsurance Brokers for 2008. You can buy and download the full content of these and other *BI* directories online at *www.BusinessInsurance.com/directories.*

BI KNOWLEDGE CENTER

Expand your knowledge at a central location

At the *Business Insurance* Knowledge Center, you can find a collection of contributed content, from Perspective articles by industry experts to sponsored content, such as white papers. There is also a section devoted to court filings and other public documents. Go to *www.BusinessInsurance.com/knowledgecenter.*

THIS WEEK IN *BI*

Podcast takes you behind the *BI* headlines

"This Week in *Business Insurance*" is a weekly podcast that reviews the headlines in each issue of *BI* and interviews reporters for insights to the top stories. Listen online at *www.BusinessInsurance.com/thisweek* or subscribe to this free podcast on iTunes.

Business Insurance®

REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

Business Insurance (ISSN 0007-6864) Vol. 42, No. 43, is published weekly by Crain Communications Inc., 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to Business Insurance Circulation Department, 1155 Gratiot Ave. Detroit, Mich. 48207-2912. $5 a copy and $97 a year in the U.S. $130 in Canada and Mexico (includes GST). All other countries, $230 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 40012850, GST No. 136760444, Canadian return address: 4960-2 Walker Road, Windsor, ON N9A6J3. Printed in U.S.A. Copyright © 2008 by Crain Communications Inc.

FEMA clarifies policy on disaster payments

Agency assures public entities on aid for uninsured losses

By DAVE LENCKUS

BATON ROUGE, La.—Public entities will receive more federal aid for uninsured losses caused by national disasters than risk managers had anticipated, according to a senior official with the Federal Emergency Management Agency.

Contrary to expectations by Louisiana officials, FEMA will cover all uninsured costs faced by public entities beset by multiple disasters of the same nature if the entities participate in a unique state program, said James Walke, the Washington-based director of FEMA's Public Assistance Division.

FEMA also intends to reconcile inconsistent regulations on how it calculates aid so risk managers of public entities nationwide can obtain the maximum amount of aid possible after all national disasters, Mr. Walke said.

The Louisiana Insurance Department last year created its unique program—which is allowed by the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act—after FEMA announced it would follow that law more strictly and, therefore, reduce aid to public entities hit by multiple disasters of the same nature.

Under FEMA's retooled aid plan, any public entity that seeks first-time federal aid to cover uninsured losses after a national disaster first must purchase adequate insurance to cover it against losses in future disasters of the same nature.

If a public entity later sustains damage to the same properties, it would be eligible for federal assistance only to the extent that the entity's insurance deductible for the second loss exceeds the entity's total damage in the

See **FEMA** page 36

FEMA

Public entities will receive assistance if they are hit by multiple disasters, says FEMA official James Walke.

Mass. employers hail change to health rules

State eases requirements for adequate cover test

By JERRY GEISEL

BOSTON—Business groups welcomed final rules approved this month by Massachusetts regulators that virtually ensure most employer-provided health care plans will meet coverage requirements under the state's groundbreaking health care reform law.

The rules will implement a key provision of Massachusetts' 2006 health care reform law under which, effective Jan. 1, 2009, state residents must be enrolled in plans that meet minimum coverage requirements laid down by state regulators, or be hit with fines that can exceed $900 a year. This year, those penalties apply only to those who are not enrolled in a health care plan.

The final rules retain earlier proposed benefit requirements, including that plans must offer a broad range of services and can't, among other things, impose annual deductibles for in-network services of greater than $2,000 for single coverage and $4,000 for family coverage. The rules also limit annual out-of-pocket expenses, including deductibles for in-network services, to greater than $5,000 for individual coverage and $10,000 for family coverage.

But in a major change, the Commonwealth Health Insurance Connector Authority, the agency in charge of implementing key provisions of the law, has amended the rules to significantly increase the likelihood—if not ensure—that mainstream employer plans will pass muster under the rules.

In what Connector officials describe as a safe harbor, health care plans that don't strictly meet the so-called minimum creditable coverage standards—such as by having a deductible is too high—still would be considered in compliance with the rules if their relative value is equivalent to so-called Bronze-level plans sold through Connector. An actuary will have to certify that employer plans have an actuarial value at least equivalent to Bronze

See **MASSACHUSETTS** page 44

HEALTH CARE REFORM PATH

Key rules issued by Massachusetts regulators implementing the state's 2006 health care reform law

JUNE 2007: Jan. 1, 2009, effective date set for state residents to be enrolled—or face financial penalties—in health care plans meeting minimum creditable coverage requirements.

JUNE 2007: Rules set on Section 125 plans employers must offer to employees.

APRIL 2008: Final rules approved laying out eligibility criteria—based on income—that state residents must meet to be exempted from 2006 law requiring them to be enrolled in a health care plan or face financial penalties.

OCTOBER 2008: Rules amended and finalized on standards employers must meet to be considered to be making a fair and reasonable contribution to employees' health care coverage. Employers failing the requirements, which for larger organizations are based on percentage of employees enrolled in their health care plans and percentage of premium paid by companies, are liable for an annual assessment of $295 per employee.

OCTOBER 2008: Final rules approved that amend and liberalize minimum creditable coverage requirements.

Crashing stock markets hit pension assets hard

Largest companies expected to report record underfunding

By JUDY GREENWALD

The bear equities market continues to hammer pension plan assets.

S&P 500 firms are now headed for the largest-ever underfunding of their pension plans because of the plunging stock market, according to a Standard & Poor's Corp. analyst. Meanwhile, both the Pension Benefit Guaranty Corp. and the California Public Employees' Retirement System are reporting heavy investment losses for recent periods.

Senior index analyst Howard Silverblatt, who is with New York-based S&P's index services, said that at the start of the year, companies had a projected 8% return on their pension assets for 2008. But this year's stock market declines mean that between now and year end, the market "would have to go up 64% just to break even," with U.S. markets down 39% year-to-date and even sharper losses elsewhere, Mr. Silverblatt said last Thursday.

At this point, the underfunding will exceed the then-record $218.5 billion of underfunding reported in 2002, said Mr. Silverblatt, who last week wrote an analyst note on the impact of the stock market on pension plan funding.

Further exacerbating the situation, he said, is the lower interest rate environment, which increases pension funds' liabilities.

Many companies "have the available cash on hand, at least on their June balance sheets, to make payments," but funds that may have been used elsewhere will have to go into defined benefit plans, he said.

Meanwhile, the PBGC lost $4.8 billion in equity investments through Sept. 30 , which marks the end of its 2008 fiscal year, House Education and Labor Committee Chairman George Miller, D-Calif., reported last week.

According to a PBGC document based on unaudited results, which was obtained by Rep. Miller's committee, the $4.8 billion loss included $1.7 billion in losses in September alone.

$4.8B

PBGC LOSSES from equity investments through fiscal year-end Sept. 30, 2008. The losses contrast with $3 billion in income from equities in 2007.

The $4.8 billion in losses from equity investments in fiscal 2008 contrasts with fiscal 2007, when the PBGC reported $3.00 billion in income from equity investments and total investment income of $4.76 billion.

A PBGC spokesman said "investment performance is only part of PBGC's financial picture."

The spokesman noted that the agency's 2008 deficit is expected to be somewhat lower than the 2007 deficit of $14 billion. "We expect the new deficit figure will be about $10 billion to $12 billion," he said.

The PBGC spokesman also said the value of the federal agency's overall portfolio declined about 1.2% from Jan. 1 through Aug. 31. By contrast, the S&P 500 index declined 14.3% over the same period, he said.

Sacramento-based CalPERS, the nation's largest pension fund, also

See **PENSIONS** page 42

Texas Supreme Court reconsiders workers comp ruling

Very rare situation draws attention of businesses, lawmakers

By ROBERTO CENICEROS

AUSTIN, Texas—The Texas Supreme Court is reviewing its own 2007 ruling that granted workers compensation exclusive remedy protection to a premises owner that faced a negligence suit from a subcontractor's employee.

In a move a court spokesman called extremely rare, the court earlier this month reheard the case *Entergy Gulf States Inc. vs. John Summers* and is now reviewing its earlier unanimous decision, which overturned an appeals court finding.

The closely watched case—which has drawn amicus briefs from businesses, labor, tort reform advocates, lawmakers and civil rights groups—involves an injury Mr. Summers sustained while working as an International Maintenance Corp. employee at an Entergy Corp. plant in Bridge City, Texas. New Orleans-based Entergy is an electrical power production and distribution company.

The contract between IMC and Entergy referred to IMC as an independent contractor, and a contract addendum provided that Entergy would be recognized as the "statutory employer" of IMC employees. IMC would remain their "direct employer," court records state.

Entergy provided workers comp coverage for IMC employees in exchange for a lower-priced contract, court documents show. Several attorneys that filed amicus briefs in the case described the arrangement as an owner-controlled insurance program, or OCIP.

When Mr. Summers was injured, he obtained workers comp benefits under the policy provided by Entergy. He sued Entergy alleging negligence, although the Supreme Court decision does not describe his injury or how it occurred.

Entergy moved for summary judgment in the lawsuit, arguing that it was a general contractor and thus, under the exclusive remedy doctrine, shielded from Mr. Summers' suit under Texas' labor code. Texas law allows a general contractor providing workers comp coverage to a subcontractor's employees to become the employer of the subcontractor's employees, court records state.

A district court granted Entergy summary judgment.

General contractor definition

On appeal, Mr. Summers argued that lawmakers crafting Texas' labor code intended to exclude premises owners from the definition of general contractor.

The appeals court sided with Mr. Summers, ruling that Entergy was not a general contractor because the company did not "establish it had undertaken to perform work or services and then subcontracted part of that work to IMC, as a general contractor would have done," court records state.

The appeals court found that Entergy is thus a premise owner and not a statutory employer. But the Supreme Court reversed, finding that a premises owner can act as a general contractor.

"In short, the governing Labor Code definitions of general contractor and subcontractor do not forbid a premises owner from also being a general contractor," the court opinion states.

Several organizations, along with Republican and Democratic state lawmakers, then filed briefs requesting a rehearing. They argued, among other things, that the court had expanded the state's Workers Compensation Act beyond legislators' intent.

The Supreme Court has not said,

See TEXAS page 6

CONSUMERS DRIVEN TO EVALUATE THE BOTTOM LINE

Members of consumer-driven health care plans are far more conscious of costs.

72% of CDHP members track their health care expenses.

40% of those who are not CDHP members track their health care costs.

Source: Blue Cross & Blue Shield Assn.

Members of CDHPs more engaged: Survey

Health, wellness and costs paid greater heed

By JOANNE WOJCIK

Consumer-driven health plans are attracting more cost-conscious and engaged consumers, a new survey by the Washington-based Blue Cross & Blue Shield Assn. has found.

The BCBSA 2008 CDHP Member Experience Survey found that 72% of CDHP members track their health expenses, compared with just 40% of their non-CDHP member counterparts. In addition, 38% of CDHP members estimate future health expenses, compared with 22% of nonmembers; 24% of members contacted their insurer to discuss health expenses, compared with 18% of nonmembers; 38% of members discussed health expenses with their physicians, compared with 27% of nonmembers; and 34% of members developed a budget for health expenses, compared with 18% of nonmembers.

CDHP members are also more engaged in health and wellness, the survey reported. For example 43% of members participated in health screenings, compared with 30% of nonmembers. In addition 25% of members reported exercising regularly, compared with 14% of nonmembers.

CDHP members who have health savings accounts are more likely to access preventive care services than are CDHP members without such accounts or non-CDHP members. For example, 69% of HSA-eligible CDHP plan members with HSAs had regular checkups, physicals or preventive health screenings, compared with 64% of HSA-eligible CDHP members without HSAs and 62% of non-CDHP members.

Employer help matters

CDHP members with employer-sponsored coverage are much more likely to open HSAs when their employers contribute to the accounts, the BCBSA survey found.

See HEALTH CARE page 6

Court rules for worker in FMLA case

Appeals court focuses on supervisor who warned of possible job loss

By JUDY GREENWALD

CINCINNATI—A worker told by his supervisor that he would lose his job if he took leave under the Family and Medical Leave Act, and did lose his job after taking the leave, can proceed with his retaliation claim, a federal appeals court has ruled.

According to the Oct. 16 decision by the 6th U.S. Circuit Court of Appeals in Cincinnati in *James Daugherty vs. Sajar Plastics Inc.*, the maintenance technician, who experienced unpredictable episodes of back pain, previously requested and was granted intermittent FMLA leave ranging from about two days to two weeks.

However in 2003, when he requested FMLA leave of one to two months from the plastic injection molding product maker, Mr. Daugherty said Ronald Alexander, the company's human resources director, told him that "if I took that FMLA for that period of time, there would not be a job waiting for me," according to the opinion.

Shortly afterward, the Middlefield, Ohio-based company had a layoff and Mr. Daugherty was put on layoff status. The next month, though, the company had an upturn and Mr. Alexander was directed to recall Mr. Daugherty. His return, though, was made contingent on approval by a doctor hired by the company.

The doctor concluded that the amount of narcotics Mr. Daugherty took for pain could lead to an injury to himself or others because of his work with heavy machinery. The company told Mr. Daugherty it would reconsider rehiring him if he provided documentation from his physician that his medication had been reduced. Mr. Daugherty did not supply the requested information and he was terminated in 2004.

He then filed suit, charging disability discrimination under the Americans with Disabilities Act and retaliation under the FMLA. A lower court dismissed all claims against Sajar Plastics.

On appeal, a three-judge appeals court panel upheld dismissal of the ADA charge, but overturned the dismissal of the FMLA charge. In its decision, the appeals court referred to the HR director's threat made before Mr. Daugherty took his FMLA leave.

"Clearly, the unambiguous comment, which we must take as true at the summary judgment stages, constitutes direct evidence that Daugh-

See FMLA page 42

Rates may be heading higher: Panel

Katie School forum speakers cite credit woes, hurricane losses as factors

By JEFF CASALE

CHICAGO—The investment losses hitting insurers as a result of the worldwide financial crisis will lead to higher rates, a panel of experts says.

As insurers see their financial results dragged down by losses on their investments, they will seek to generate better results from underwriting, they say.

It is unclear, though, how much rates will increase.

"The (insurance) industry is hemorrhaging and no one has called 911," said Paul Springman, executive vp of Richmond, Va.-based Markel Corp., speaking at the Katie School of Insurance and Financial Services at Illinois State University's 18th Annual Insurance Executive Forum in Chicago.

"You will see that when the third-quarter numbers are reported: It will show a quick, severe and deep reaction to the market period we are experiencing," he said.

RIMS SURVEY: Falling underwriting results may signal the pricing cycle for the commercial market is about to turn. **Page 34.**

Stock market volatility, poor asset and investment management and hurricane losses are all taking their toll on insurers, panelists said. As a result, the market for several lines of commercial business will harden, they said.

"Underwriters will go back to underwriting business for profit," Mr. Springman said. "When you see companies taking massive write-downs on the investment side, they will have to compensate on the underwriting side. Many of them will have to tighten up there."

Carol Murphy, managing director for Chicago-based Aon Brokerage Group, added, "Capacity is still available for most customers and we don't see that changing, but we will see some sporadic and moderate rate increases."

Both Ms. Murphy and John Lupica, president and chief executive officer of Philadelphia-based ACE USA, said that it is likely that financial lines such as directors and officers liability will be the first to

See FORUM page 34

Texas: Fresh review in workers comp case

CONTINUED FROM PAGE 4

however, why it agreed to rehear the case or when it will render an opinion.

The court may be trying to correct an error it made in citing whether changes legislators made to the Texas labor code were "substantive" when it wrote its opinion, said Lisa Kauffman, general counsel for the Austin-based Texas Civil Justice League, a business coalition that filed an amicus brief because some of its members use OCIPs.

The Civil Justice League argued in an amicus brief that nothing in Texas law excludes "any class of persons from the definition of general contractor."

But Richard Levy, an attorney at Deats Durst Owen & Levy P.L.L.C. in San Antonio, who filed an amicus brief on behalf of several labor organizations, said he believes the court reconsidered because of widespread opposition to its decision.

"Even they were taken aback by the firestorm of opposition this has generated," which included hearings in both chambers of Texas' Legislature. Mr. Levy said organized labor argued that shielding corporations from litigation discourages them from making the workplace safer.

Entergy Gulf States Inc. vs. John Summers No. 05-0272.

Health care: CDHP members watch costs

CONTINUED FROM PAGE 4

Seventy-one percent of members who received some employer contribution either have already opened or plan to open an HSA, compared with 48% of CDHP members who did not receive an employer contribution to the accounts.

In 2007, 12.5 million people were enrolled in CDHPs, up 25% from 10.0 million in 2006, according to the American Assn. of Preferred Provider Organizations. The largest growth was among CDHPs linked to health savings accounts, which in 2007 covered 5 million plan members, up from 3 million in 2006. Enrollment in CDHPs linked to health reimbursement arrangements held steady at 7 million.

The survey, conducted by the BCBSA in August, collected responses from 2,791 individuals between the ages of 18 and 64 enrolled in private health insurance coverage, including BCBS member CDHPs and non-member CDHPs. Currently 4.4 million BCBS plan members are enrolled in CDHPs, up 50% from last year.

To view a webcast of the entire CDHP survey presentation, visit *www.bcbs.com/news/bluetvradio/consumerdriven2008*.

You're Unique.

We notice.

PINNACLE
ACTUARIAL RESOURCES, INC.
The Firm of Choice

• Alternative Markets
• Predictive Modeling
• Litigation Support
• Enterprise Risk Management

thefirmofchoice.com

Bloomington • Chicago • Columbus • Des Moines • Detroit • Indianapolis • New York • San Francisco

Commentary

Transparency needed now more than ever

REGIS COCCIA

Editor Regis Coccia's commentary appears periodically. He can be reached at: rcoccia@businessinsurance.com

Welcome to the end of free corporate spending.

Following the near-collapse and rapid rescue of American International Group Inc., members of Congress and authorities are questioning everything at the company with a dollar sign next to it. Expect them to do the same with other financial services companies that are receiving money under the massive federal bailout.

On Capitol Hill earlier this month, former AIG chief executives Robert Willumstad and Martin Sullivan were taken to task for corporate expenses and payments to company executives that continued after the company's liquidity problems surfaced.

Some legislators' assertions were long on rhetoric and short on fact. For example, U.S. Rep. Elijah Cummings, D-Md., blasted AIG for a $400,000 retreat held at an expensive California resort where attendees incurred more than $23,000 in spa treatments. It was revealed shortly after the hearing that few AIG executives attended; the event was to reward top-producing independent life agents, not management.

In an unusual joint announcement with New York Attorney General Andrew Cuomo earlier this month, AIG said it was withholding multimillion-dollar severance payments to Mr. Sullivan and former Chief Financial Officer Steve Bensinger, as well as canceling a variety of AIG-sponsored events. The attorney general even went so far as to say he would pursue recovery of payments under New York law, if necessary.

Events that AIG said it would cancel include: a risk management conference in Half Moon Bay, Calif., that was estimated to cost $500,000; a "best operator" conference in Las Vegas, at a cost of $750,000; and a sales conference at Sea Island, Ga., costing about $350,000. In all, AIG said its cancellation of 160 events would save the company about $80 million.

AIG meanwhile has formed a Special Governance Committee and is rewriting guidelines on expenses. Likely that means many longtime perks will disappear.

There is undoubtedly room to trim expenses in almost all corporate budgets—to say nothing of excessive executive compensation—but perks and junkets have been part of doing business in all industries. That's especially true in insurance, which has long relied on incentives and rewards to attract customers and producers. Competitors of AIG also sponsor events for risk managers, agents and brokers; AIG just had a bigger budget.

This raises some tricky questions for insurance industry companies: What's a necessary business expense? Are perks to clients and producers really needed? Should companies disclose more on expenditures than their public filings require? Who will monitor how much insurers and brokers spend? Are we in a heightened era of transparency when it comes to perks?

> **Perks and junkets have been part of doing business in all industries. That's especially true in insurance.**

There is a point at which trips, gifts or other items of value can cross a line, compromising judgment or creating outright conflicts of interest. That remains the rub with contingent commissions.

For many agents and brokers, these bonus payments from insurers are rewards for meeting sales goals, and may mean the difference between profiting and breaking even. Can buyers trust that a broker's acceptance of contingent payments won't influence the broker's judgment? Likewise, can a company be sure of its risk manager's objectivity if he or she is lavishly entertained by insurance industry vendors? Either way, discussion by all parties is needed.

Transparency and accountability are needed in business, perhaps more than ever. The best companies will use both to their advantage, to show how they really bring value—to investors, to clients and to their own employees.

Did you know that vanilla flavoring has a flashpoint below 100° F, making it a Class 1 flammable liquid capable of causing an inferno? That was certainly news to a major ice cream factory and Liberty Mutual Property customer. Fortunately, we conducted an engineering evaluation that revealed this risk, and our engineers provided practical storage, containment and fire safety recommendations. The bottom line is, our loss control programs work. And in instances like this, help prevent millions of dollars in damage. Plus, should disaster strike, we honor our commitments by responding quickly, keeping you informed and paying your claim in a timely fashion. That's our policy. For more information on our property insurance, visit libertymutual.com/property.

Responsibility. What's your policy?

Liberty Mutual.

© 2008 Liberty Mutual Group.

Texas: Fresh review in workers comp case

CONTINUED FROM PAGE 4

however, why it agreed to rehear the case or when it will render an opinion.

The court may be trying to correct an error it made in citing whether changes legislators made to the Texas labor code were "substantive" when it wrote its opinion, said Lisa Kauffman, general counsel for the Austin-based Texas Civil Justice League, a business coalition that filed an amicus brief because some of its members use OCIPs.

The Civil Justice League argued in an amicus brief that nothing in Texas law excludes "any class of persons from the definition of general contractor."

But Richard Levy, an attorney at Deats Durst Owen & Levy P.L.L.C. in San Antonio, who filed an amicus brief on behalf of several labor organizations, said he believes the court reconsidered because of widespread opposition to its decision.

"Even they were taken aback by the firestorm of opposition this has generated," which included hearings in both chambers of Texas' Legislature. Mr. Levy said organized labor argued that shielding corporations from litigation discourages them from making the workplace safer.

Entergy Gulf States Inc. vs. John Summers No. 05-0272.

Health care: CDHP members watch costs

CONTINUED FROM PAGE 4

Seventy-one percent of members who received some employer contribution either have already opened or plan to open an HSA, compared with 48% of CDHP members who did not receive an employer contribution to the accounts.

In 2007, 12.5 million people were enrolled in CDHPs, up 25% from 10.0 million in 2006, according to the American Assn. of Preferred Provider Organizations. The largest growth was among CDHPs linked to health savings accounts, which in 2007 covered 5 million plan members, up from 3 million in 2006. Enrollment in CDHPs linked to health reimbursement arrangements held steady at 7 million.

The survey, conducted by the BCBSA in August, collected responses from 2,791 individuals between the ages of 18 and 64 enrolled in private health insurance coverage, including BCBS member CDHPs and non-member CDHPs. Currently 4.4 million BCBS plan members are enrolled in CDHPs, up 50% from last year.

To view a webcast of the entire CDHP survey presentation, visit *www.bcbs.com/news/bluetvradio/consumerdriven2008*.

You're Unique.

We notice.

PINNACLE
ACTUARIAL RESOURCES, INC.
The Firm of Choice

• Alternative Markets
• Predictive Modeling
• Litigation Support
• Enterprise Risk Management

thefirmofchoice.com

Bloomington • Chicago • Columbus • Des Moines • Detroit • Indianapolis • New York • San Francisco

Commentary

Transparency needed now more than ever

REGIS COCCIA

Editor Regis Coccia's commentary appears periodically. He can be reached at: rcoccia@businessinsurance.com

Welcome to the end of free corporate spending.

Following the near-collapse and rapid rescue of American International Group Inc., members of Congress and authorities are questioning everything at the company with a dollar sign next to it. Expect them to do the same with other financial services companies that are receiving money under the massive federal bailout.

On Capitol Hill earlier this month, former AIG chief executives Robert Willumstad and Martin Sullivan were taken to task for corporate expenses and payments to company executives that continued after the company's liquidity problems surfaced.

Some legislators' assertions were long on rhetoric and short on fact. For example, U.S. Rep. Elijah Cummings, D-Md., blasted AIG for a $400,000 retreat held at an expensive California resort where attendees incurred more than $23,000 in spa treatments. It was revealed shortly after the hearing that few AIG executives attended; the event was to reward top-producing independent life agents, not management.

In an unusual joint announcement with New York Attorney General Andrew Cuomo earlier this month, AIG said it was withholding multimillion-dollar severance payments to Mr. Sullivan and former Chief Financial Officer Steve Bensinger, as well as canceling a variety of AIG-sponsored events. The attorney general even went so far as to say he would pursue recovery of payments under New York law, if necessary.

Events that AIG said it would cancel include: a risk management conference in Half Moon Bay, Calif., that was estimated to cost $500,000; a "best operator" conference in Las Vegas, at a cost of $750,000; and a sales conference at Sea Island, Ga., costing about $350,000. In all, AIG said its cancellation of 160 events would save the company about $80 million.

AIG meanwhile has formed a Special Governance Committee and is rewriting guidelines on expenses. Likely that means many longtime perks will disappear.

There is undoubtedly room to trim expenses in almost all corporate budgets—to say nothing of excessive executive compensation—but perks and junkets have been part of doing business in all industries. That's especially true in insurance, which has long relied on incentives and rewards to attract customers and producers. Competitors of AIG also sponsor events for risk managers, agents and brokers; AIG just had a bigger budget.

This raises some tricky questions for insurance industry companies: What's a necessary business expense? Are perks to clients and producers really needed? Should companies disclose more on expenditures than their public filings require? Who will monitor how much insurers and brokers spend? Are we in a heightened era of transparency when it comes to perks?

Perks and junkets have been part of doing business in all industries. That's especially true in insurance.

There is a point at which trips, gifts or other items of value can cross a line, compromising judgment or creating outright conflicts of interest. That remains the rub with contingent commissions.

For many agents and brokers, these bonus payments from insurers are rewards for meeting sales goals, and may mean the difference between profiting and breaking even. Can buyers trust that a broker's acceptance of contingent payments won't influence the broker's judgment? Likewise, can a company be sure of its risk manager's objectivity if he or she is lavishly entertained by insurance industry vendors? Either way, discussion by all parties is needed.

Transparency and accountability are needed in business, perhaps more than ever. The best companies will use both to their advantage, to show how they really bring value—to investors, to clients and to their own employees.

Consulting. Outsourcing. Investments.

The spiraling cost of health care has employers of all sizes worried about drowning in red ink.

For many executives, the cost of health care is becoming an increasingly bitter pill to swallow.

Health care costs are accelerating at twice the rate of inflation.

Sure, medical and other benefits can help attract and retain employees. But at what price?

The challenge is finding the right balance between the amount you pay for health care and the need for a healthy, productive workforce.

Failure to do so could leave even the strongest company in a sea of red ink.

IT'S TIME TO CALL MERCER

MERCER

MARSH MERCER KROLL
GUY CARPENTER OLIVER WYMAN

www.timetocallmercer.com

Business Insurance OPINIONS

Employers must calm retirement plan fears

FEAR IS a powerful motivator, and there's plenty of that in the current global economic turmoil.

As we report on page 1, many employers are fielding anxious questions from their retirement plan members, and some workers are shifting their funds around. Call volumes to employee benefit departments have increased even if there is not a commensurate number of fund transactions.

This situation may persist for some time, as the ripple effect of the credit crisis continues. However long it may last, it's important for employers to communicate with plan members and have resources available to answer their questions.

Employers steer clear of providing investment advice, but there is no shortage of that right now from other providers, including retirement plan asset managers. Investing for retirement is a long-term, ongoing process that requires discipline and some basic knowledge.

> *Investing for retirement is a long-term, ongoing process that requires discipline and some basic knowledge.*

Retirement plan sponsors should stress the importance of developing a financial plan that fits the individual, whether the markets are up or down.

Hooray for New York's policy delivery stance

GETTING INSURANCE POLICIES into the hands of risk managers in a timely manner has been one of those issues people have talked about for years. Unfortunately, it's also one of those issues that seems to defy meaningful action.

That's why we're happy to see New York Insurance Superintendent Eric Dinallo tackle the matter head on. As we reported last week, Mr. Dinallo recently sent a circular letter to underwriters and producers doing business in the Empire State that calls on them to develop a way within 12 months to deliver at least 90% of their nonstandard policies to policyholders within 30 days of the policy's inception. As the letter noted, prompt delivery isn't an issue with most standardized policies. It did prove to be a critical issue in the years-long coverage dispute surrounding the destruction of the World Trade Center in 2001. As Mr. Dinallo, who brokered a settlement in that dispute last year, told *Business Insurance*, "They had slips and binders in place, but no policies. That's what the litigation was about."

Mr. Dinallo wants the industry to devise a best practice that helps assure that the overwhelming majority of policies are in risk managers' hands in a reasonable amount of time. He said expecting 100% compliance is unrealistic; there will always be the unusually complicated policy that requires more time. But a target of 90% strikes us as more than reasonable.

The problem has been around for a long time, but a year should be sufficient to devise a solution. We hope other states follow New York's lead. As Mr. Dinallo noted, only litigators gain from prolonged coverage disputes. His initiative should benefit everyone else involved: buyers, producers and underwriters.

WRITE

Business Insurance welcomes letters to the editor. The section is intended to be a forum for readers' opinions and comments. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters.

Please send your letters to:

Letters to the Editor
Business Insurance
360 N. Michigan Ave.
Chicago, Ill. 60601-3806

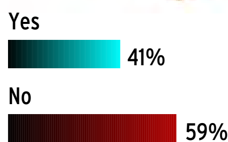
fax: 312-280-3174, e-mail: *rcoccia@businessinsurance.com*

VOTE

in the *BI* Online Poll at *www.businessinsurance.com*

THIS WEEK'S RESULTS

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



NEXT WEEK'S QUESTION

Q: Can New York achieve insurance contract certainty in a year?

BI Online Poll tool is sponsored by Wausau Insurance Cos.

READ

Perspectives and expert analysis online at *www.businessinsurance.com/knowledgecenter*

Anti-assignment clauses require close attention

Nothing should be taken for granted during the due diligence process when investigating whether insurance coverage will transfer to a new owner when a company is reorganized or when an acquisition occurs, says Amy Fink, a Los Angeles-based partner at Howrey L.L.P. This includes making sure all insurers involved in the coverage consent to the transfer of coverage to so-called avoid anti-assignment policy provisions.

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

Associate Publisher/Editorial Director: Paul D. Winston (*Chicago*)

Editor: Regis J. Coccia (*Chicago*)

Editor-at-Large: Jerry Geisel (*Washington*)

Managing Editor: Gavin Souter (*Chicago*)

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

Assistant Managing Editor - News: Matt Scroggins (*Chicago*)

Senior Editors: Roberto Ceniceros (*Boise*); Meg Fletcher, A.R.M. (*Chicago*); Judy Greenwald (*San Jose*); Mark A. Hofmann (*Washington*); Dave Lenckus (*Tucson*); Douglas McLeod (*New York*); Sally Roberts (*Denver*); Joanne Wojcik (*Denver*); Rodd Zolkos–*Industry Focus* (*Chicago*)

Associate Editors: Kristin Gunderson Hunt (*Chicago*); Colleen McCarthy (*New York*); Zack Phillips (*New York*)

Staff Reporter - Interactive: Jeffrey Casale (*Chicago*)

Deputy Graphics Editor: William Murphy (*Chicago*)

Copy Editors: Charmain Benton (*Chicago*); Joe Walker (*Chicago*)

Research Director: Kevin P. Edison (*Chicago*)

Research Editor: Karen Brown Tucker (*Chicago*)

Online Editor: Katherine Downing (*Chicago*)

Online Producer: Amy R. Curtis (*Olathe*)

Assistant Online Producer: Pharaoh Blackwell (*Chicago*)

Editorial Cartoonist: Roger Schillerstrom (*Chicago*)

Editorial Assistant: Allison J. Martinat (*Chicago*)

Advertising Director: Robert A. Raidt Jr. (*New York*)

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

Regional Sales Managers: Russell J. Carpel (*Chicago*); William J. McGuire (*Chicago*); Ron Kolgraf (*Boston*); Todd D. Lockwood (*New York*); Robert B. Murray (*New York*)

Classified Advertising Manager: Monique Murray (*New York*)

Assistant to the Publisher: Pat Ghazvini (*New York*)

Events Manager: Rebecca Briggs (*New York*)

Traffic Coordinator: Sarah Potter (*New York*)

Sales Assistant: Mike Tsikoudakis (*Chicago*)

Production Manager: J. Thomas Janka (*Chicago*)

Circulation Manager: William O'Driscoll (*New York*)

Assistant Circulation Manager: Craig Bowman (*Detroit*)

Promotion Director: Michael Ambrosio (*New York*)

Promotion Coordinator: Barbara O'Brien (*New York*)

EDITORIAL: Boise: 208-286-1425; Chicago: 312-649-5200; Denver: 303-282-4260; London: 44-207-457-1400; Los Angeles: 323-370-2455; New York: 212-210-0100; San Jose: 408-774-1500; Tucson: 520-579-1937; Washington: 202-662-7200

ADVERTISING: Boston: 617-292-4856; Chicago: 312-649-5276; Los Angeles 323-370-2405; New York: 212-210-0133

SUBSCRIPTIONS: Detroit: 888-446-1422

Business Insurance is published by Crain Communications Inc.

Chairman: Keith E. Crain

President: Rance Crain

Secretary: Merrilee Crain

Treasurer: Mary Kay Crain

Executive Vice President/Operations: William A. Morrow

Senior Vice President/Group Publisher: Gloria Scoby

Group Vice President/Technology, Circulation, Manufacturing: Robert C. Adams

Vice President/Production & Manufacturing: Dave Kamis

Crain's Corporate Circulation Director: Patrick Sheposh

Chief Information Officer: Paul Dalpiaz

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

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

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

Published weekly at 360 N. Michigan Ave., Chicago, Ill. 60601-3806, Fax: 312-280-3174, *biweb@crain.com*. Offices: 711 Third Ave., New York, N.Y. 10017-5806, Fax: 212-210-0704; Suite 814, National Press Building, Washington, D.C. 20045-1801, Fax: 202-638-3155; 6500 Wilshire Blvd., Suite 2300, Los Angeles, Calif. 90048-4947, Fax: 323-655-8157; 967 Bermuda Court, Sunnyvale, Calif. 94086-6750, Fax: 408-774-1155; 21 St. Thomas St., London SE1 9RY, U.K. Fax: +44-(0)20-7457-1440; 7300 N. San Anna Drive, Tucson, Ariz. 85704, Fax: 520-579-3476; 1746 Cole Blvd., Suite 150, Golden, Colo. 80401, Fax: 303-733-9941; 12524 Acuff Court, Olathe, Kan. 66062, Fax: 312 280-3174. 77 Franklin St., Suite 809, Boston, Mass. 02110-1510; Fax: 212-210-0704. $5 a copy and $97 a year in the U.S., $130 in Canada and Mexico (includes GST). All other countries, $230 a year (includes expedited air delivery). Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, *Business Insurance*, 711 Third Avenue, New York, N.Y. 10017-5806. Microfilm copies available: University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48013. Microfiche copies: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For reprints or reprint permission: The YGS Group, 1808 Colonial Village Lane; Lancaster, PA 17601; 800-290-5460, ext. 160; *BusinessInsurance@ reprintbuyer.com.*

To subscribe, Call 888-446-1422, or 313-446-0450 outside the U.S.
www.businessinsurance.com

Insurance
Risk Management

Zurich HelpPoint

One global insurance program for your expanding business. Even for places you've never been.

Zurich HelpPoint is here when you need more than just insurance. So we offer the Zurich Multinational Insurance Proposition (MIP)*. It helps you keep global insurance programs compliant when you expand your business to a new market and expose yourself to new risks. The strength of Zurich MIP lies in a transparent and thorough set of solutions for writing and maintaining global insurance programs in over 170 countries. Our game-changing solution can help you sleep better at night, no matter the time zone. For more details about *Zurich HelpPoint*, visit www.zurich.com

Here to help your world.

Because change happenz℠

In the United States, coverages are underwritten by member companies of Zurich in North America, including Zurich American Insurance Company. Certain coverages not available in all states. Some coverages may be written on a non-admitted basis through licensed surplus lines brokers. Risk engineering services are provided by Zurich Services Corporation.* patent pending.

Travelers loses workers comp coverage dispute

By ROBERTO CENICEROS

SAN FRANCISCO—The 9th U.S. Circuit Court of Appeals has ruled against The Travelers Cos. Inc. in a coverage dispute stemming from a Tosco refinery fire that killed and injured several California workers.

Travelers provided workers compensation insurance for Tosco, according to records in the case of *Travelers Property Casualty Co. of America vs. ConocoPhillips Co.*, as a successor of interest to Tosco Corp.

The court decision does not mention the location of the fire or its date.

As part of a civil lawsuit settlement with the surviving workers and the estates of others, Tosco agreed, without the express consent

of Travelers, to waive the right to a statutory credit against future workers compensation benefits, court records show.

Tosco paid to settle the civil suit, and the California Workers' Compensation Appeals Board awarded workers comp benefits for the injured and deceased workers.

Travelers, which paid $1.4 million in workers comp benefits and estimates it will pay $2.1 million more in future payments, petitioned the WCAB for a credit of the civil settlement against its future benefit costs, court records show.

The WCAB denied the petition, finding Tosco waived Travelers' right to a credit. Travelers then sued, alleging Tosco breached its policy by including the waiver in the settlement. Travelers sought compensatory damages and a declaration that Tosco must pay any post-settlement workers comp benefits, court records show.

A district court granted a Tosco motion for a summary judgment and ordered Travelers to pay $7,591 in costs.

The appeals court last Monday affirmed the district court's judgment, concluding that the provisions of Traveler's policy are unambiguous and support Tosco's position that its waiver of the statutory credit did not breach the policy's provisions.

Home Business Insurance • Inland Marine • Marine • Property Facultative Reinsurance CASUALTY INSURANCE | Commercial Auto • Commercial Umbrella • Directors & Officers • Employers Indemnity • Employment Practices Liability • Executive Products • General Liability • Personal Umbrella Policy • Specialty Programs • Transportation SURETY | Commercial Surety • Contract Surety • Miscellaneous Surety • Oil & Gas Surety PROPERTY INSURANCE | Commercial Earthquake & DIC • E&S Property • Hawaii Homeowners •

We've always been different.
And that's good for you.

RLI®
DIFFERENT WORKS

RLI isn't like other specialty insurance companies. We serve niche markets that most standard insurance companies don't have the resources or expertise to handle. We start by recruiting the industry's most experienced, talented underwriters, who understand the importance of building personal relationships with the brokers, agents, and customers they serve. We give them the support, freedom, and authority to create innovative solutions within the specialty lines they know best. Our entrepreneurial business model also sets us apart. It's flexible, so we can quickly enter markets and create new products and solutions. At RLI, we're different—and that's good for everyone.

To learn more about RLI's people and products, visit different.rlicorp.com

A+ BEST

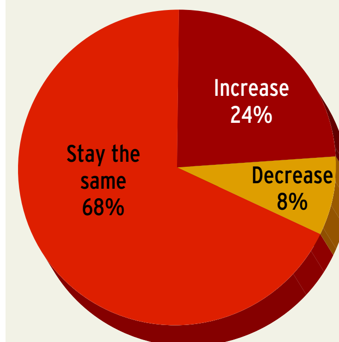
Corporate counsel see surge in litigation for 2009

By ROBERTO CENICEROS

With the economy ailing, more than one-third of in-house counsel expect new litigation to surge during 2008, according to a recently released survey.

The banking crisis, credit squeeze and subprime mortgage market problems are all expected to help fuel various forms of litigations, according to the 2008 Litigation Trends Survey sponsored by the international law firm Fulbright & Jaworski L.L.P.

REGULATORY PROCEEDINGS EXPECTED TO RISE IN 2009



Source: Fulbright & Jaworski L.L.P.

The fifth annual survey also found that insurance companies are now the primary target for new litigation, followed by retailers. The findings showed that 85% of insurance companies faced at least one new lawsuit last year, with 67% facing six or more new suits.

In contrast to the 2008 findings, only 22% of in-house counsel reported during a 2007 Fulbright & Jaworski survey that they expected an increase in legal disputes for their company in the 12 months ahead.

"This year's survey appears to mark an inflection point for American business, between the end of a prolonged period of prosperity and the start of a period of economic challenge that is likely to fuel litigation over who is to blame and who should pay for the consequences," said Stephen C. Dillard, chairman of Fulbright's global litigation practice.

The survey was conducted from May 22 through July 18 and relied on responses from 358 in-house attorneys from corporate law departments in the United States and the United Kingdom, including 251 in the United States. Results are available at *www.fulbright.com*.

Insurance
Risk Management

We provide claims handling specialists for those not-so-special moments.

Zurich HelpPoint is here when you need more than just insurance. That's why the moment you need help, we engage a deeply experienced claims team with an understanding of your company and your specific needs. They can quickly assess the damage and start the recovery process right away. We understand that besides repairing physical damage, a quick response restores what you need just as much; your confidence. For more details about *Zurich HelpPoint*, visit www.zurich.com

Here to help your world.

In the United States, coverages are underwritten by member companies of Zurich in North America, including Zurich American Insurance Company. Certain coverages not available in all states. Some coverages may be written on a non-admitted basis through licensed surplus lines brokers. Risk engineering services are provided by Zurich Services Corporation.

LONE STARR

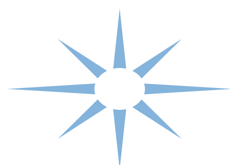
At C.V. Starr & Co., Inc., we are totally independent
of any other corporate entity.

We are financially independent. And financially strong.

Starr Underwriting Agencies, LLC – our collection of specialty insurance agencies including C.V. Starr & Company, Starr Aviation, Starr Global Accident & Health, Starr Marine, and Starr Tech – have more than 55 years of experience in assessing complex risk and providing unmatched, customized service.

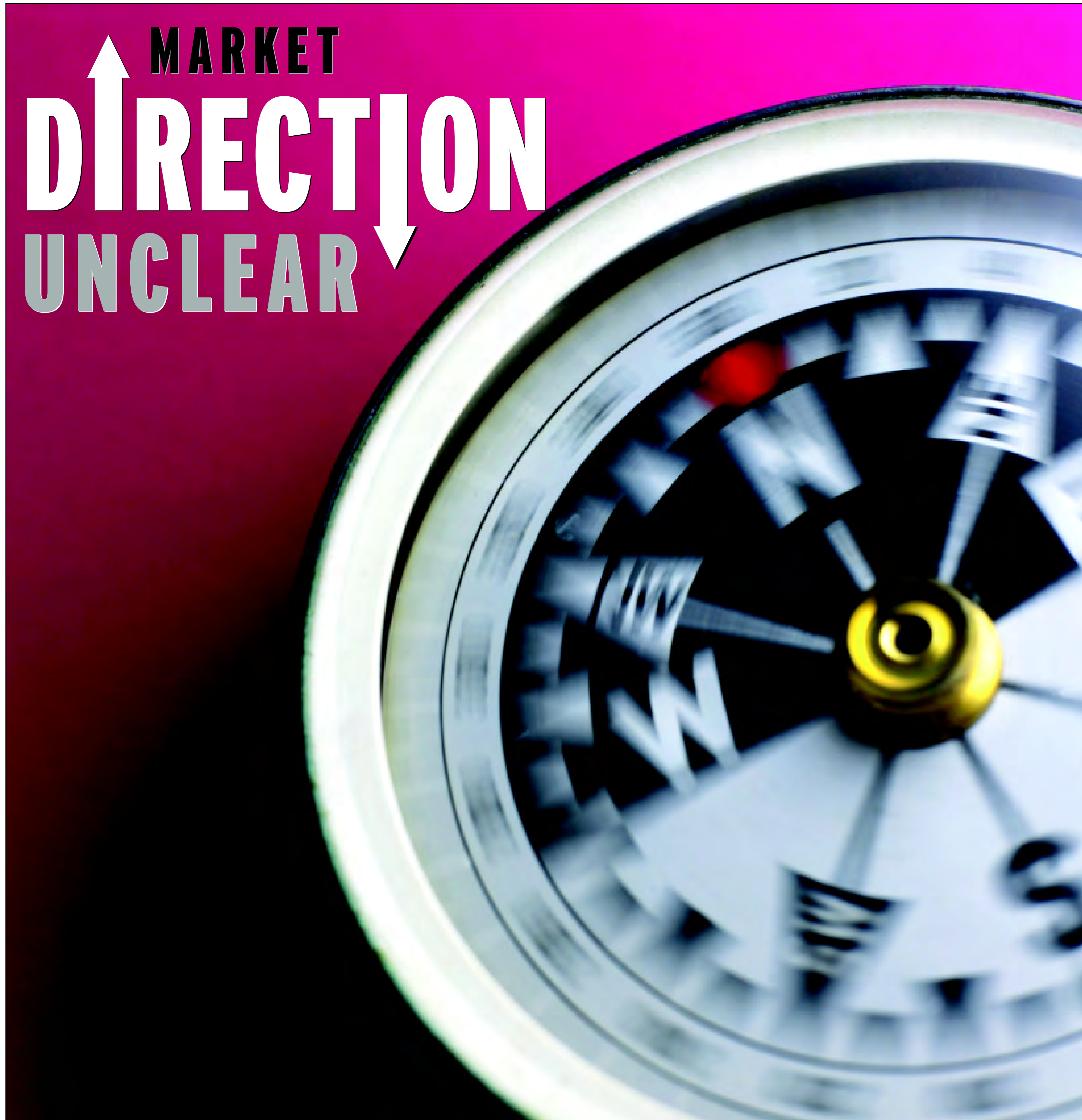
In today's financial environment, it's more important than ever
to choose independence, and financial stability.

That's why you should look to a Starr.



C. V. STARR & CO., INC.

cvstarrco.com



Reinsurance:
Trends & Issues

SPOTLIGHT

FINANCIAL MELTDOWN HITS REINSURER RESULTS PAGE 16
RANKING: LARGEST REINSURANCE BROKERS PAGE 18
RESERVE REDUNDANCIES START TO DRY UP PAGE 20
PRIMARY INSURERS' RETENTIONS LEVELING PAGE 22
AIG TURMOIL NOT AFFECTING REINSURERS PAGE 24
OPPOSING FORCES INFLUENCE M&A ACTIVITY PAGE 26
REVIVAL PLANS PROCEED FOR N.Y. EXCHANGE PAGE 28
ELECTRONIC PLACEMENTS GAINING TRACTION PAGE 30
CAT BOND MARKET SLOWS FROM RECORD 2007 PACE PAGE 32

Reinsurers under pressure as losses mount

As storms, investments hit financial results, views vary on pricing

By JUDY GREENWALD

The prevailing mood of the reinsurance market is one of uncertainty.

There is clear agreement that reinsurer results have already weakened, that results will be further hurt by hurricane losses, that the reserve redundancies that have been boosting results are diminishing and that the financial crisis will cut into reinsurers' investment income.

But whether the market will harden, remain flat or continue to soften remains unclear.

"There's a very strange kind of unsettled feeling in the market right now," said Richard DiClemente, president and chief executive officer of New York-based THB Intermediaries Inc. "People are not quite sure of the stability of certain companies going forward. There's a question as to whether or not prices are going to change or not change, and you don't get a sense that people feel as much in control of their destiny as they did prior to the events of the last several months."

"There's so much going on at the moment," said Chris Klein, head of the business intelligence group at Guy Carpenter L.L.C. in London, a subsidiary of New York-based Guy Carpenter & Co. Inc. "There are a number of factors in play that could certainly stabilize the market. Does that mean we're going to see an uptick in pricing? I don't know."

And considering the near-collapse of American International Group Inc., people are worried about what will happen next, said Steven K. Bolland, president of New York-based reinsurance intermediary Gill & Roeser Inc.

Meanwhile, reinsurers' financial results were deteriorating even before the subprime crisis fully hit, say observers.

The overall reinsurance market has "continued to show a decline in revenues, which we've been seeing quarter by quarter by all the reinsurers and most brokers," said Michael D. O'Halleran, executive chairman of Aon Re Global in Chicago.

Mr. DiClemente said, "It would have to be a stretch of the imagination to think companies are not going to reassess how they are pricing their product going forward, given all these developments over the past several months."

Some experts, however, expect rates to harden.

"It is our view that the market has turned," said Anthony Kuczinski, CEO of Princeton, N.J.-based Munich Re America. "We see this financial crisis, combined with the cat environment we've been in for this year, as being market-turning events. No question about it."

"I would certainly say there's a trend to higher rates in the reinsurance arena," Mr. O'Halleran said, "and it's really predicated on making sure that the reinsurers are get-

See TRENDS next page

NEXT SPOTLIGHT Nov. 3: Liability & Litigation

Trends: Reinsurance market uncertain on future direction of prices

CONTINUED FROM PREVIOUS PAGE

ting the right rates of return on their capital, and that will vary by individual reinsurer."

With the expected significant losses from Hurricane Ike, combined "with the thought that a lot of people aren't going to make much, if any, investment income this year," Mr. Bolland said he expects that "there'll be a determined effort by most reinsurers to try to raise pricing that's considered inadequate." But he questioned whether they will succeed and if the market can maintain discipline.

"If I was advising my clients on how they should budget for 2009, I would tell them to budget for a 5% increase in their reinsurance costs," Mr. Bolland said.

Gregory S. Hendrick, Hamilton, Bermuda-based president and chief underwriting officer of XL Re, a unit of XL Capital Ltd., said, "It looks like at worst, rates will be flat," and there is "probably going to be upward movement, as more people start to price risk."

Many other observers also predict flat rates.

Paddy Jago, New York-based CEO of Willis Re Inc., the reinsurance unit of Willis Group Holdings Ltd., said that given the impact of financial disruption in the marketplace, the deterioration in investment returns, the general reduction in capital on balance sheets and increasing inflation, rates probably will not soften further, but likely will stabilize or increase slightly at the end of the year.

> **'It looks like at worst, rates will be flat,' and there is 'probably going to be upward movement, as more people start to price risk.'**
>
> Gregory S. Hendrick, XL Re

Paul Newsome, a managing director with Chicago-based investment firm Sandler O'Neill & Partners, said insurers "believe they are going to get modest price declines," while the reinsurers believe prices will be flat and "seem to be pretty stubborn" about it.

That stability will "probably continue for the foreseeable future," he said. "The reinsurers have reached the point where they don't want to lower prices any more, so it seems to be a supply-driven situation," and absent any major change in the market, such as new competitors, "I don't see why it would change."

"I just don't feel the drumbeat of a market turn," said Paul Karon, CEO of Benfield Group Ltd.'s U.S. division in Minneapolis. "People are half-heartedly talking about rates going up," but usually more fear is expressed before prices spike.

"We don't anticipate a hard market by any means," but "we could be nearing a floor with respect to rate decreases," depending on line of business and experience, said Patrick J. Denzer, president and CEO of Minneapolis-based John B. Collins Associates Inc.

Property business may see a slight decrease for companies outside a peak zone, said William H. Eyre Jr., managing director and CEO of Philadelphia-based Towers Perrin Reinsurance, but "the more likely outcome is pricing as expiring" or increases, depending on actual experience. And casualty will follow property, he said.

But others maintain the market will continue to soften.

Capacity is still plentiful, and the market is very competitive. Absent a big catastrophe, "it doesn't look like a whole lot of change" has occurred in the market, said John Berger, CEO of Hamilton, Bermuda-based Harbor Point Ltd.

While rates for financially oriented lines, including directors and officers liability and errors and omissions, may be increasing, elsewhere there has been a "slow, steady, decline," with rates down 5% to 10%, said Mr. Berger.

The situation will continue "until there's some kind of capacity crunch, until there's a change in the supply-and-demand question," he said.

"I think we're looking at just a continued, steady decline in pricing," said Cliff Gallant, an analyst with Keefe, Bruyette & Woods Inc. in New York. "The hurricane season we've seen so far" has led to $15 billion to $20 billion in losses.

"While it's serious, it doesn't seem to be enough to have taken out excess capital, so aside from the directly impacted reinsurance organizations, I would expect softening to continue, with declines in the area of 5% to 10%," he said. "I think the underwriting profitability's proven itself to be pretty good, and the industry has not taken a lot of risk."

Mark Rouck a Chicago-based senior director at Fitch Ratings Ltd., said he doesn't see anything to change the trend of softening rates in most lines. "In some lines, such as E&O and D&O, (where) you could really tie something to what's going on in the capital markets, there might be some upward pressure…but it's a little hard to see, right now, whether that's working its way into reinsurance rates yet."

"I think there's definitely continued softening," said Steve McElhiney, president of Dallas-based reinsurance intermediary EWI Inc. "We're focused more on regional and smaller accounts, and from that standpoint there still is very much a reinsurance buyer's market."

A SINGULAR POINT OF VIEW.

IT'S HOW WE DELIVER MAXIMUM FLEXIBILITY AND A HIGH DEGREE OF CONTROL.

At Discover Re, we've never been ones to follow the crowd. That's why, for us, separating the purchase of an insurance policy from the services that support the program is the norm, not the exception. This dedicated, "unbundled" approach provides our customers with a proven method to contain costs. And allows us to design truly custom risk management programs that give clients exceptional flexibility and control. To learn more about the benefits of working with the ART provider whose thinking is as "unbundled" as our programs, visit www.discover-re.com.

Unbundled ART: captives/deductibles/sirs/fronts

DISCOVER RE

A Travelers company

XL

The strength and product diversity
to deliver intelligent solutions

The XL Insurance companies offer a broad range of products that include:

PROPERTY
Global All Risk Property Damage & Business Interruption
Energy & Construction All Risk

CASUALTY
Primary Liability
Automobile Liability
Workers Compensation
Global Public & Products Liability
Homebuilders / Construction
Umbrella & Excess Liability

PROFESSIONAL
Directors & Officers
Employment Practices Liability
Errors & Omissions

SPECIALTY
Aviation & Space
Cash In Transit
Environmental Liability
Equine
Fine Art
Jewelers Block
Marine & Marine Cargo
Programs

You can be confident in our knowledge and reputation. In the *2007 Flaspöhler Survey of Risk Managers,* XL Insurance scored in the top quartile in all seven key performance areas including financial strength, underwriting capabilities, and claims payment.

For product details, visit
www.xlinsurance.com
or call 800-609-2518.

The XL Insurance companies have one or more of the following ratings:
A+ by S&P
A (Excellent) by A.M. Best
A1 by Moody's

Experience our strength:
www.xlinsurance.com

XL INSURANCE
FUNDAMENTAL STRENGTH – CAPITAL AND PEOPLE

"XL Insurance" is a registered trademark of XL Capital Ltd. XL Insurance is the global brand used by member insurers of the XL Capital Ltd group of companies. In the US, the XL Insurance companies are: Greenwich Insurance Company, Indian Harbor Insurance Company, XL Insurance America, Inc., XL Insurance Company of New York Inc., XL Select Insurance Company, and XL Specialty Insurance Company. Not all of the insurers do business in all jurisdictions nor is coverage available in all jurisdictions. Ratings accurate as of August 25, 2008.
Location: White Cliffs of Dover, Beachyhead, United Kingdom

Financial meltdown may trigger reinsurance rate increases

Investment losses raise some concerns over capital needs

By JUDY GREENWALD

Reinsurance officials and others say the most immediate effect of the financial market meltdown has been on reinsurers' investment income.

This may hasten a turn in overall market pricing and change how reinsurers operate, some observers say.

Should there be a major catastrophe, reinsurers seeking additional capital may have a difficult time finding it, many observers say.

"I don't think (the financial market turmoil is) going to have a major, overall lasting effect" on reinsurers in terms of business or risk appetite, said Steve McElhiney, president of Dallas-based reinsurance intermediary EWI Inc.

But Paul Newsome, a managing director with investment firm Sandler O'Neill & Partners L.P. in Chicago, said, "There's going to be a lot of companies, both insurers and reinsurers, looking at statutory statements at the end of the year and realizing the (surplus) number is a lot lower than they thought."

The industry's surplus is "already down $25 billion" for the first half of this year vs. last year, "so the third quarter is not going to be any better than the second quarter," Mr. Newsome said.

"Investment losses will be a contributing factor to many companies having substantially lower third-quarter earnings, and some may face more significant declines than others," said Damien Magarelli, a director at New York-based Standard & Poor's Corp. It is a "fluid situation, so we're evaluating those trends and characteristics."

All this could affect rates, observers say.

"Every insurance and reinsurance company obviously has an investment portfolio," said Michael D. O'Halleran, executive chairman of Aon Re Global in Chicago, "and whether they're in bonds or in equities, the marketplace has gone down, and therefore the asset base of the companies goes down, and so you continually write down the value of your asset base.

"That has an impact on your overall capital position in what you can write, how much, where," all of which comes under rating agency scrutiny, Mr. O'Halleran said.

"Capital bases are going to be under pressure and that's going, in some way, to make it even more important that they earn underwriting income, and so that could provide some uplift in rates," said Mark Rouck, a senior director at Fitch Ratings in Chicago.

"One thing we're looking at more closely is just reinsurers' ability to obtain letters of credit, and things of that nature, to collateralize their reinsurance recoverables," he said. "And just given what's going on with the banks and the capital markets in general, it seems that could be an area where it's harder to obtain that type of collateral."

However, Cliff Gallant, an analyst with Keefe, Bruyette & Woods Inc. in New York, said he sees investment returns having a limited effect.

"I think from the U.S. point of view, whether it be Gen Re or the Bermudians, the balance sheets have been pretty conservative, so the industry is in pretty good shape. I don't think we'll see a huge impact" from the subprime crisis, Mr. Gallant said.

> **'I don't think (the financial market turmoil is) going to have a major, overall lasting effect' on reinsurers in terms of business or risk appetite.**
>
> Steve McElhiney, EWI Inc.

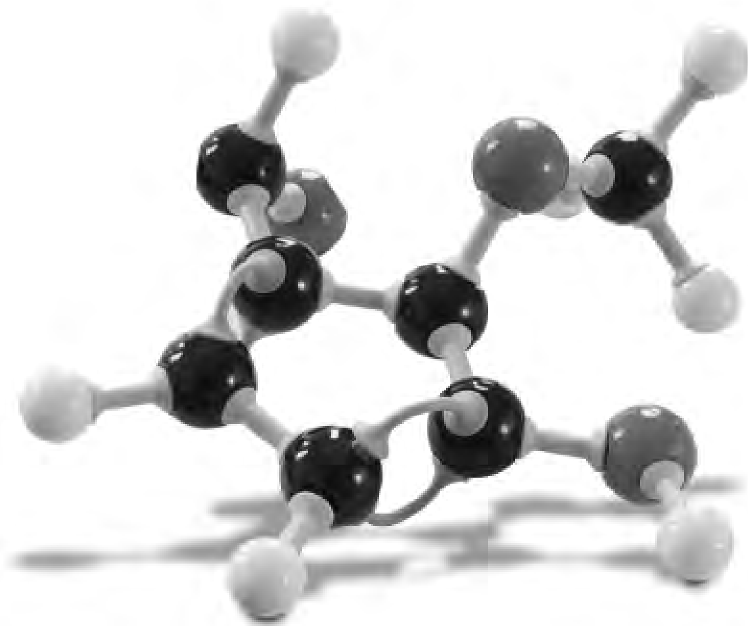
Should there be a major catastrophe yet this year, additional capital may not be readily available to reinsurers, said John L. Ward, CEO of Cincinnatus Partners L.L.P. in Cincinnati. "It's a tight market now. If a major catastrophe occurred right now, it would be very difficult for anybody to replenish capital because of the meltdown we're working through," Mr. Ward said.

Gregory S. Hendrick, Hamilton, Bermuda-based president and chief underwriting officer of XL Re, a unit of XL Capital Ltd., agreed. "That's the main reason, I think, you're going to see increasing pricing," he said. "It's the realization the capital you do have to put to use is going to be very dear," and, because of this, it will be difficult to deploy and generate the right return on it.

"I think the major impact will be a number of reinsurers are just going to have to think differently about capital needs," said William J. Adamson, CEO of Carvill America Inc. in Chicago. "The days of easy credit and easy capital raising are probably gone, so they may have to manage their balance sheets a lot differently."

While raising additional capital

See SUBPRIME page 20



Highly Knowledgeable.

Locke Lord Bissell & Liddell is known as one of the world's premier law firms for reinsurance companies. We understand the intricate science of reinsurance. Our team's deep industry experience, innovative thinking, and hard work provide clients with rock-solid advice and solutions for every type of reinsurance dispute or transaction. It's a subject we know on a molecular level.

www.lockelord.com

LLB&L
Locke Lord Bissell & Liddell LLP
Practical Wisdom, Trusted Advice.

Atlanta, Austin, Boston, Chicago, Dallas, Houston, London, Los Angeles, New Orleans, New York, Sacramento, Washington D.C.

©2008 Guy Carpenter & Company, LLC

Align your capital in a decisive and profitable formation.

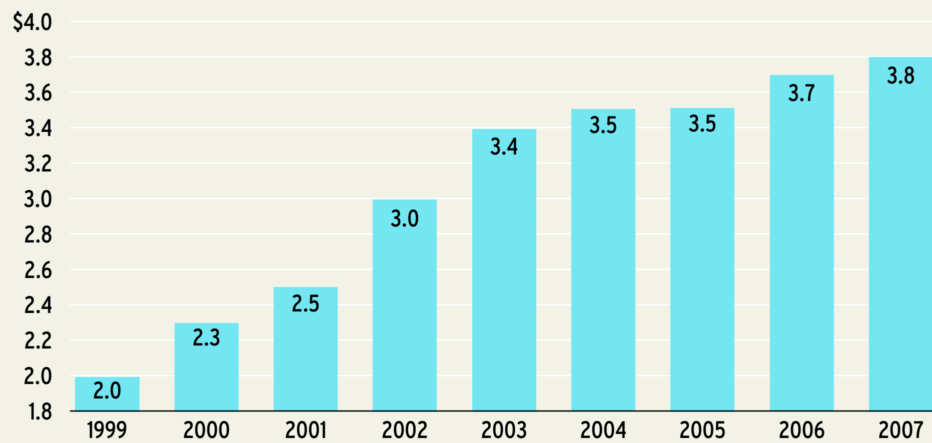
The sheer number of factors needed to successfully navigate today's turbulent marketplace is staggering. Guy Carpenter combines 85 years of experience with the industry's most innovative tools for risk assessment and capital allocation to help you formulate strategies with confidence. We work with you to align your capital across your organization, so you can seize every opportunity to generate more profit. Contact Guy Carpenter or visit us at **gccapitalideas.com.**

Capital Ideas. GUY CARPENTER

MMC MARSH MERCER KROLL GUY CARPENTER OLIVER WYMAN

GROWTH IN REINSURANCE BROKERAGE REVENUES

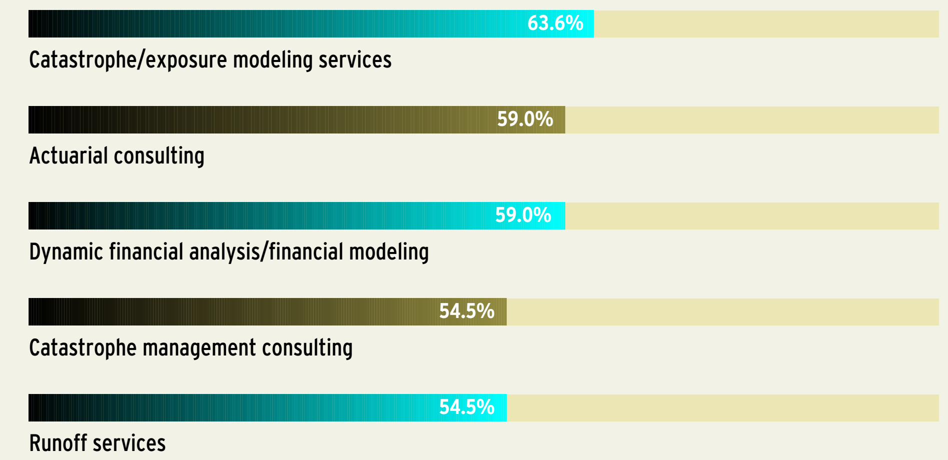
As a group, the world's 10 largest reinsurance brokers have seen a steady gain in brokerage revenues since 1999. In billions of dollars.



Source: BI survey

SERVICES PROVIDED BY REINSURANCE BROKERS

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



Source: BI survey

World largest reinsurance brokers

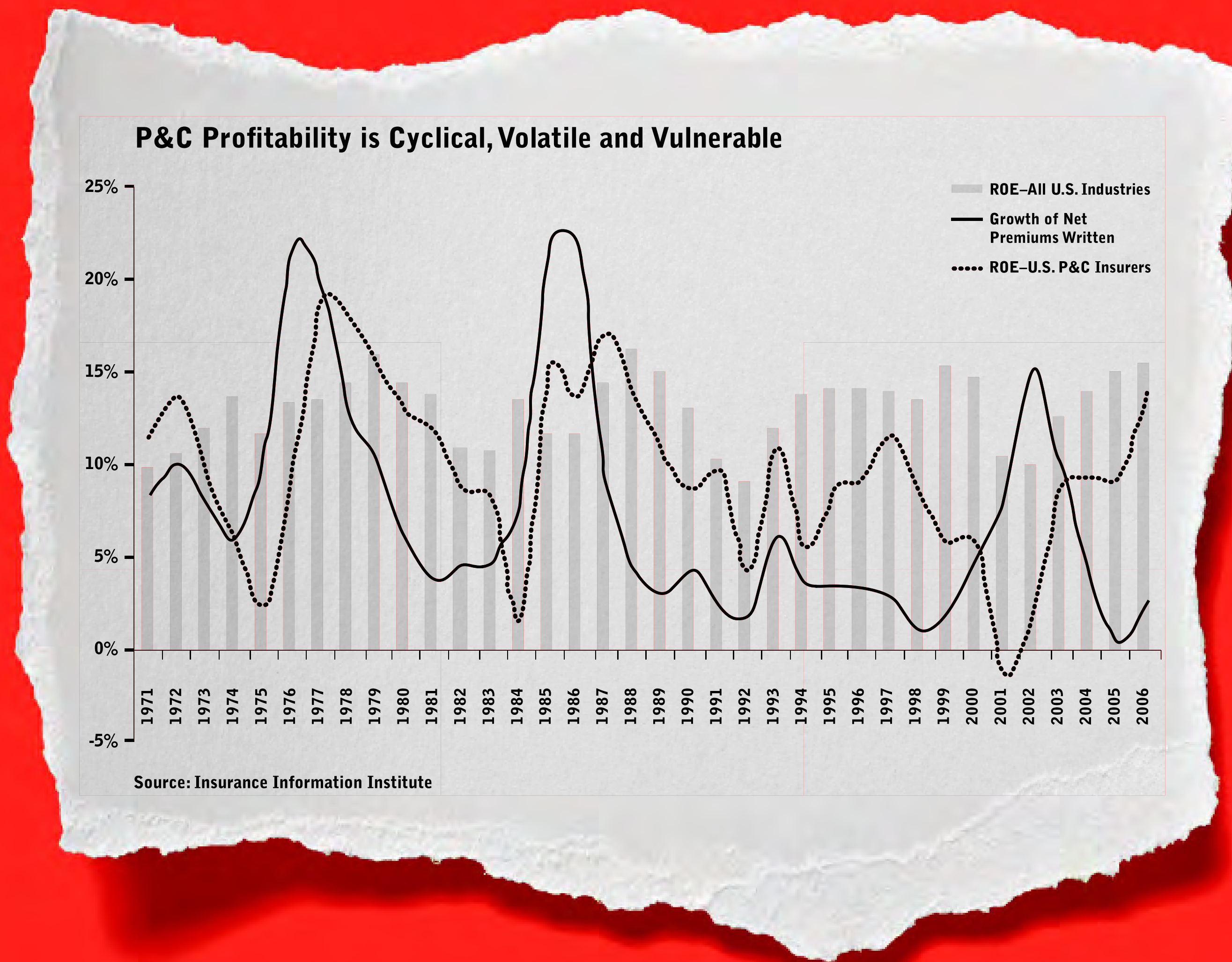
*Ranked by 2007 gross revenues from reinsurance brokerage and related services**

Rank	Company/Address	Phone/Web site	2007 reinsurance gross revenues	2006 reinsurance gross revenues	% change	2006 reinsurance employees	Principal officers
1	Aon Re Global [1] Aon Center, 200 E. Randolph St., Chicago, Ill. 60601	312-381-5300 *www.aon.com*	$975,000,000	$942,000,000	3.5	2,670	Andrew Appel, CEO
2	Guy Carpenter & Co. L.L.C. 1 Madison Ave., Fourth Floor, New York, N.Y. 10010-3658	917-937-3000 *www.guycarp.com*	$901,000,000	$880,000,000	2.4	2,627	Peter Zaffino, CEO
3	Benfield Group Ltd. [1] 55 Bishopsgate, London EC2N 3BD England	44-207-578-7000 *www.benfieldgroup.com*	$679,078,400 [2]	$654,960,020 [3]	3.7	2,000	Grahame Chilton, group CEO
4	Willis Re 51 Lime St., London, EC3M 7DQ England	44-203-124-6000 *www.willisre.com*	$606,200,000	$597,700,000	1.4	1,282	Gary Schmalzriedt, chairman-Willis Re
5	Towers Perrin Centre Square East, 1500 Market St., Philadelphia, Pa. 19102-4790	215-246-1600 *www.towersperrin.com*	$167,250,000	$165,700,000	0.93	438	William H. Eyre Jr., managing director
6	Cooper Gay (Holdings) Ltd. 52 Leadenhall St., London, EC3A 2EB England	44-207-480-7322 *www.coopergay.com*	$136,200,000	$133,660,000	1.9	487	Toby Esser, CEO
7	Jardine Lloyd Thompson Group P.L.C. 6 Crutched Friars, London EC3N 2PH England	44-207-466-1300 *www.jltre.com*	$124,124,000 [2]	$118,530,620 [3]	4.7	N/A	Dominic Burke, group chief executive
8	John B. Collins Associates Inc. 8500 Normandale Lake Blvd., Suite 2400, Minneapolis, Minn. 55437	952-820-1000 *www.collins.com*	$70,300,000	$64,400,000	9.2	190	Patrick J. Denzer, president/CEO
9	BMS Group 1 America Square, London, EC3N 2LS England	44-207-480-7288 *www.bmsgroup.com*	$69,618,975 [2]	$74,733,735 [3]	-6.8	314	Hugo Crawley, group chairman
10	UIB Holdings Ltd. 69 Mansell St., London, E1 8AN England	44-207-488-0551 *www.uib.co.uk*	$39,989,950 [2]	$33,688,135 [3]	18.7	203	Bassem Kabban, CEO

*Includes all reinsurance revenue reported through holding and/or subsidiary companies.
1 Aon Re Global has entered an agreement to purchase Benfield Group Ltd. The deal is expected to be completed in the fourth quarter of 2008. 2 Fiscal year 2007 British pound=$2.0020.
3 Fiscal year 2006 British pound=1.8434.
Source: *BI* survey
Researched by Kevin Edison and Karen Tucker

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

We believe straight talk can lead to steady bottom lines.



Soft markets follow hard markets. Hard markets follow soft markets. Historically, this cyclical nature of the insurance business has created uncertainty and instability in capacity and results.

To mitigate this volatility, reinsurers must be able to look beyond short-term cyclical pressures to provide the value of long-term security for clients. At PartnerRe, we strive to evaluate, assume and manage risk intelligently and consistently, irrespective of the market cycle.

We accomplish this with a technical underwriting approach, coupled with open and frank dialogue with clients about their risk exposures and our risk parameters. We believe this is the only way to ensure continuity of offer and consistent capacity for our clients over the cycle.

It is only through straight talk, mutual respect and consistent underwriting that we can best serve our clients needs and provide the unquestionable security they require.

PartnerRe

For an opportunity to find out more
or share your viewpoint visit:
partnerre.com/viewpoint

Reinsurers' reserves seen as solid, but profits-boosting value dwindling

Recent redundancies in reinsurer reserves now running short

By JUDY GREENWALD

The reserve redundancies that have helped boost reinsurer results the past few years are running out, observers say.

But reserves nevertheless remain in good shape, they say.

Chris Klein, head of the business intelligence group at Guy Carpenter L.L.C. in London, a subsidiary of New York-based Guy Carpenter & Co. Inc., said, "We've been seeing a steady flow of releases" from reserves over the past couple of years, particularly in 2007, as loss ratios were "creeping up." Generally speaking, these reserves were released from years after Sept. 11, 2001.

But these are a "finite resource," he said. "We're probably approaching the stage where a high level of support from that source's earnings is probably less likely." However, he added, "I think the general feeling is reserves are probably in good order."

Damien Magarelli, a director at New York-based Standard & Poor's Corp., said the market's "ability to build up reserve redundancies really took place in '06 and '07. So in a general sense, the redundancies that companies carry now would be at a much lower level from what it was 12 months or 24 months ago, absolutely."

That means reinsurers' "calendar-year performance will be more in line with current-year accident performance, which is why this issue of pricing is even more critical, because companies will not be able to release the same amounts from reserves that they would have been able to in the past," Mr. Magarelli said. However, "we've not identified reserve deficiencies as a significant factor."

John L. Ward, chief executive officer of Cincinnatus Partners L.L.P. in Cincinnati, said reserves are "generally strong. In recent months, there's been a slight drawdown of redundant reserves coming through the results. The view is those days (of reserve redundancies) are about over, and reserves are approaching the point where they should be, and that there's no more redundancy to take down."

"My judgment is that reserves in general, both primary and reinsurance, are still more than adequate—perhaps not as adequate as they were last year, but that they're still in a pretty comfortable situation," said Paul Newsome, a managing director with Sandler O'Neill & Partners L.P. in Chicago.

Howard Mills, New York-based chief advisor of the global insurance industry practice at Deloitte & Touche USA L.L.P, said reserves seem "to be very solid, and we haven't seen any insolvency issues." There was a lot of discussion about redundant reserving a year ago, but "I don't think we're going to hear that term any time in the near future."

Steven K. Bolland, president of reinsurance intermediary Gill & Roeser Inc. in New York, said he's not seeing reinsurers adding to their reserves currently. "But it's fairly typical in a softening market that people tend to be more optimistic about their reserve levels, right or wrong. A good way to show a better return is to release some reserves," he said.

Actuaries typically suggest a range of reserves.

"Historically, companies tend to reserve more in hard markets than soft markets, and we're definitely in soft market in the moment," Mr. Bolland said.

Subprime: Capital ideas

CONTINUED FROM PAGE 16

"could be done," Mr. Gallant said, "I think the market would be very selective as to who would get more capital." After Hurricane Katrina, everyone was able to raise capital, he said, "but it's a very different marketplace this time."

Chris Klein, head of the business intelligence group at Guy Carpenter L.L.C. in London, a subsidiary of New York-based Guy Carpenter & Co. Inc., said: "It depends which source they're going to go to, and it depends on how much capital is deployed and, therefore, how much rates are expected to go up.

"If there was a major catastrophe and it was going to result in a dramatic turnaround in prices," private equity funds may be interested, although "loan capital is going to be in short supply," Mr. Klein said. Hedge funds have "probably been hurt by what is happening in the market," he said.

Steven K. Bolland, president of New York-based reinsurance intermediary Gill & Roeser Inc., said capital does exist.

"There's still capital out there in the right circumstances. A lot of people are keeping their powder dry, just because they're not seeing a lot worth investing in at the moment," Mr. Bolland said. "But there's still a lot of cash out there. So if the market changes to the extent where people viewed it as being very attractive, I think you'll see all sorts of money coming in."

The financial market crisis also could affect the directors and officers and errors and omissions markets.

'There's still capital out there in the right circumstances. A lot of people are keeping their powder dry, just because they're not seeing a lot worth investing in at the moment.'

Steven K. Bolland, Gill & Roeser Inc.

"You've got to figure a pretty big impact" on the D&O and E&O markets, "but it's still early days," said John Berger, CEO of Hamilton, Bermuda-based Harbor Point Ltd. "Right now, I think a lot of companies" on both the primary and the reinsurance side "are kind of operating business as usual."

OUR NAME HAS CHANGED OUR AMBITION REMAINS THE SAME

PROVIDE HIGH QUALITY SERVICE THROUGH OUR INTERNATIONAL NETWORK OF EXPERTS

Our determined efforts over the past years, as well as those of our investors, have culminated in the creation of PARIS RE, a new company with a European heritage combining a well established business model with newfound financial flexibility.

The technical expertise of our international teams, combined with their knowledge of local markets, enable us to meet your needs for innovative reinsurance solutions.

We are committed to providing you with the service you expect, wherever you are, whatever your request.

PARIS RE

Talented people serving you

www.paris-re.com

Design Media - Illustration Etienne Grès

UNLEASH IMAGINATION.

MAKE PROGRESS.

Let ACE take on the responsibility of risk. Our expert underwriting, superior claims handling and local market experience free you to focus on the possibilities, not the liabilities. Learn more at **insuringprogress.com**

▲ PROPERTY & CASUALTY ▲ ACCIDENT & HEALTH ▲ LIFE | INSURING PROGRESS®

© 2007 Coverages underwritten by one or more of the ACE Group of Companies. Not all coverages available in all jurisdictions.

Primary insurers may be losing appetite for higher retentions

Financial turmoil, hurricane could firm reinsurance pricing

By JUDY GREENWALD

Retention levels among primary insurers are either leveling off or are expected to do so soon, many observers say.

"Primary companies in general were retaining more business in the last few years," said Damien Magarelli, a director at New York-based Standard & Poor's Corp. "With strong earnings, they were keeping more business" particularly at lower levels of volatility "and buying more reinsurance at a higher level."

This is why reinsurance rates declined, said Mr. Magarelli, as demand for reinsurance declined and rates charged by reinsurers reflected risk that was "further removed from primary-level frequency trends," he said.

"With the current market, to the extent that primary companies have weaker earnings, that could mean they will not have the same type of appetite" to retain that risk at the primary coverage level. "But we've not seen a dramatic change in that yet," although that potential remains at the Jan. 1 renewals, Mr. Magarelli said.

Retentions are a "big question," said Chris Klein, head of the business intelligence group at Guy Carpenter L.L.C. in London, a subsidiary of New York-based Guy Carpenter & Co. Inc.

"Will primaries be hurt on results" and therefore want to decrease their retentions? Or "has there been so much pressure on their earnings that they want to try to keep as much cash in the business as possible?" he asked.

Another possible development is that insurers' capital has been so eroded by poor investment returns and write-downs that they turn to reinsurance to reduce the pressure on their surplus. "There's so many different sides to the argument," Mr. Klein said.

"We see many companies evaluating their risk appetite," said William H. Eyre Jr., managing director and chief executive officer of Philadelphia-based Towers Perrin Reinsurance. "Some may buy down their retention in certain lines; others may stay status quo, but we don't see a big trend of increasing retentions as in the past renewal seasons."

Some observers say demand for reinsurance may increase. The need to protect their capital position "makes reinsurance a very appealing form of capital" for primary insurers, said Anthony Kuczinski, CEO of Princeton, N.J.-based Munich Re America.

Furthermore, damage resulting from Hurricane Ike earlier this year means "they're going to look at their exposure to big events," which could also lead to less retentions, Mr. Kuczinski said.

Michael D. O'Halleran, executive chairman of Aon Re Global in Chicago, said he believes primary insurers' retentions are leveling off. "I do believe that with the fragility of the economy that, in fact, numerous companies' investment portfolios are being written down." As a result, "I think the dependence on reinsurance will become greater," he said.

'I do believe that with the fragility of the economy that, in fact, numerous companies' investment portfolios are being written down.' As a result, 'I think the dependence on reinsurance will become greater.'

Michael D. O'Halleran,
Aon Re Global

A series of smaller but damaging storms in the Midwest this year also could boost primary insurers' retentions, said Gregory S. Hendrick, Hamilton, Bermuda-based president and chief underwriting officer of XL Re, a unit of XL Capital Ltd. Particularly among insurers with Midwest exposures, Mr. Hendrick said he anticipates primary insurers may seek aggregate solutions to pick up all these losses in a year, rather than just large single events.

Even so, Steven K. Bolland, president of New York-based reinsurance intermediary Gill & Roeser Inc., said reinsurance pricing remains favorable to buyers.

"There is really no reason to increase your retention in a softening market because the reinsurance costs are technically attractive. You really only increase your retention when you think that the pricing of the reinsurance product is too high, and you'd be better off taking more and paying less," Mr. Bolland said. "At the moment, that isn't the case, therefore, retention levels have leveled off and will continue stabilizing until pricing goes up considerably."

Richard DiClemente, president and CEO of New York-based THB Intermediaries Inc., said Hurricane Ike has changed the picture.

See RETENTIONS page 24

Endurance®
YOUR RISK IS OUR FOCUS

No matter where you are in the world, we understand what makes your business tick.

Around the globe, each industry faces its own unique set of risks. Our specialized knowledge, sharp client focus and superior analytics enable us to deliver tailored risk management solutions to businesses all over the world – in real time.

Your risk is our focus.

Reinsurance: Property · Casualty · Catastrophe · Agriculture · Marine · Aerospace · Surety & Other Specialty
Insurance: Property · Casualty · Healthcare Liability · Workers' Compensation · Professional Lines · Agriculture

www.endurance.bm Bermuda London New York Singapore Zurich

Endurance Specialty Holdings Ltd., publicly traded on the NYSE, is a global specialty provider of insurance & reinsurance with over $7.8 billion in assets (as of June 30, 2008). We maintain excellent financial strength as evidenced by the ratings of A (Excellent) from A.M. Best (XV size category) and A (Strong) from Standard and Poor's on our operating subsidiaries (other than American Agri-Business Insurance Company) and A- (Excellent) from A.M. Best for American Agri-Business Insurance Company.

SOMETIMES THE FACTS JUST SPEAK FOR THEMSELVES...

Lexington remains the undisputed leader in Excess & Surplus Lines. At times like this, it pays to do business with an insurance company that is financially strong and a leader in creating cutting-edge solutions to your most pressing risk management challenges.

Consider the facts:

- Lexington is the largest U.S.-based Excess & Surplus Lines insurer.
- Lexington is financially strong and well capitalized. We're a part of AIG Commercial Insurance, which has a statutory surplus of $26.7 billion and assets exceeding $70 billion.*
- We've enjoyed three decades of continued growth thanks to our ability to respond quickly to marketplace needs. We've created over 70 new products since 2002.
- Lexington recently has increased its capacity for commercial domestic property insurance by an additional $1 billion, raising the total non-catastrophe property capacity to $1.5 billion.
- Lexington received the Business Insurance Readers Choice Award for Best Surplus Lines Insurer for four consecutive years.

Now consider the most important fact: Our most prized assets are our longstanding relationships with brokers and insureds. Their satisfaction is our top priority.

"Lexington's response in the wake of Hurricane Ike was exceptional and immediate. Lexington has proven itself to be an outstanding insurance partner when disaster strikes."

–Bernard Curran, Director of Administration, Port of Galveston

In addition, we want to thank our dedicated employees for their support, having worked tirelessly to be sure that our customers' expectations continue to be exceeded.

To learn more, speak with your broker or visit our website at **www.lexingtoninsurance.com**.

Lexington Insurance Company
An AIG Company

*As of June 30, 2008.
AIG Commercial Insurance is the marketing name for the domestic commercial property casualty insurance operations of American International Group, Inc. For additional information, please visit our website at www.aig.com. All products are written by Lexington Insurance Company and its affiliates. Coverage may not be available in all jurisdictions and is subject to actual policy language. As a surplus lines insurer, Lexington Insurance Company does not generally participate in state guaranty funds.

AIG ripples not hitting reinsurance

World's biggest cedent expected to continue its purchasing habits

REUTERS

While AIG's financial troubles generated thoughts "that this would generate more reinsurance demand…it seems like things have stabilized," said John Berger, CEO of Hamilton, Bermuda-based Harbor Point Ltd.

American International Group Inc. may be the largest reinsurance buyer in the world, but experts don't expect its troubles to significantly affect the reinsurance market.

AIG has announced plans to sell its noncore business while retaining its core property/casualty operations.

"The basic insurance operations are financially solid and, from my perspective, they will continue to be a significant buyer of reinsurance," said Michael D. O'Halleran, executive chairman of Aon Re Global in Chicago.

AIG has said commercial property/casualty "is going to be a core asset of theirs for the foreseeable future. So to date, I have not seen any material movement in the marketplace because of AIG's financial situation," Mr. O'Halleran said.

"There was this whole flurry of noise when the AIG story broke, and there were some instances of business moving, and there was some excitement on the part of reinsurers that somehow this would generate more reinsurance demand, but it seems like things have stabilized," said John Berger, chief executive officer of Hamilton, Bermuda-based reinsurer Harbor Point Ltd.

Observers say despite the parent company's troubles, AIG's operating units continue to do business as normal.

"Depending on the final shape that AIG takes, there may be different capital requirements that may require them to buy more reinsurance, but that still remains to be seen," said Brian M. Boornazian, president and head of reinsurance of Rocky Hill, Conn.-based Aspen Re America.

"There'll probably be little impact short-term," said Steven K. Bolland, president of New York-based reinsurance intermediary Gill & Roeser Inc. "We'll see if they can raise the capital they need by selling those divisions they consider noncore. If not, they may have to change their plan."

AIG declined to comment.

—By Judy Greenwald

We are 'glocal'

We believe there is a world of difference between being global and acting global. We call it glocal.

Our Consultants are native born and understand the regional market forces that can greatly influence value. Their familiarity with cultural norms ensures that relevant local factors are adequately considered. Strategically situated in Asia, Europe, North and South America our offices are staffed with our own full-time Consultants; shareholder employees dedicated exclusively to valuation and related advisory services. This dedicated local market presence, combined with American Appraisal's unique corporate structure, facilitates a nimble response to global assignments.

If your valuation and advisory needs extend around the world, go to American Appraisal…we are *the world's only truly glocal valuation firm*™. www.american-appraisal.com

Leading / Thinking / Performing™

Valuation

Transaction Consulting

Real Estate Advisory

Fixed Asset Management

American Appraisal®

Retentions: Appetite for risk waning

CONTINUED FROM PAGE 22

"We are seeing companies that formerly kept some fairly high retentions" that are "looking for some protection. I suspect the losses from the hurricanes, especially from Ike, are going to be higher than people initially suspected," Mr. DiClemente said.

"It appears logical to me that companies would start lowering retentions in certain areas and buying more reinsurance going forward," he said. "I think it's certainly leveled off."

However, John L. Ward, CEO of Cincinnatus Partners L.L.P. in Cincinnati, said primary companies "may be risk-averse going forward now, and that could shift that trend, but I would say for now the momentum is still leading" in the direction of primary insurers retaining more risk.

"It's bad for reinsurers in the sense that demand for their product has dampened, but some reinsurers would say it's a positive because it forces the primary companies to do a better job of underwriting on the front end, since they have more skin in the game on the early losses. So it does work both ways," Mr. Ward said.

Some observers said it may be too soon to tell precisely what primary insurers are doing.

John Berger, CEO of Hamilton, Bermuda-based Harbor Point Ltd., said with the natural catastrophes and other losses, "I think maybe (retentions are) going to level out this year, and maybe there will not be further increases in retentions, but the jury's out. We'll see what happens" at the Jan. 1 renewals."

Yes, there's an Excess Casualty insurer that's as responsible as you are.

Of all the reasons Liberty International Underwriters has become a leading specialty lines insurer, what truly sets us apart is our instinct to do the right thing. We meet your needs quickly, consistently, and responsibly. Together, we can provide the best products for your clients. We don't just value our relationship with you. We work at it.

For specific information about the types of risk we write, visit liu-usa.com/excesscasualty. Liberty Mutual is rated A by A.M. Best.

Responsibility. What's your policy?

Liberty
International
Underwriters®
Member of Liberty Mutual Group

EXCESS CASUALTY & UMBRELLA • E&O • D&O • PRIMARY CASUALTY • FIDELITY • ENVIRONMENTAL • CONSTRUCTION • MARINE • ENERGY

All products written by member companies of Liberty Mutual Group. © 2008 Liberty Mutual Group.

Capital crunch expected to curb consolidation in reinsurance

Some M&A deals possible as reinsurers search for economies of scale, top-line growth amid soft market conditions

By JUDY GREENWALD

Reinsurance market conditions may be ripe for an increase in mergers and acquisitions, but financial market conditions may slow down any consolidation, several experts say.

The desire for economies of scale and growth could still drive some M&A activity in the near term, say some.

But others say reinsurers may be too absorbed in their own issues to look elsewhere, and the limited availability of capital will at least temporarily dampen dealmaking.

Michael D. O'Halleran, executive chairman of Aon Re Global in Chicago, whose firm is completing a $1.75 billion acquisition of London-based Benfield Group Ltd. (*BI*, Aug. 25), is among those who anticipate an increase in M&A activity.

'If you look across the industry, in total there's a great opportunity for people who have cash and/or have valuable stock to make some pretty good acquisitions.'

Michael D. O'Halleran,
Aon Re Global

"Generally speaking, my view is we will see mergers on the insurance, reinsurance and brokerage sides," Mr. O'Halleran said.

"Some will be done for being able to get economies of scale, others will be done for the ability to grow the top line," he said. "If you look across the industry, in total there's a great opportunity for people who have cash and/or have valuable stock to make some pretty good acquisitions."

However, with banks fearful of lending and stock values down, there will be opportunities only for the relatively few financially strong companies "that have the ability to make acquisitions without relying on the capital markets," said Anthony Kuczinski, chief executive officer of Princeton, N.J.-based Munich Reinsurance America Inc.

"The question is going to be: Who's got the money to buy someone? The ability to raise capital is clearly impaired. So as long as you've got a lot of it in your pocket, then inevitably, you're in a strong position," said Paddy Jago, New York-based CEO of Willis Re Inc., the reinsurance unit of Willis Group Holdings Ltd. "I suspect for possibly some players" that mergers or acquisitions will not be an option.

Jamie Inglis, managing director at Stamford, Conn.-based investment banking firm Philo Smith & Co., said private equity funds' focus "has shifted away from insurance towards banks."

In addition, "just financing these things is a huge problem today," said Mr. Inglis. "Private equity funds tend to use a fair amount of leverage."

Some point to Bermuda as a likely focus of any mergers or acquisitions.

John Berger, CEO of Hamilton, Bermuda-based Harbor Point Ltd., said 2009 may be the year in which there is more M&A activity in Bermuda, where a "whole array of companies" have $1 billion to $2 billion in surplus, he said.

With the clout now held by reinsurance intermediaries, the question is whether small and midsize reinsurers face the potential problem of a "take it or leave it" attitude from intermediaries, Mr. Berger said. "If you're bigger, it's harder for people to treat you that way."

Steven K. Bolland, president of New York-based reinsurance intermediary Gill & Roeser Inc., said if reinsurers in Bermuda are "not making the returns required, they've got to do something.

"Historically, there have been significant mergers in Bermuda, and I would imagine when the final results are out for 2008, a couple of companies will not have made their return hurdle, or even close to their return hurdle. And, therefore, their investors will be saying, 'What can we do?,' which will lead either to higher prices or push investors to seek alternatives such as a sale or merger to free up capital," Mr. Bolland said.

Richard DiClemente, president and CEO of New York-based THB Intermediaries Inc., said M&A among Bermuda reinsurers are "always a possibility, but at the end of the day, there's still going to be a tightening of credit, and there's still a question of whether or not two companies in the same area have an advantage if they pool their resources, based on the amount of

Continued on next page

BusinessInsurance.com VIDEO

BusinessInsurance.com Video goes beyond the headlines, bringing you face-to-face with industry newsmakers in a series of exclusive videos. From on-site reports at selected events to one-on-one interviews with senior-level executives, only **BusinessInsurance.com Video** provides you with this kind of comprehensive coverage.

BusinessInsurance.com VIDEO covers property/casualty insurance trends.

BusinessInsurance.com Video and **Industry Focus** will cover insurance market trends as well as hot topics emerging from this year's Property Casualty Insurers Association of America annual meeting.

Featuring:

- Insights from thought leaders
- Interviews with influential executives
- Reports on megatrends

www.BusinessInsurance.com/Video

Presented by

CONTINUED FROM PREVIOUS PAGE

business available for all companies right now."

Aside from Bermuda, there has been speculation about interest by foreign reinsurers in mergers or acquisitions, reinsurance market observers say.

Pointing to Munich, Germany-based Allianz S.E.'s recent $2.5 billion capital infusion to Hartford Financial Services Inc., Mr. Bolland said, "The European reinsurers at the moment are likely buyers because they have some free capital."

Diversification would be a major factor driving M&A, some observers say.

John L. Ward, CEO of Cincinnati-based Cincinnatus Partners L.L.C., said the rating agencies "continue to play a stepped-up role (and) push for more diversification, and I think a lot of management decisions, including M&A, will be focused in the short term on opportunities to diversify the operation."

Chris Klein, head of the business intelligence group at Guy Carpenter L.L.C. in London, a subsidiary of New York-based Guy Carpenter & Co. Inc., pointed to the 2007 acquisition of London-based Atrium Underwriting P.L.C., which manages Lloyd's of London syndicates 570 and 609, by Hamilton, Bermuda-based Ariel Holdings Ltd.; and the acquisition by Hamilton-based Validus Holdings Ltd. of Hamilton-based Talbot Holdings Ltd., which manages Lloyd's syndicate 1183. Combining the operations was "intended to provide diversification to those firms," he said.

"It is very difficult to do that organically without price-cutting, so the opportunity to buy into Lloyd's provided a ways to achieve that diversification," Mr. Klein noted.

Currently, though, reinsurers may be absorbed by other issues, some observers say.

"Right now people are more focused on their own operations and their own balance sheets," said Mark Rouck, Chicago-based director at Fitch Ratings. "You might get some kind of one-off situations that present M&A opportunities, but anybody's ability to fund any kind of acquisition right now, I think, is pretty limited just given where share prices are, and given the contraction in the debt market. So I think they would be hard to fund at this point in time."

Patrick J. Denzer, president and CEO of Minneapolis-based John B. Collins Associates Inc., agreed.

Citing the credit market woes, companies need to preserve their cash positions and their share prices, Mr. Denzer said. "The immediate prospects of significant M&A activity are minimal." There could be a small number, but "we don't see any major wave of mergers in this market."

Robin Greville Williams, a London-based director of BMS Intermediaries Ltd. and manager of its property/casualty business unit, said that "the lack of excess capital in the reinsurance marketplace" makes it more likely that M&A activity will slow down.

These conditions may be temporary, though, some observers say.

Brian M. Boornazian, president and head of reinsurance of Rocky Hill, Conn.-based Aspen Re America, said, "It may be rather quiet until the dust settles a bit from the current environment."

"The access to ready capital and liquidity is going to be an issue, so the deal would have to look very attractive," said Howard Mills, New York-based chief advisor of the global insurance industry practice at Deloitte & Touche USA L.L.P.

"I think the capital will be there once the market kind of stabilizes. Hopefully, that'll happen soon," Mr. Mills said.

One property that is widely expected to be sold is American International Group Inc.'s Transatlantic Holdings Inc. reinsurance unit.

AIG has said it intends to sell off all but its core commercial property/casualty operations. "The ceding companies are very anxious to find out where it's going" to go, said Steve McElhiney, president of Dallas-based reinsurance intermediary EWI Inc.

"This Week in Business Insurance"

Our weekly podcast reviews the headlines in each new issue of *Business Insurance* and interviews reporters for in-depth insights to the top stories of the week.

Subscribe to this free podcast on iTunes or listen to these audio reports online at www.businessinsurance.com/thisweek

BusinessInsurance®

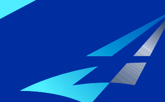
www.BusinessInsurance.com

To us, knowledge is sustenance.
And we're not shy about getting our fill.

© Argo Group International Holdings, Ltd.

At Argo Group, client service and client knowledge go hand in hand. To serve clients in the specialty insurance and reinsurance markets, and serve them well, we explore and seek to understand every aspect of an operation. And once we think we've learned everything we can, we go back for seconds. Because knowledge leads to success. And we're not shy about getting our fill of that, either.

argolimited.com



ARGO GROUP

Get there together

REUTERS

New York Insurance Superintendent Eric Dinallo has been publicly talking up reviving the New York Insurance Exchange since early this year, using authorization legislation that remains in effect.

More steps expected toward revival of New York Insurance Exchange

Advisory committee to be formed with eye on 2009 implementation

By ZACK PHILLIPS

The New York State Insurance Department likely will form an advisory group in the next several weeks to discuss reviving the New York Insurance Exchange, a state official said.

Michael Moriarty, the department's deputy superintendent for property and capital markets, said in a recent interview that the advisory group could be formed in the coming weeks. He also said the department has already met with insurers, underwriters, brokerages and potential capital providers about the idea of reviving the exchange, a Lloyd's of London-style marketplace for reinsurance and other large-scale insurance products.

The NYIE started operations in 1980, but closed its doors in 1987—due to factors that included a soft market, poor claims experience and inadequate capitalization—and took 18 years to pay its secured claims.

Financial market distractions

New York Insurance Superintendent Eric Dinallo has been publicly talking up reviving the NYIE since early this year, using authorization legislation that remains in effect. He suggested earlier that a revived exchange could take advantage of lessons learned from the past and 20 years of technology innovations.

While the hope had been to meet with industry representatives and form an advisory committee sooner this year, Mr. Moriarty said the department was distracted by the financial crises in September.

Far from discouraging interest in resurrecting the exchange, however, the crises surrounding credit markets and American International Group Inc. may have enhanced interest in the idea. He said one lesson of AIG's near-failure was the harm that complex financial instruments can bring.

"There seems to be a move towards simplicity in terms of what capital is doing; (the exchange) might be an avenue," Mr. Moriarty said. "The idea of having a bunch of underwriters under one roof probably makes the regulation of such an entity more streamlined and more transparent."

Mr. Moriarty said the difficult investment environment has investors seeking risks that are uncorrelated with other economic and market problems.

"Insurance is that type of risk," Mr. Moriarty said. "You could have a catastrophe in good economic times or bad economic times. That type of uncorrelated risk is attractive to a lot of (capital) providers right now."

He said the NYIE could be operational by mid- to late 2009.

Challenges

The original NYIE opened March 31, 1980, as a centralized marketplace for underwriting syndicates and brokerages to place reinsurance, excess and surplus lines, and direct insurance on risks located outside the United States.

By 1984, the exchange had become the country's eighth-largest reinsurer. But the extreme soft market and other factors soon led to rising loss ratios, liquidation of several syndicates and petitions by other syndicates to withdraw from the exchange.

The NYIE closed on Nov. 23, 1987.

Meetings with industry representatives on reviving the exchange took place before Labor Day. The

See NYIE next page

LLOYD'S

LIABILITY

TO WHAT DEGREE ARE YOU PREPARED?

There are different degrees of liability. And different degrees of terrorist risk. Understanding them takes a degree of experience.

At Lloyd's, we've been anticipating emerging risk for over 300 years.

The 360 risk project combines our experience with expert opinion and world leading research to create an evolving resource and a forum for discussion. By challenging opinions and driving the debate, we're helping to anticipate and manage emerging risk.

360 DRIVING THE DEBATE ON EMERGING RISK

SEE WWW.LLOYDS.COM/360 AND JOIN THE DEBATE.

NYIE: More steps expected toward revival of insurance exchange

CONTINUED FROM PREVIOUS PAGE

next step is appointing an advisory panel that would divide into working groups to address a challenge or question identified at the summer meetings, Mr. Moriarty said.

One such challenge is competing with tax-advantaged offshore instruments since any U.S.-based operation would be subject to taxes.

John M. Nonna, a partner in the New York-based law firm Dewey & LeBoeuf L.L.P. who works on insurance and reinsurance, said a new NYIE would provide what investors already receive tax-free from companies in Bermuda.

"Bermuda, I think, has really become the alternative to an insurance exchange in the U.S.," Mr. Nonna said.

Mr. Moriarty said the insurance department thinks the exchange is viable in the current tax environment and the issue deserves further study.

'In the current environment, we think we could attract noninsurance capital. Bermuda is an example of that. Capital flies down to Bermuda after a catastrophe because the market turns hard and there's room for a profit.'

Michael Moriarty,
New York State Insurance Department

Another challenge is the soft reinsurance market, said Daniel W. Gerber, a New York-based attorney at Goldberg Segalla L.L.P., who spoke in September at the Practice Law Institute's Reinsurance Law 2008 conference in New York.

"None of (the major reinsurers at the conference) indicate that the market has gone hard yet," Mr. Gerber said. "In fact, the indication is it's still a soft market. So the question is: Would (the exchange) succeed, because (in part, a soft market is) eventually what led to its failure the first time?"

Is guaranty fund needed?

The experts agree that the crucial challenge is attracting capital.

"The capital has to be there in order for this thing to have any attraction," Mr. Moriarty said.

That concern has led to a dilemma over whether to include the kind of guaranty fund—to secure against insolvency by any member syndicate—that the last incarnation of the exchange had.

Such a reserve likely would allow the NYIE to receive a single financial rating for all syndicates, Mr. Moriarty said.

On the other hand, he said that a security fund might push away capital providers because they would have to assume the risks of other member underwriters.

But Mr. Moriarty and others pointed to factors that have changed since the 1980s, creating an environment they see as more conducive to reviving the NYIE and appealing to capital providers.

"In the current environment, we think we could attract noninsurance capital," Mr. Moriarty said. "Bermuda is an example of that. Capital flies down to Bermuda after a catastrophe because the market turns hard and there's room for a profit."

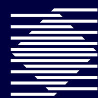
Pam Ferrandino, executive vp and casualty practice leader with Willis HRH, a unit of Willis Group Holdings Ltd. in New York, pointed to the evolution of the catastrophe bond market as a change potentially helpful to a new NYIE. Cat bonds have grown about 28% annually between 1997 and 2007, according to A.M. Best Co. Inc. Ms. Ferrandino also said that the Sarbanes-Oxley Act of 2002 has made more companies interested in doing business onshore for the sake of transparency. "(Companies) want to make sure they understand and can see what's occurring," she said.

Mr. Moriarty said technological advances would allow the exchange to monitor capital and risk exposures on a nearly real-time basis.

He also said regulations could be "tailor-made to this type of exchange," more so than in the 1980s when it was largely self-regulating. Mr. Moriarty said the law gives Mr. Dinallo broad discretion in crafting a regulatory framework for the exchange.

$$E(x) = \int_0^\infty x \frac{1}{\Gamma(\alpha)\beta^\alpha} x^{\alpha-1} e^{-\frac{x}{\beta}} dx$$

A complex problem.



A clear solution.

$$E(x) = \alpha\beta$$

Some problems can appear overwhelming. With 90 years of experience and knowledge to draw from, we can develop and implement clear solutions to your most complex risk financing problems.

www.munichreamerica.com PREFERRED PARTNER IN RISK

Products and services provided by Munich Reinsurance America, Inc. © Copyright 2007 Munich Reinsurance America, Inc. All rights reserved.

Electronic reinsurance placements gaining acceptance

By SALLY ROBERTS

Following a few failed attempts and years of slow growth, electronic reinsurance placements finally appear to have gained traction in the global marketplace.

The number of cedents, brokers and reinsurers conducting business online continues to increase, showing more acceptance of online exchanges and advanced messaging technology—known as peer-to-peer messaging.

Both methods, which are based on the same Assn. of Cooperative Operations Research & Development standards technology, allow parties to communicate, negotiate, submit and bind contracts electronically, eliminating operational inefficiencies, reducing errors and gaining greater control over workflows, advocates say.

But there is still work to be done, they note. While the technology for the most part is there, culture remains the biggest barrier to wider acceptance.

The pace of change, however, is expected to accelerate with the launch of a new Lloyd's of London messaging hub called the Lloyd's Exchange, which observers say will make it easier for brokers and reinsurers to conduct peer-to-peer messaging (see related story).

"It's been a long, hard slog," said Alex Letts, chief executive officer of RI3K Ltd., a London-based online insurance and reinsurance exchange for brokers and reinsurers that is eight years old. "Part of the battle was persuading the brokers that this actually didn't disintermediate the brokerage houses; it only disintermediated part of the physical process" such as rekeying data.

Today, "there are thousands of risks being bound each month over our own service," Mr. Letts said.

So far in 2008, that amounts to more than $3 billion of premiums, the bulk of which is treaty reinsurance placements, he said.

"The pace of change in the insurance and reinsurance business is never really rapid. It's taken some years" for the market to recognize the benefits of conducting reinsurance business electronically, said Igor Best-Devereux, CEO of eReinsure.com Inc., a nearly 10-year-old Salt Lake City-based online facultative reinsurance negotiation platform.

Today, about 8,000 individual users working for ceding companies, brokers and reinsurers use eReinsure to manage their reinsurance

See ELECTRONIC next page

Lloyd's plans return to electronic trading with peer-to-peer messaging platform

By SALLY ROBERTS

LONDON—After closing its electronic insurance and reinsurance trading platform Kinnect in 2006, Lloyd's of London is looking to launch an electronic messaging exchange.

Rather than acting as a platform for underwriters and brokers to securely transfer data, the Lloyd's Exchange will act as a simple messaging hub connecting all the trading partners, or "spokes," who want to conduct reinsurance business electronically.

"A number of Lloyd's managing agents and brokers have developed an electronic trading capability or are seeking to send electronic messages," a Lloyd's spokesman said in an e-mail. "Some are using trading platforms. Others have developed peer-to-peer message-based solutions. With no obvious market leader, many managing agents and brokers have approached Lloyd's to find the best solution."

Lloyd's Exchange will allow users to maintain only one connection to support data that's exchanged through structured Assn. of Cooperative Operations Research & Development-standard messages, the spokesman said.

Lloyd's is in the process of finding a third-party technology vendor to deliver the service. No timetable has been set for its launch, the spokesman said.

The Lloyd's Exchange is one of several different electronic messaging hubs that are being developed, observers say.

They note when the new Lloyd's Exchange is launched, more reinsurers and brokers are apt to buy in to electronic reinsurance trading.

"In today's peer-to-peer model, a market like London, with 160 brokers and 130 underwriting entities, would have more than 20,000 different connection paths, with each one having to be set up and supported by someone," said Jeff Ward, business development director at TriSystems Ltd. a London-based technology company that supports electronic reinsurance placements. "That's spaghetti from hell," he said.

Lloyd's Exchange "will take all that spaghetti and turn it into a simple hub and spoke where each participant only has one connection to worry about and that's down to the hub," Mr. Ward said.

In anticipation of the hub, TriSystems recently launched a new Web-based messaging gateway that

See LLOYD'S page 32

INSURE

REINSURE

EDWARDS ANGELL PALMER & DODGE

REALLY SURE

Edwards Angell Palmer & Dodge, dedicated to the insurance and reinsurance industry, represents clients in a broad range of corporate, coverage, regulatory, litigation, arbitration, claims and insolvency matters. Our lawyers enjoy international reputations and take pride in knowing our clients' business.

EAPD's merger with London law firm Kendall Freeman in January 2008 significantly enhanced our global insurance and reinsurance capabilities and expanded the scope of our services to clients worldwide.

For up-to-date industry news visit our blog at **www.InsureReinsure.com**

When it comes to Insurance and Reinsurance, we know your business.

EDWARDS ANGELL PALMER & DODGE

eapdlaw.com

BOSTON MA | FT LAUDERDALE FL | HARTFORD CT
MADISON NJ | NEW YORK NY | PROVIDENCE RI
STAMFORD CT | WASHINGTON DC | WEST PALM BEACH FL
WILMINGTON DE | LONDON UK

ATTORNEY ADVERTISING. The hiring of an attorney is an important decision that should not be based solely on advertisements. Prior results do not guarantee a similar outcome.

©2008 Edwards Angell Palmer & Dodge LLP and Edwards Angell Palmer & Dodge UK LLP

Electronic: Placements gain acceptance

CONTINUED FROM PREVIOUS PAGE

placements, up 20% to 25% over last year, he said. To date, more than 200,000 submissions requesting reinsurance have been managed using the platform, and about 80,000 contracts have been completed, he said.

"The fact that a large number of reinsurers and brokers…are already using the system means that it's more useful and more easily used by cedents," Mr. Best-Devereux said. "The whole concept of a network becomes very, very powerful when you've got the key participants in the market engaged in it."

While RI3K and eReinsure are thriving, there have been notable failures.

In 2003, London-based online reinsurance platform inreon Ltd. shut down, citing a lower-than-expected number of transactions (*BI*, May 12, 2003). Swiss Reinsurance Co., Munich Reinsurance Co., consultant Accenture and capital provider Internet Capital Group launched the platform in December 2000. Observers say inreon's demise was in part the result of being owned by the reinsurers that were selling the reinsurance on the platform.

In 2006, Lloyd's of London shut down its electronic platform Kinnect, after five years and an estimated cost of about £70 million ($124.89 million). The platform was intended to enable underwriters and brokers to securely transfer data according to a set of market-agreed business processes, but it never attracted enough interested parties.

Kinnect "didn't just fail because the technology wasn't right; it failed because the people didn't really want it," said Jeff Ward, business development director at TriSystems Ltd., a London-based technology firm that supports electronic reinsurance.

"The London insurance market has always had a traditional resistance to using a single monopoly solution," Mr. Ward said. Since the demise of Kinnect, several different ways of conducting business electronically have emerged that are fundamentally based on the same ACORD communication standards, Mr. Ward said, referring to the Pearl River, N.Y.-based insurance and reinsurance standards association.

"We've all come to the conclusion that you cannot be speaking many different languages. But how you implement and actually use it in dialogue with trading partners is being left to people's preferences," Mr. Ward said.

Some companies may prefer online exchanges or platforms, while others may prefer more of a peer-to-peer messaging or messaging hub model, Mr. Ward said.

In the second quarter of 2007, Aon Re Global U.K. internally mandated that a majority of its reinsurance risks be entered into its electronic distribution system and then uploaded to the RI3K exchange. It uses both the exchange and peer-to-peer messaging via RI3K to place reinsurance business.

To date, about 80% of Aon Re's U.K.-marketed treaty business and 45% of its U.K.-marketed direct and facultative business is conducted electronically, said Ian Summers, the London-based director of change strategy for Aon Re Global and managing director of e-business and market reform for Aon U.K.

"Aon wants to trade with the best markets around the world, but not all of them have made the decision to invest in the messaging infrastructure yet," Mr. Summers said. As a result, Aon Re gives its trading partners the option of working with it on a peer-to-peer basis. If they are not capable of receiving that data, the risks are posted on the exchange and the reinsurer receives an e-mail notifying it of Aon Re's submission with a link to the exchange, he said.

To date, only 20 of Aon Re U.K.'s 170 trading partners have peer-to-peer capabilities, Mr. Summers said. Of those, 18 have just one-way messaging, meaning that while they can receive messages directly from Aon Re, they cannot integrate the data into their own underwriting systems.

At Chubb Commercial Insurance, underwriters are required to first go to eReinsure to secure facultative reinsurance coverage, said Ed Howard, vp and reinsurance manager of Chubb Commercial in White House Station, N.J. If underwriters can't secure acceptable prices, terms and conditions, they can consider an off-platform transaction, but they have to obtain approval from Chubb first, Mr. Howard said, noting that more than 80% of its facultative business is managed on the platform. Those cases typically involve a large amount of capacity where Chubb has "tapped out" the platform, he said.

The biggest benefit to conducting reinsurance placements online is the process efficiencies, Mr. Howard said. Fears that such activity replaces the traditional relationship-driven reinsurance market are unfounded, he said.

The eReinsure platform "was never intended to supersede the interpersonal contact and meetings with reinsurers," Mr. Howard said. "We tell prospective reinsurers that your writings are either going to go up or stagnate based on your ability to market to our branch office force," he said. "It is still relationship-driven; eReinsure happens to be our vehicle to conduct the business."

Indeed, the technology no longer is particularly difficult; it's the culture that inhibits more growth, said TriSystems' Mr. Ward.

"It's the people who have to change. They need to realize that this is not going to take over their jobs. It's going to make their jobs easier. E-mail didn't put people out of work. E-mail made things generally easier for people to do business. This is similar," he said.

A pet store moves in next to your bottling plant.
Care to talk liabilities?

These days, risks come in every size, shape and fur color. That's why, at Travelers, we work with you to identify any changes in your business and to make sure your insurance keeps up. Our underwriters understand your business, so they can offer custom expertise that leads to better solutions. Give your independent agent a call to hear all the benefits of being in-synch. So you can keep your thoughts on your business—instead of worrying about what's coming out of the woodwork next.

©2008 The Travelers Companies, Inc. All rights reserved. The Travelers Indemnity Company and its property casualty affiliates. One Tower Square, Hartford, CT 06183

travelers.com

Lower reinsurance prices slow catastrophe bond market

Trading volume down more than $2.5 billion in first nine months

By COLLEEN McCARTHY

Falling reinsurance rates and credit market turmoil have slowed demand for insurance-linked securities, observers say.

The likely default of four catastrophe bonds guaranteed by failed investment bank Lehman Bros. shows that insurance-linked capital market instruments—once thought to be uncorrelated to the wider financial markets—are not completely insulated from the credit crisis, observers say.

While cat bonds have gained acceptance from insurers and investors as an effective risk transfer alternative, the market is experiencing a significant slowdown. New cat bond issuance this year is likely to be significantly less than the record $7.3 billion issued in 2007, said Emmanuel Modu, managing director and global head of structured finance of Oldwick, N.J.-based A.M. Best Co. Inc.

In the first nine months of this year, cat bond volume totaled $2.73 billion compared with $5.38 billion in the same period last year, according to the rating agency. "We don't expect to hit more than $4 or $5 billion in (cat bond) volume this year," Mr. Modu said.

Capital market risk-transfer products traditionally have been a substitute for reinsurance, so demand has dwindled as reinsurance rates have fallen, observers say.

"It's just not cost-effective to participate in the insurance-linked securities market right now because it's cheaper to go the traditional reinsurance route," Mr. Modu said.

'It's just not cost-effective to participate in the insurance-linked securities market right now because it's cheaper to go the traditional reinsurance route.'

Emmanuel Modu,
A.M. Best Co. Inc.

Similarly, formation of sidecar facilities—typically special-purpose vehicles used to create new capacity—has slowed due to abundant reinsurance capital, observers say. Sidecar formations also are expected to be limited until reinsurance prices harden.

If reinsurance rates do rise, however, activity in the insurance-linked securities market should pick up across the board, observers say.

"We expect reinsurance rates to rise with upcoming renewals, and there will be a demand for well-structured alternative risk solutions because of the collateral they provide," said Beat Holliger, managing director of Munich Re Capital Markets Inc. in New York.

Currently, he said, reinsurance rates are showing signs of firming that will be evident in upcoming renewals.

While interest in insurance-linked securities may resume as the pricing cycle turns, credit market upheaval is likely to pose a barrier to future growth, other observers say.

In such transactions, the credit market crisis has shifted the focus away from the natural perils covered by the contracts toward the stability of the return swap counterparties—usually investment banks that line up investors for the transactions, Mr. Modu said. With concerns about the security of the banks themselves, attention has focused on banks' ability to make good on the collateral backing catastrophe bonds, he said.

Cat bonds use collateral accounts in which investor money is deposited to pay losses triggered by the contract. The collateral could be exposed if the accounts also contain mortgage-related securities, thereby diminishing the value of the collateral, he said.

Last month, Standard and Poor's Corp. downgraded to "junk" status the four cat bonds guaranteed by failed investment bank Lehman Bros. According to New York-based S&P, the bonds were backed by Lehman Bros. Special Financing Inc. as the swap counterparty and totaled $584.5 million in catastro-

See CAPITAL next page

When you make a commitment to your employees and invest in real professional development, you'll see greater engagement, better decision making, and more efficient performance. It's what we call Return On Knowledge.

Log on to www.aicpcu.org/2commit.htm and download our free brochure that will help you rethink how professional development positively affects your business.

The American Institute for CPCU and the Insurance Institute of America have a wide variety of education solutions. Contact us, and we'll help you develop a comprehensive plan to help you improve performance and prepare your employees for future challenges and opportunities.

Work wonders. Visit www.aicpcu.org today!

AICPCU IIA Succeeding together.
EDUCATION • RESEARCH • ETHICS

© 2008 AICPCU/IIA

Lloyd's: Gets back into electronic placements

CONTINUED FROM PAGE 30

supports Lloyd's Exchange. Universal Messaging Gateway OnLine enables companies, regardless of size or volume of business, to pay a monthly fee, which starts at £1,500 ($2,595), to "gain immediate access to electronic placing, endorsements and other market initiatives," the company said. The service allows messaging peer-to-peer, via the Lloyd's Exchange and via other trading platforms.

Lloyd's Exchange "will give people the confidence that they should now be making the investment" into electronic reinsurance trading, said Ian Summers, director of change strategy for Aon Re Global in London and managing director of ebusiness and market reform for Aon U.K.

"It's like the person with the first fax machine. You can't send it to anybody. You need other people at the other end to send the fax," Mr. Summers said. "What this exchange will do is let everybody know you make one connection and it will connect you to everyone that's out there."

'What this exchange will do is let everybody know you make one connection and it will connect you to everyone that's out there.'

Ian Summers,
Aon Re Global

That's an easier sell to the information technology department, Mr. Summers said.

Capital: Catastrophe bond market falls on continued low reinsurance prices

CONTINUED FROM PREVIOUS PAGE

phe capacity.

Best took similar action and downgraded three of the four Lehman-backed bonds, citing "the unlikelihood of finding a total return swap counterparty replacement" for Lehman Bros. Special Financing and "the uncertainty surrounding the securities in the collateral account."

The fallout from the Lehman Bros. bonds jeopardizes both the cedents, which will not have the catastrophe coverage they thought they had, and investors, who may suffer losses, said Gary Mantucci, director, financial institutions ratings at Standard & Poor's Corp. in New York.

Credit risk concerns are prompting some changes in the structure of cat bonds.

Mr. Mantucci said he has seen at least three deals in which quarterly mark-to-market checks are being used to try to minimize the risk and cushion any losses. The agreement calls for the return swap counterparty to post additional collateral if the mark-to-market value of the collateral account drops 5%. If it drops further, the agreement calls for the counterparty to start posting the difference between the current market value of the assets vs. the notional amount of the outstanding notes to "top it off," Mr. Mantucci said.

8%

of **GLOBAL CATASTROPHE LIMITS** are covered by catastrophe bonds in 2008.

"We expect to see more restrictive guidelines appear in these transactions regarding what are permitted investments," Mr. Mantucci said. He also said he expects more frequent marks, possibly weekly or even daily, as collateral concerns persist.

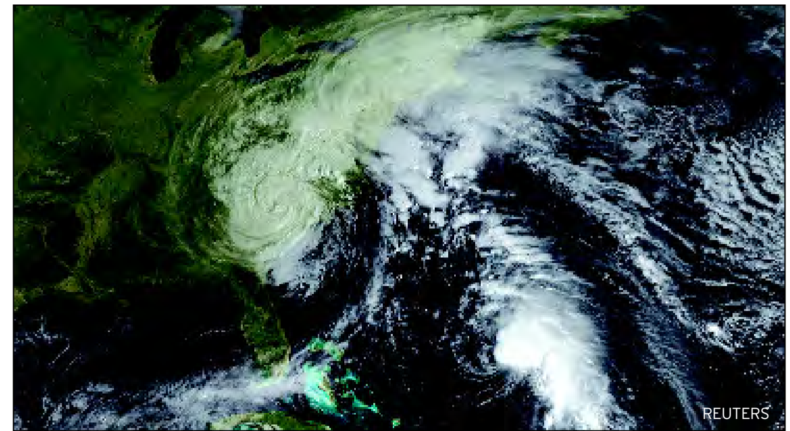
Experts say the structure of cat bonds will continue to evolve to respond to market conditions. For example, several transactions this year have included "hybrid triggers" to achieve greater transparency for investors while satisfying cedents' concerns.

For example, the $120 million Blue Coast Ltd. cat bond issued by Allianz Risk Transfer (Bermuda) Ltd. for U.S. hurricanes used a trigger mechanism at the county level rather than the state level, which has been the norm. This allowed Allianz to vary the triggers and payouts based on portfolio exposures, thereby reducing the basis risk to Allianz without using an indemnity trigger, said Chi H. Hum, global head of distribution GC Securities Ltd. in New York, a unit of Marsh & McLennan Cos. Inc. that served as co-lead manager and joint book-runner of the bond covering U.S. coastal risks through 2010 from North Carolina to Texas.

"It was a modified index approach, which seemed to be a happy medium in that it minimized the basis risk for the sponsor and provided enough transparency for investors, much more than an indemnity transaction," Mr. Hum said.

Issuers typically have favored an indemnity approach given that the structure provides a payout when a loss occurs while capital market investors favor a parametric index approach to achieve transparency, Mr. Hum said. A parametric index is based on the measurable intensity of the loss event.

"We think there's going to be a lot more of these structures given that it seems to bridge the gap in terms of what each party needs to have a successful transaction," Mr. Hum said.



REUTERS

CATASTROPHE BOND MARKET GROWTH

Year	Principal [in billions of dollars]	% Change [year to year]
1997	$0.63	N.A.
1998	0.85	34.9%
1999	0.98	15.3%
2000	1.13	15.3%
2001	0.97	(14.2%)
2002	1.26	29.9%
2003	1.73	37.3%
2004	1.14	(34.1%)
2005	1.99	74.6%
2006	4.69	135.7%
2007	7.33	56.3%
2008*	2.73	N.A.

*Through Sept. 30

Source: A.M. Best Co. Inc.

CRAWFORD & COMPANY IS CELEBRATING ITS 40TH ANNIVERSARY AS A PUBLIC COMPANY

OCTOBER 31, 2008

From our founding as an independent claims adjusting firm, Crawford has evolved to the world's largest independent provider of claims management and related solutions to the risk management and insurance industry. Through *The Strength of Working Together*, we'll continue our tradition of innovation, serving you with honesty, integrity and accountability.

The Company's shares are traded on the NYSE under the symbols CRDA and CRDB.

www.crawfordandcompany.com

1-800-241-2541

Forum: Katie School panelists see rising insurance rates

CONTINUED FROM PAGE 4

harden.

For risk managers, market conditions will be challenging, said Dan Kugler, assistant treasurer and corporate risk manager for Kenosha, Wis.-based Snap-on Inc. This type of market and cycle force risk managers to go "back to the basics" and to look at alternative risk financing, safety and loss control, he said.

"Risk managers are always anticipating that the market will change," Mr. Kugler said.

Rating importance only grows

As part of that process, risk managers pay particular attention to insurer ratings, he said.

"We have to keep looking at the ratings, look at the strength of the organizations and make solid choices," Mr. Kugler said.

And it's important to look at the general ratings environment, he said.

"Ratings are critical and I look at rating trends as well," Mr. Kugler said. "Risk managers will be judged by the quality of the product they are buying and they will be judged by their superiors if they don't do due diligence when selecting a product."

With that in mind, Ms. Murphy said that ratings are "more valuable than they have ever been" when it comes to selecting a company to do business with, adding that there is more pressure on rating agencies than there has been in the past.

"There is pressure on them to not be wrong," Ms. Murphy said.

Prices may be heading up: RIMS

By SALLY ROBERTS

The soft commercial market continued throughout the third quarter of 2008 despite two major hurricanes and a global credit crunch, but deteriorating underwriting results in the quarter may signal that a turn in the pricing cycle is near, according to a quarterly survey of risk managers.

"It was a rocky third quarter for insurers, but risk managers still saw prices improve on average," John R. Phelps, director of business risk solutions at Blue Cross and Blue Shield of Florida Inc. and a board member of the Risk & Insurance Management Society Inc., said in a statement. "It is increasingly clear, though, that premiums cannot continue to fall at this pace, especially with the global economy in chaos."

"Nearly five years of deteriorating rate levels are taking a toll on underwriting profits," said Dave Bradford, executive vp of Advisen Ltd., which produced the quarterly benchmark survey for New York-based RIMS. "A.M. Best forecasts a 2008 combined ratio of 104.0 for the commercial property/casualty industry. Together with lower investment returns as a result of the global credit crunch, conditions may be ripe for a reversal in the market cycle in 2009."

9.6%
DROP IN THE AVERAGE PREMIUM
for general liability risks that were renewed in the third quarter

In the third quarter, though, it remained a buyers' market.

According to the survey, the average premium for general liability risks renewing in the quarter fell 9.6%, the largest single quarterly drop since 2005. And the average property premium fell 8.5% despite as much as $20 billion in insured losses from Hurricanes Gustav and Ike.

The average directors and officers liability premium fell 2.1% in the quarter, hampered by "skyrocketing" claims triggered by the subprime mortgage meltdown, RIMS said. However, excluding financial and real estate companies from the survey, the average D&O premium fell 7.4%, RIMS said.

The average workers compensation premium fell less than 1% in the quarter, the survey found.

The RIMS Benchmark Survey is based on risk managers' premium renewal rates, which are submitted to RIMS. New York-based Advisen then compares the renewal premiums with the previous year's rates and reports the differences. Approximately 1,200 risk managers report their renewal information during the course of a year.

Full results of the RIMS Benchmark Survey are available at *www.rims.org/benchmark*.

On behalf of the children who benefit from the research we support, the St. Baldrick's Foundation extends our sincere thanks to the shavees, donors & volunteers in the insurance and reinsurance industries who have helped us raise more than $50,000,000 since 2000. Your generosity in the last four years alone has enabled us to:

- award 35 fellowships and career development awards to train and develop the best new childhood cancer specialists
- fund specific research and infrastructure grants at 50 institutions focusing on childhood cancer research
- provide resources to 230 institutions engaged in cooperative research, helping enroll thousands of new children in clinical trials

thank you

St. Baldrick's Foundation
Shaving the Way to Conquer Kids' Cancer

A special thanks to the employees of the following companies, who raised $50,000 or more in 2008 to help Conquer Kids' Cancer:

A. J. Renner & Associates
Allied World Assurance Company
AON Corporation
Axis Capital Holdings, Inc.
Benfield Inc.
Catlin
General Re
Guy Carpenter
PartnerRe
QBE the Americas
Signet Star Re
Transatlantic Reinsurance
Towers Perrin
Validus Re
Zurich

We would also like to recognize our 2008 National Sponsors and Four Leaf Patrons:

ALLIED WORLD ASSURANCE COMPANY
PartnerRe
QBE
Business Insurance
CATLIN Underwriting Ambition
DOWLING & PARTNERS
Gen Re
GUY CARPENTER
ZURICH

Aeolus Re Ltd.
AON Corporation
Arch Reinsurance Company
Arrowhead General Insurance Agency, Inc.
Beach & Associates
Benfield Inc.
Capitol Indemnity Corporation
Community Association Underwriters of America, Inc.
Odyssey Re
Platinum Underwriters Reinsurance, Inc.
Rockville Risk Mgt. / E. R. Quinn Co. / Loyola Group
The Navigators Group, Inc.
Towers Perrin
UnitedHealthcare
Walsham Brothers & Co. Limited

We salute you and look forward to your continued support in 2009!

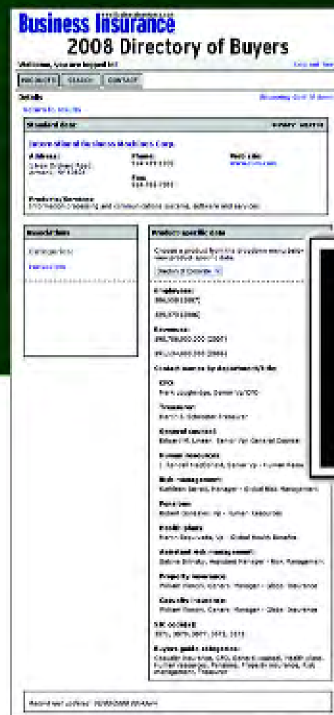
www.StBaldricks.org • 888-899-BALD

CLICK ONCE. SHAKE 3229 HANDS.

The 2008 Business Insurance Directory of Buyers is just a click away.

This indispensable resource provides complete contact information for more than 3225 top-level corporate executives from 520 companies, including the Fortune 500, who are responsible for commercial insurance and employee benefits purchasing decisions.

Browse the exclusive database. Export fields to your existing spreadsheet. Prepare mailing lists. Connect with your best prospects.



Order today at www.BusinessInsurance.com/DOB.

Business Insurance

www.BusinessInsurance.com

TARGETED NEWS. TARGETED AUDIENCE. TARGETED DELIVERY.

FEMA: Agency clarifies disaster payment policy for public entities

CONTINUED FROM PAGE 3

first disaster, FEMA officials said (*BI*, Aug. 25, Aug. 4).

But for some perils, such as flood, wind and earthquake, many public entity risk managers have trouble finding affordable coverage, and the coverage typically carries high deductibles, brokers say.

The Stafford Act allows a public entity that cannot find enough insurance to meet FEMA's coverage requirements to apply to its state regulator for a waiver from the requirements. Under Louisiana's program, the Insurance Department will certify that a public entity is eligible for the waiver if the entity can show it has spent a department-prescribed percentage of its budget on insurance and still has not met FEMA's requirements.

But earlier this month, Louisiana public entities that obtained the waiver faced the prospect of losing a portion of their anticipated FEMA aid if buildings that were damaged or destroyed in a previous national disaster were struck again in a subsequent national disaster of the same nature.

A state negotiator who chaired discussions with local FEMA representatives on the issue said FEMA representatives led the state to believe that a public entity with a waiver would face aid reductions equal to the amount of the insurance deductible that the entity carried at the time of the first disaster (*BI*, Oct. 13).

The negotiator and risk management representatives said they were frustrated with that stance from FEMA because of earlier indications from the agency that the waiver would remove all barriers to FEMA aid for uninsured losses.

Mr. Walke agreed that reducing FEMA aid to a public entity that obtained an insurance waiver would put the entity "back at square one before the waivers."

Dan Jilek, who chaired the state's meeting with the local FEMA officials, said he was happy to hear Mr. Walke's evaluation of how the Louisiana waiver program would work for public entities.

"That's wonderful news. That's not the way his staff has told me they're going to interpret it," said Mr. Jilek, a Baton Rouge-based insurance specialist with James Lee Witt Associates who consults with the Louisiana Governor's Office of Homeland Security & Emergency Preparedness. Mr. Jilek conducts the first reviews of waiver applications and then sends them to the Insurance Department for separate reviews.

> **'How is a public entity supposed to know what to do? How is a broker supposed to advise a public entity?'**
>
> Nancy Sylvester, Gallagher Risk Management Services Inc.

Mr. Jilek added that the local FEMA representatives likely did not feel authorized to promise as much aid as Mr. Walke said would be available.

But Mr. Walke had indicated in separate e-mails to *Business Insurance* and a broker in August that public entities with waivers would not face aid cuts.

Louisiana FEMA officials refused to comment and referred all questions to Mr. Walke.

Risk management representatives welcomed Mr. Walke's comments but questioned whether the conflicting signals from him and local FEMA officials portend confusion if they ever do seek FEMA aid under the Louisiana program.

"It's a shame that this many years after the 2005 hurricane season…that we're still dealing with confusion with FEMA and how it pays," said Nancy Sylvester, a Baton Rouge-based managing director in the Public Entity & Scholastic Division at Gallagher Risk Management Services Inc., a unit of Arthur J. Gallagher & Co.

"How is a public entity supposed to know what to do? How is a broker supposed to advise a public entity?" Ms. Sylvester said.

"It's a step in the right direction," said Ron Hayes, a board director and incoming president for the Alexandria, Va.-based Public Risk Management Assn.

But, "I would advocate something in writing that we could use as direction from FEMA," said Mr. Hayes who also is risk manager for the Calcasieu Parish School Board in Lake Charles, La. "It's still a vapor to me. It's still hard to get a grip on."

Meanwhile, Mr. Walke said FEMA has discovered that its regulations are inconsistent on how much insurance public entities must purchase before the agency will release funds to cover uninsured losses after an initial disaster. The inconsistency also would affect how much FEMA aid that public entities without a state waiver would be eligible to receive if the same buildings were damaged in a subsequent disaster of the same nature.

Under current regulations, public entities with flood losses would have to purchase insurance up to the amount of FEMA aid they expect to receive after the first disaster. But for losses caused by other types of disasters, public entities must purchase insurance that would cover the amount of damage they sustained.

That means under current FEMA regulations, public entities with inadequate insurance and without a state waiver would face different levels of reductions in FEMA aid in subsequent disasters. In floods, FEMA would reduce its aid by the amount of assistance that the agency provided after the first disaster. But for all other disasters, FEMA would reduce its aid by the amount of damage the public entity sustained in the first disaster.

Mr. Walke said he expects that FEMA would be able to reconcile the regulations by sometime next year so that the agency would provide aid in all disasters as it currently would in the case of floods.

Until then, FEMA will continue to provide aid as current regulations prescribe, he said.

Our brokers want responsiveness.
Our clients want experience.

We deliver.

From solid financial ratings, to superior customer service, to a strong global presence. Allied World Assurance Company is uniquely positioned to deliver the insurance and reinsurance solutions you need, when you need them.

www.awac.com

ATLANTA | BERMUDA | BOSTON | CHICAGO | DUBLIN | LONDON | NEW YORK | SAN FRANCISCO | ZUG

Insurance coverage is underwritten by member companies of the Allied World Assurance Group. Coverage is subject to underwriting. Member companies may not be licensed in your state or jurisdiction. To find out if coverage is available, please contact your insurance broker.

You're hired.

Business Insurance.
CAREER CENTER

The ultimate career resource in the insurance industry.

http://careers.BusinessInsurance.com

Business Insurance's WOMEN TO WATCH LUNCHEON

Join *Business Insurance* as we honor the smart, savvy, influential, accomplished and innovative women who are changing the face of the insurance industry.

Tuesday, Dec. 2, 2008
Reception – 11:30 AM - 12:30 PM
Luncheon – 12:30 PM - 2:30 PM
New York, NY

The Waldorf=Astoria

Guests: $200 | Tables of 10: $1,750 | APIW Members: $150

To attend, contact Pat Ghazvini at 212-210-0137 or e-mail pghazvini@BusinessInsurance.com

For Sponsorhip Opportunities,
Contact Bob Raidt at 212-210-0133 or e-mail braidt@BusinessInsurance.com

With the support of APIW

Market Moves

ACA Financial reorganizes, appoints new board

NEW YORK—Following the approval of a restructuring plan by the Maryland Insurance Administration, New York-based ACA Financial Guaranty Corp. has reorganized with a new board of directors and restructured its balance sheet and obligations.

ACA, a financial guarantee insurer of municipal bonds that began running into financial difficulties in 2007, is incorporated in Maryland.

Willis King, executive chairman of Lake Mary, Fla.-based, First Protective Insurance Co. and Fidelity Fire & Casualty Insurance Co., and a former longtime reinsurance brokerage executive, is the new chair of the reorganized board.

Raymond Brooks Jr., former managing director with New York-based Alvarez & Marsal Holdings L.L.C., is the new chief executive officer and a board director.

As a result of the restructuring, ACA Capital Holdings Inc. no longer controls ACA Financial Guaranty Corp., the insurer said. Former counterparties to the transactions guaranteed by ACA now control ACA, which said it manages about 700 policies nationwide representing more than $7 billion in principal.

UnitedHealth's Ingenix buys IT firm Integris

CHELMSFORD, Mass.—Eden Prairie, Minn.-based Ingenix Inc., a UnitedHealth Group Inc.-owned data warehouse, has purchased business intelligence firm Integris Inc., according to Ingenix.

Integris, also known as Bull Services, is an information technology firm previously owned by Groupe Bull of France. Deal terms were not disclosed.

Integris specializes in public sector health and human services while Ingenix specializes in financial and care management applications, Ingenix said in a statement.

Integris' IT products manage one-third of the $330 billion in annual Medicaid spending nationwide, Ingenix said in citing data from the U.S. Centers for Medicare and Medicaid Services' data.

Arthur J. Gallagher adds Fuller & O'Brien

ALBANY, N.Y.—Arthur J. Gallagher & Co. has purchased retail broker Fuller & O'Brien Inc. in Albany, N.Y., the Itasca, Ill.-based brokerage said.

Terms of the deal were not disclosed.

Fuller & O'Brien provides property/casualty, workers compensation, surety bonding and risk management services in the Northeast, specializing in construction and related industries.

The firm will continue to work out of its Albany office.

Collins provides consulting to Brazilian reinsurer

RIO DE JANEIRO, Brazil—Minneapolis-based reinsurance intermediary John B. Collins Associates Inc. said it has signed an agreement to serve as a consultant to newly established Brazilian firm Especializada Re Corretora de Resseguros, which will broker reinsurance in Brazil.

Earlier this year, Brazil opened its reinsurance market to private companies, ending the monopoly of government-owned IRB Brasil Resseguros SA.

Especializada Re received its license to operate in Brazil in July.

Mercer, Tesi merge operations in Italy

MILAN, Italy—A Milan, Italy-based division of New York-based benefits consultant Mercer L.L.C. has merged with Italian management consultant Tesi to form a new consulting company.

The combined Mercer Tesi will have 105 employees in Milan and Rome.

Mercer, a unit of Marsh & McLennan Cos. Inc., did not disclose financial details of the merger.

Lockton forms partnership with Canadian broker

MONTREAL—Lockton Cos. L.L.C. has formed a formal partnership with BFL Canada to better serve the brokers' clients, the firms said.

Kansas City, Mo.-based Lockton said in a statement that the companies formed the partnership after working together for the past year. Both firms offer commercial insurance products, risk management and employee benefits consulting services.

BFL will help Lockton with its Canadian customers and Lockton will help BFL with its customers in the United States, according to the statement. A BFL official said that the company's growth and the demands of its larger clients required such an alliance.

HSBC opens branch in Qatar

DOHA, Qatar—HSBC Insurance Brokers Ltd. has opened a branch office in Doha, Qatar.

In a statement, HSBC said it has received regulatory approval from the Qatar Financial Centre Authority for the new office, which will broker insurance to corporate customers in the Persian Gulf nation.

The company, part of the London-based HSBC Holdings P.L.C., also has offices in Saudi Arabia and the United Arab Emirates.

ICAT, OnPoint form partnership

ATLANTA—London-based underwriter ICAT Holdings L.L.C. and its Lloyd's of London Syndicate 4242 have formed a partnership with Atlanta-based OnPoint Underwriting Inc. to offer specialized insurance products, including a builders risk program, ICAT said in a statement.

Both firms offer commercial and specialty insurance products, with ICAT underwriting risks in areas of the United States that are commonly exposed to catastrophes.

RMS opens office in Beijing

BEIJING—Newark, Calif.-based catastrophe modeler Risk Management Solutions Inc. has opened an office in Beijing.

RMS unveiled its China earthquake model in 2007. The country has the largest earthquake risk exposure in the world, according to RMS.

The firm has tapped Zifa Wang, an earthquake engineering expert and the former director of China's Institute of Engineering Mechanics in Harbin, China, to head the office.

TO SUBMIT ITEMS

BI's Market Moves column reports on activities by insurance industry companies and related entities New product offerings appear in Products & Services. Please send Market Moves news to: Zack Phillips, *zphillips@businessinsurance.com.* P&S items should be sent to Colleen McCarthy at *cmccarthy@businessinsurance.com*

eighth annual
Legal Malpractice & Risk Management conference

March 4-6, 2009
Westin Chicago River North
Chicago

Attend the premier annual conference
focused on current and important developments in the law and litigation of malpractice claims, legal malpractice insurance and risk management strategies

The 2009 Legal Malpractice & Risk Management Conference offers interactive panels comprised of leaders in their respective fields, from professional liability practitioners and law firm general counsel to insurance professionals. Each panel will provide a comprehensive examination of current developments with an emphasis on recent legal decisions.

Legal Malpractice Topics (March 4-5)
- Guess Where You Are Being Sued – Bankruptcy Court
- Developments Concerning the Litigation Attorney
- Selecting and Interviewing Expert Witnesses
- Statutory Causes of Action – Consumer Protection Statutes
- Developments in Disciplinary Defense

...and much more

Risk Management Topics (March 5-6)
- Reducing Loss – Self-Help, Mitigation and Protection
- Plaintiff's Perspective – Red Flags and Selection Criteria
- Risk Management and Electronic Advertising
- Grab and Leave Cases – Protecting the Firm When People Depart

...and much more

Register Online Now at www.LMRM.com or call our Conference Planner at 312-704-3329

Who Should Attend?
- Professional Liability Practitioners
- Law Firm General Counsel and Managing Partners
- In-House Corporate Counsel
- Legal Malpractice Insurance Professionals
- Any Practicing Lawyer Concerned about Risk Management in the Practice of Law

Earn up to 13.75 Hours of CLE Credit and up to 5.5 Ethics Credit

Conference Sponsors
Lawyers for the Profession® Professional Responsibility, Risk Management and the Law Governing Lawyers
Thomson Reuters
Hinshaw & Culbertson LLP
APRL Association of Professional Responsibility Lawyers
BNA

Point. Click. Explore.

Subscribers to *Business Insurance* can register online to enjoy the broadest access to *BI* content.

- Search and retrieve articles from *BusinessInsurance.com's* vast online article archive.
- Search and retrieve any directory listing in the online database of industry vendors.
- Access exclusive vendor rankings online.
- Sign up and receive the digital edition of the weekly issue.
- Sign up for a variety of e-mail News Alerts. View all e-mail products.

BusinessInsurance.
www.BusinessInsurance.com

Commercial insurance industry coverage delivered just the way you want it.

IN PRINT, ONLINE AND EVERYWHERE ELSE.

The ***Business Insurance*** brand delivers the world's best commercial insurance industry coverage. From ***Business Insurance***, the industry leader for more than 40 years, to ***Business Insurance Europe***, the first pan-European newspaper dedicated to commercial insurance coverage to ***Industry Focus***, the monthly drill-down for strategic decision-makers.

All print titles from the ***Business Insurance*** brand are available as exact replicas in digital format, and each offers many additional online and electronic products and services designed to keep you on the go and in the know.

The *Business Insurance* brand. Your one-stop source for the most comprehensive, respected and insightful coverage of the global commerical insurance marketplace. Written by insurance leaders for insurance leaders.

Business Insurance
www.BusinessInsurance.com
TARGETED NEWS. TARGETED AUDIENCE. TARGETED DELIVERY.

A Supplement to Business Insurance
Industry Focus
www.IndustryFocus.com
FOR STRATEGIC DECISION-MAKERS IN COMMERCIAL INSURANCE

Business Insurance
EUROPE™

Everything you could ask for from the leading commercial insurance news magazine

EXCEPT THE MAGAZINE

Business Insurance's Digital Edition

Accessible, Anywhere, Anytime! The Digital Edition of *Business Insurance* is an exact replica of the print version but with added benefits.

- Receive automatic delivery to your e-mail address, no more snail mail.
- Read at your convenience online or download in PDF format.
- View high quality easy to read text, charts and images.
- Click on live links in articles and ads.
- Navigate easily within articles and pages with a single click.
- Access all your archived issues.

Experience the digital difference today sign up at *www.businessinsurance/digital*

Business Insurance
www.BusinessInsurance.com

PROFESSIONAL MARKETPLACE

To place your ad, contact **Monique Murray** at (212) 210-0129
fax: (212) 210-0704 / E-mail: mmurray@BusinessInsurance.com

Business Insurance, Classified Department
711 Third Ave., New York, NY 10017-4036.
Call for details on blind box and internet advertising

You're hired.

Business Insurance CAREER CENTER

The ultimate career resource in the insurance industry.

http://careers.BusinessInsurance.com

YOUR TARGET AUDIENCE IS HERE...

Where is your ad?

Call (212) 210-0129 to reserve your space.

Business Insurance
www.BusinessInsurance.com

LEGAL NOTICE

ENGLISH & AMERICAN INSURANCE COMPANY LIMITED

NOTICE OF ANNUAL MEETING OF SCHEME CREDITORS

A meeting of the Scheme Creditors of the Company has been convened by the Scheme Administrators, pursuant to Clause 8.1 of the Scheme of Arrangement between the Company and the Scheme Creditors for the purposes set out below.

The meeting will be held at KPMG's offices, 1-2 Dorset Rise, London EC4Y 8EN on Monday 15 December 2008 at 10.30am. A report concerning the progress made in implementing the Scheme and the conduct of the Company's affairs generally since the last such report was prepared will be laid before the meeting pursuant to Clause 8.1.2. Scheme Creditors will have the opportunity to address questions to the Scheme Administrators concerning the report at the meeting.

A copy of the report is being sent to the last known addresses of all known creditors, potential creditors and brokers of the Company. Any person entitled to attend the meeting who has not received the report by 25 November 2008 can obtain a copy free of charge from the Scheme Administrators of the Company at KPMG LLP, 8 Salisbury Square, London EC4Y 8BB.

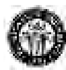
Queries regarding Scheme Creditors' claims should be directed to the helpline on +44 (0) 1452 782 543.

Tom Riddell and Mike Walker,
Scheme Administrators

To place your legal notice contact Monique at 212-210-0129.

BUSINESS RESOURCES

EDUCATION & TRAINING



Florida State University

Totally ONLINE master's degree in Risk Management and Insurance

Complete your degree from anywhere in the world
Classes taught by full-time faculty
Affordable and Flexible
Visit http://riskmanagement.fsu.edu

SPECIALTY RISKS

Guards • Investigators • Alarms
WC • GL/Professional • Umbrella
1-800-665-7304
www.brownyardprograms.com

Advertisements appearing in this section also appear online at www.BusinessInsurance.com/Marketplace

UP CLOSE

Comings & Goings

RUUD BOSMAN

NEW JOB TITLE: Vice chairman for Johnston, R.I.-based Factory Mutual Insurance Co., which does business as FM Global.

PREVIOUS POSITION: Executive vp.

GOALS FOR NEW POSITION: The first goal is the business goal that we have. We are a mutual company. We are owned by our clients, so from our perspective, it's always important to put ourselves in the best position to understand and meet the needs of our clients.

CHALLENGES FACING THE INDUSTRY: I'd like to keep it fairly specific to our own business. We are commercial property insurance company and all our clients are Fortune 1000-type organizations, and of course they are all, over the last five to 10 years, very much in a pattern of globalizing their business, and challenges come along with that. They require us as an insurance company to provide their risk-transfer mechanisms, their insurance policies around the world, in a consistent and continuous fashion. They require us to deliver our risk engineering service to the world.

IF I COULD CHANGE ONE THING ABOUT THE INDUSTRY: I think the industry has the unfortunate tendency to fluctuate in terms of pricing policies and core products, which is the insurance capacity, which I think puts clients in a position of never quite knowing what is going to happen to renewal cycles. Our objective at FM Global, as a mutual company, is to try to provide that stability. Stability comes about when prices don't fluctuate too much and capacities stay the same. It gives people the opportunity to focus on more important things like managing their business. I don't think the insurance industry has done a particularly good job of that. It fluctuates a lot and I think we ought to do a little better.

ADVICE: Business is the client. Whatever we do in the insurance business, we need to keep in mind that this really isn't about our own company. It really is much more about the fact that there is a marketplace out there and they have product needs and these needs change and evolve. In order for the insurance industry to do well, we need to have that external focus.

OUTSIDE THE INDUSTRY, A DREAM JOB: I always wanted to be a professional golfer. That would be nice. That or an Olympic skier.

Comings & Goings ONLINE

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

TO SUBMIT ITEMS

Business Insurance would like to report on senior-level changes at commercial insurance companies and service providers. Please send news and photos of recently promoted, hired or appointed senior-level executives to:

Allison Martinat
Business Insurance
360 N. Michigan Ave.
Chicago, Ill. 60601-3806
amartinat@businessinsurance.com

POSTING THIS WEEK

INSURERS:
- Zurich Financial Services Group
- Berkley Professional Liability L.L.C.
- Markel Corp.

BROKERS:
- Aon Corp.
- National E&S Insurance Brokers Inc.

OTHER PROVIDERS:
- Aquiline Capital Partners L.L.C.
- Mercer L.L.C.
- Buck Consultants L.L.C.

International NEWS

Turkish law may spark talent hunt

Country may make risk management mandatory for public companies

By MICHAEL BRADFORD

ISTANBUL, Turkey—Risk management at publicly traded companies will become mandatory in Turkey if legislation is passed by the country's lawmakers.

This change could spark a search for talent in a market where such resources already are scarce, say local experts.

"Listed companies would have to have a risk management function, and this would be a direct obligation of the board," said Atinç Yilmaz, managing director at Marsh Sigorta ve Reasürans Brokerliÿi A.ÿ. in Istanbul. The Grand National Assembly—Turkey's parliament—is expected to take action on the proposed law soon, he said.

Mr. Yilmaz said the change will mean that risk management is coming to the daily life of companies. He was among risk managers and other members of the Turkish market who commented on the proposed legislative change during a *Business Insurance Europe* Risk Management Horizons roundtable discussion in Istanbul earlier month.

Raise profile

Turkish market sources have welcomed the proposed change, saying it will raise the profile of risk management in a country where it is not as widely embraced as in other parts of the world. But they are concerned that an already shallow talent pool will become even shallower, as companies go on the hunt for risk management personnel.

The change will mean that hundreds of companies will suddenly need risk management professionals, said Alper Uÿural, risk management-senior vp at Doÿuÿ Holding Co., an Istanbul-based conglomerate that operates in financial services, construction and other industries. That creates a problem in a country where risk management expertise is not widely available, he said.

The lack of trained risk managers in Turkey means that employers need to look for staff with similar skills in other disciplines and then train them in risk management, noted Mr. Uÿural.

Skills shortage

George Sartorel, chief executive officer of Koç Allianz Sigorta A.ÿ., an Istanbul-based unit of Allianz S.E. in Munich, Germany, said he agrees with that approach, but acknowledged that it is difficult to find people with skills similar to those of risk managers who are able to make the shift.

The proposed law could serve as an important catalyst to accelerate the development of risk management in a culture where risk awareness traditionally has not been great, according to the roundtable participants.

"Regulation is not the most efficient way to make companies implement any process," said Mr. Uÿural, but in this case it will force more attention onto risk management. "Awareness will grow," he said. "And the talented and successful people in risk management departments will figure out that they have to become more proactive regarding events that will impact the company."

Few businesses in Turkey have a risk manager, which could change if the country's parliament passes a proposed mandate.

It is not surprising that it will take legislative action to force greater risk management awareness onto Turkish companies, said Ferhan Güzey, group risk manager at Borusan Holding A.ÿ., an Istanbul-based company with operations in steel, telecommunications and other industries.

"When I look at the development of the risk management concept in Turkish companies, it comes mostly from external drivers," such as regulatory changes, she said.

Association to focus on ERM

By MICHAEL BRADFORD

ISTANBUL, Turkey—Turkey's risk management association is expected to officially launch its operations within a few weeks.

Government approval of the Turkish Enterprise Risk Management Assn. should come in late October or early November, said Tamer Saka, president of the new group and chief risk officer at Haci Ömer Sabanci Holding A.S.

"We will act as the voice of the insurance buyer in Turkey," said Mr. Saka. "Risk managers have no platform right now. There are platforms for insurance companies, brokers and agents, but not for buyers."

Turkish businesses, many of which are family-owned, are not as well-versed in risk management as are companies in many other countries, Mr. Saka pointed out. "Enterprise risk management is a new topic for Turkish businesses," he said. "First, we have to train them in what enterprise risk management means."

In a country where the concept of risk management is still in development, the new association will be the prime mover in the education of companies in the value of the discipline, Mr. Saka said.

"We will have to create the image of ERM; that will be our major issue," he said, noting that his aim is to have a staff that will handle the association's operations.

In addition, "we have to generate enough funds to have professionals manage this kind of organization," he said. Part of TERMA's income will come from annual membership fees, which are likely to be set at $300 to $400, he said.

As soon as its license is issued, TERMA will apply for membership in the Federation of European Risk Management Assns., Mr. Saka said. That also involves application with the Turkish government for permission to establish the international relationship.

Mr. Saka said his efforts to raise the profile of risk management in Turkey involve lobbying FERMA to hold its 2011 forum in Istanbul.

NY TIMES
Lloyd's of London expects net claims of $2.34 billion for hurricanes Gustav and Ike. Seabrook, Texas, was inundated by a tidal surge from Galveston Bay caused by Ike.

Lloyd's loses over $2B from Gustav and Ike

By SARAH VEYSEY

LONDON—Lloyd's of London expects net claims of $2.34 billion from hurricanes Gustav and Ike.

Lloyd's said in a statement that the provisional estimate is based on analysts' expectations of an industry loss of $20 billion to $25 billion from the two hurricanes and covers both onshore and offshore claims.

Lloyd's said the estimated claims lie well within the outcomes of its realistic disaster scenarios stress tests. The current estimates would have "negligible impact" on the market's capital and not touch its Central Fund, which pays the claims of syndicates that are unable to do so, Lloyd's said in its statement.

"While industry losses from Hurricanes Gustav and Ike are likely to exceed initial forecasts, the claims to Lloyd's will be manageable and in the normal course of business," Richard Ward, chief executive of Lloyd's, said in the statement.

At the beginning of the year, Lloyd's reported marketwide underwriting capacity of £15.95 billion ($31.61 billion).

Ensure you don't miss a thing.

The only newspaper dedicated to corporate risk managers, insurers, reinsurers and brokers in Europe.

Subscribe today
visit www.BIEurope.com/subscribe

In Europe we have it covered

Business Insurance EUROPE™

Crisis: Benefits staff battle to address worker concerns over losses

CONTINUED FROM PAGE 1

firm Hewitt Associates Inc. in Lincolnshire, Ill. "I think everyone is working a little overtime."

Ms. Hess said some benefits departments have seen as much as a 20% increase in call volumes from concerned employees.

Barrie Christman, vp of the individual investor segment at Principal Financial Group in Des Moines, Iowa, said call volume at the 401(k), mutual fund, retirement and investor provider's call center has increased by 50% compared with normal volumes.

However, the increase in calls doesn't necessarily correlate with the number of people deciding to move their money or cease investing in their retirement accounts, Ms. Hess said: "In times like these we do see some movement, but by and large, people are staying the course."

'The situation is so fluid, it's somewhat of a challenge....It's keeping benefits departments quite busy. They need to get information out very quickly.'

Sam Templeton,
Watson Wyatt Worldwide

In September, the latest period for which figures are available, she said about 1% of the assets in plans Hewitt tracks experienced changes. She said employees moved $900 million in assets from equities into fixed income accounts. Nearly two-thirds of those assets were moved into stable value funds, while the rest were shifted to bonds and money market investments.

Concerned employees

Michael Pikelny, employee benefits manager for Hartmarx Corp. in Chicago, and Jack Towarnicky, associate vp for benefits planning at Nationwide Insurance in Columbus, Ohio, said calls from concerned employees to either their benefits departments or their investment plan administrators have increased, but not by overwhelming amounts.

Mr. Towarnicky said employees seem most concerned about whether their money is safe. Mr. Pikelny said employees commonly call to find out whether the financial plan administrator is stable and what happens to their money if the plan administrator goes out of business. Employees also want to know if their investments are well diversified, according to the mutual fund firms.

Once their questions have been answered, so far, few people have changed their investments, they said. However, Mr. Pikelny said, some employees have cut back on the amounts they are contributing to their accounts.

A spokeswoman for investment management company Vanguard Group in Valley Forge, Pa., said it's still too early in the financial downturn to tell if people will continue to resist pulling their money, out of the market entirely or transferring their money into different investment options.

While most employees are not making significant changes to their investments, Ms. Hess said, more calls inevitably result in more transactions and more activity. According to a report released by the AARP in early October, 13% of Americans ages 45 and older are prematurely withdrawing funds from their 401(k)s, IRAs or other investments to cover day-to-day expenses.

"Retirement Security or Insecurity? The Experience of Workers Aged 45 and Older," which surveyed 1,628 workers age 45 or older, also found that because of economic changes over the past 12 months, 20% of respondents have stopped contributing to a 401(k), IRA or other retirement account. Additionally, the report concluded 65% of respondents will delay retirement and work longer should the economy not improve significantly.

Bill McClain, a Seattle-based principal for human resources consulting firm Mercer L.L.C., said while some individuals will move their investments to the most conservative funds, he doesn't foresee a rush to invest in stable value accounts. He said most people will probably stay the course with their current investment vehicles.

"I don't think it's going to be a wholesale movement," he said. "The power of inertia is still pretty powerful."

Preventing employees from making rash decisions about their investments requires a robust and timely communication plan from either the employer or plan sponsor, or both, experts said. Sam Templeton, a communications consultant for Watson Wyatt Worldwide in Seattle, said to keep up with the ever-changing news in the markets, employers should respond quickly, communicating through intranets, e-mail and human resource contacts or managers, rather than through printed brochures.

Challenging situation

"The situation is so fluid, it's somewhat of a challenge," Mr. Templeton said. "It's keeping benefits departments quite busy. They need to get information out very quickly."

Employers should reassure employees of the safeguards and protections on their investment accounts; reiterate the importance of diversifying investments; and encourage employees to review their investments, but discourage them from panicking, he said.

Mr. Towarnicky said the Nationwide benefits department has increased communication regarding investment portfolios to its employees, particularly through e-mail and the company's human resources portal.

The company is reminding employees that retirement saving requires long-term, not short-term, thinking, and that the company matches contributions and is encouraging them to continue saving, he said. Nationwide directs all other specific financial questions to its investment administrator.

Mr. Pickelny said Hartmarx, for the most part, is simply directing employees to its mutual fund provider, Vanguard, for information. He said the firm is offering webinars and has a plethora of information on its Web site that typically answers any concerns.

Ms. Hess said it's critical employers are careful to not offer financial advice for which they could be held liable. She said employers should simply make sure employees understand the resources available to guide them through turbulent times.

"It's a fine line employers have to walk," she said. "They want to give out information to reassure employees, but they don't want to overwhelm them and tell them what to do."

Pensions: Crashing markets hit assets

CONTINUED FROM PAGE 3

reported investment losses last week. As of Oct. 10, CalPERS' fund has lost more than 20% of its value since July 1, 2008, according to a report to a CalPERS committee.

As of June 30, 2008, the CalPERS fund had an estimated 92% funding ratio, which represents the market value of assets divided by total pension obligations for all 1.6 million members, according to the report. Any level above 90% is considered "quite good," according to a CalPERS spokesman.

But if that 20% drop persists, the investment return as of June 30, 2009, will decline to 68%, according to the report.

A spokesman said this change would not lead to a call for additional funding from employers in either this fiscal year or next, because CalPERS spreads the impact of changes in its fund over a 15-year period, thus smoothing over dramatic annual changes.

CalPERS Chief Actuary Ron Seeling, who helped prepare the report, said in a statement: "Cushioning the impact of investment setbacks is the fact that CalPERS experienced double-digit gains in the four years leading up to the 2007-2008 fiscal year. We had saved 14% of the fund for cushioning the blow of a future market downturn, and our smoothing policy is working as it should."

The CalPERS fund had a total market value of $188.8 billion as of Oct. 22.

Jerry Geisel contributed to this report.

FMLA: Court rules in favor of worker

CONTINUED FROM PAGE 4

erty's termination was motivated by unlawful, discriminatory animus," the appeals court panel ruled.

"Alexander was Daugherty's immediate supervisor and a decisionmaker at Sajar. A fact finder would not be required to draw any inferences to determine that Alexander retaliated against Daugherty when Alexander explicitly threatened such retaliation and the threat—that Daugherty would not have a job waiting for him when he returned from leave—was realized," the court said in its opinion.

The case was remanded for further proceedings.

Reacting to the ruling, Jonathan T. Hyman, an employer attorney with Kohrman Jackson & Krantz P.L.L. in Cleveland, said, "The human resources director made his comment right before the guy was going out on leave," which supports the court's decision.

However, "a recall offer was made," which "could suggest that retaliation might not have been the motive here. There might have been a legitimate reason why this guy was laid off," Mr. Hyman said.

"There was enough of an issue for the case to be decided by the jury, which is ultimately what the court decided," he said.

Mr. Daugherty's attorney, Richard N. Selby II of Painesville, Ohio-based Dworken & Bernstein Co. L.P.A. said, "There were definitely some issues of fact that should be determined by the jury, as opposed to on summary judgment."

Sajar's attorney could not be reached.

James Daugherty vs. Sajar Plastics Inc., 6th U.S. Court of Appeals No. 06-4608, Oct. 16, 2008

Business Insurance

If you have moved recently and would like to change your subscription address, or if you would like to report a delivery problem, please call us at 1-888-446-1422 toll-free or e-mail us at *subs@crain.com*

You get what you pay for. Rich Data.

In today's world of instant gratification, there's no better place to quickly find the most valuable rich data on the service providers in the commercial insurance marketplace than in *BI's* online Directories department.

Now you can purchase PDFs or downloadable Excel spreadsheets containing searchable live data for your own reports, contacts you need to make, or for your company's marketing efforts. More than 34 targeted Directories are available.

Visit — BusinessInsurance.com/Directories

For sponsorship opportuinities e-mail: Advertising@BusinessInsurance.com

They're smart, savvy, influential, accomplished and innovative.

They're CEOs, CFOs, risk managers, benefits managers, human resource executives, brokers, insurers, reinsurers, consultants and lawyers.

They're changing the face of the insurance industry.

They're ***Business Insurance's*** **Women to Watch.**

Show your support for the influential women you know in the commercial insurance industry with your ad in *BI's* Spotlight Report.

To reserve your space e-mail **Advertising@BusinessInsurance.com** with subject line Women to Watch.

WOMEN TO WATCH

A Spotlight Report

Publishing: Dec. 1 | Ad Close: Nov. 19

Save the date!
December 2, 2008

Business Insurance's Women to Watch Luncheon
at the Waldorf=Astoria
in New York City

For more information, contact Pat Ghazvini at 212-210-0137

Business Insurance
www.BusinessInsurance.com
TARGETED NEWS. TARGETED AUDIENCE. TARGETED DELIVERY.

New York: 212-210-0133 | **Chicago:** 312-649-5276
Boston: 617-292-4856 | **Los Angeles:** 323-370-2405

Massachusetts health care law reducing ranks of uninsured

Employer-sponsored plans fuel increase in number of covered

By JERRY GEISEL

BOSTON—More than two years since Massachusetts enacted landmark legislation to move the state toward universal health care coverage, that goal is drawing nearer.

From June 2006, when the reform law first began to kick in, through March 31, 2008, the number of people covered by health insurance increased by 439,000, most of whom were previously uninsured, according to a report by the Massachusetts Division of Health Care Finance and Policy.

While estimates vary, all surveys conducted on the issue show a dramatic drop in the uninsured rate since that law went into effect. For example, a report by a state agency reported that 5.3% of Massachusetts adults were uninsured in 2007, down from 8.4% in 2006.

The uninsured rate could fall even lower. Jon Kingsdale, executive director of the Commonwealth Health Insurance Connector Authority, the state agency implementing key provisions of the reform law, predicts that the uninsured rate by the end of the year could fall within a range of 2% to 4%, by far the lowest of any state.

"That would be really remarkable," Mr. Kingsdale said.

Some of the reasons for the drop are obvious. Under the reform law, Massachusetts subsidizes health insurance premiums of eligible low-income uninsured residents. In some cases, the state pays the entire premium through a Connector program known as Commonwealth Care.

Currently, nearly 170,000 state residents are receiving coverage through Commonwealth Care.

Even greater growth has occurred in the private insurance market. Coverage in the private market increased by 191,000 through March 31 compared with June 2006, due mainly to employer-sponsored plans, Mr. Kingsdale said.

'Long-term sustainability depends on getting a better handle on health care costs. That remains the major challenge for health care reform in Massachusetts.'

Jon Kingsdale, Commonwealth Health Insurance Connector

"There has been tremendous growth in the employer market," said Bob Carey, the Connector Authority's director of planning and development.

That increase in employer-provided coverage is being driven in strong part by a key feature of the reform law: Individuals, unless they can prove that coverage is not affordable, are required to enroll in a health insurance plan. Starting this year, the penalty can be more than $900 for failure to enroll.

That penalty has encouraged more people—such as young, healthy residents, who previously believed they didn't need insurance—to enroll in plans, Mr. Kingsdale said.

Contrary to some early predictions, the law has not resulted in employers dropping coverage. Except for very small firms, employers not offering health care coverage are assessed an annual penalty of $295 per employee.

"The fear that employers would drop coverage and pay the $295 penalty has not played out at all," Mr. Carey said. In fact, the percent of employers offering health insurance coverage crept up slightly to 72% in 2007 from 70% in 2006, according to a state report.

And as insurance coverage has increased, payments made through a state program known as Health Safety Net to hospitals and community medical centers to reimburse them for treating the remaining uninsured has declined dramatically.

Health Safety Net payments to health care providers fell 41% to $98 million in the first quarter of fiscal 2008 compared with the same period a year ago, according to the Division of Health Care Finance and Policy.

At the same time, political support for the reform law remains strong. A survey conducted by the Harvard School of Public Health found that in June, 69% of likely voters viewed the reform law favorably, up from 61% in September 2006.

Support also remains strong at the executive branch, Mr. Kingsdale noted. For example, while Massachusetts faces a challenging economic environment, Gov. Deval Patrick recently said programs offered through the health care reform law would be exempt from cuts.

Still, the final chapter on the reform effort is far from being written. The biggest unknown, experts concur, is whether the cost of such an expansion of coverage is affordable over the long term.

"Long-term sustainability depends on getting a better handle on health care costs. That remains the major challenge for health care reform in Massachusetts," Mr. Kingsdale said.

"It will take several years to see this all through," said Bill Vernon, state director of the National Federation of Independent Business/Massachusetts in Boston.

Still, some lessons of Massachusetts' experience are applicable to other states looking to reduce the number of uninsured, he said. One is that an individual coverage mandate is very effective in expanding coverage.

"Clearly, the impact of the individual mandate is very strong," Mr. Kingsdale said.

Additionally, passing and implementing health care reform is possible only through developing a consensus among different interest groups.

"We have had so much support in implementing the law because the broad coalition that supported enactment of the legislation stayed together during implementation. That has made a tremendous difference," he said.

"It is not just about enactment. Equally important is implementation," Mr. Kingsdale said.

Massachusetts: Employer rules eased

CONTINUED FROM PAGE 3

level plans, which generally provide the lowest level of benefits offered through Connector.

Connector officials said the addition of the safe harbor was the result of discussions with employers, insurers and consultants, who argued that plans should be judged on the full range of benefits offered, not a rigid set of benefit requirements.

"An employer might set a $2,100 deductible but have fairly generous coverage after that. We wanted to recognize the value of the entire package," said Connector Authority Executive Director Jon Kingsdale.

This "is a safety valve for those offering real coverage and that for one reason or another do not meet the letter of the regulation," said Bob Carey, Connector's director of planning and development.

State business groups and others welcome the change.

"This truly is a victory for common sense. It is a recognition that you shouldn't try to micromanage the benefits employers are offering in their health care plans," said Richard Lord, president and chief executive officer of employer group the Associated Industries of Massachusetts in Boston.

Prior to the change, "coverage offered by employers could be more generous than" the floor set through the minimum creditable coverage and still not pass muster, said J.D. Piro, a consultant with Hewitt Associates Inc. in Norwalk, Conn.

From a policy standpoint, "there was no reason to penalize employees enrolled in such plans," he said.

It isn't clear how many employers will need to use the safe harbor approach. Mr. Carey, for example, said most employer plans already meet the minimum creditable coverage requirements.

Others, though, say the number could be considerable.

Among larger employers, many did not meet all of the various requirements, said Rich Stover, a principal with Buck Consultants L.L.C. in Secaucus, N.J. "In many cases, there were failings around the edges. In some cases, even the most generous plans could have failed," added Andy Anderson, of counsel with Morgan, Lewis & Bockius L.L.P. in Chicago.

While welcoming the safe harbor, benefit experts say more safe harbor-related guidance is needed, which Connector officials say may be coming within a month.

"We recognize that it is very important to get this information out to the market," Mr. Carey said.

Upcoming guidance will deal with such issues as how and when the actuarial equivalence certification will be provided.

Aside from the safe harbor provision, the final rules address other minimum creditable coverage issues in ways that employers welcome.

For example, health care plans that are the result of collective bargaining agreements will not have to comply with the minimum creditable coverage requirements until one year following the expiration of those agreements.

In addition, high-deductible health insurance plans that are linked to health savings accounts will automatically comply with the minimum creditable coverage rules in 2009.

Starting in 2010, HSA-linked plans will be considered in compliance if they include a broad range of medical benefits, the deductible and out-of-pocket maximums are based on federal requirements and the plan sponsor or insurer facilitates employee access to HSAs, among other things.

Meeting those requirements should pose no problems for employers. "This basically means HSAs are going to be OK in 2009 and beyond," said Mr. Stover of Buck Consultants.

In addition, the final rules retain an earlier provision in which employer contributions to a health reimbursement arrangement linked to a high-deductible health insurance plan would be recognized as an offset to the deductible, increasing the chances that the plan will satisfy the coverage requirements.

ADVERTISER

INDEX

Issue of October 27

ADVERTISER	PAGE #
Ace Insurance Group	21
AIG Corporate	48
Allied World Assurance	36
American Appraisal Associates	24
American Institute for CPCU	32
Aon	2
Argo Group	27
Brownyard Programs	40
Business Insurance	26, 35, 37, 39
Crawford & Company	33
CV Starr	12
Discover Re	14
Edwards & Angell, LLP	30
Endurance Services Ltd	22
Florida State University	40
Guy Carpenter	17
Hinshaw & Culbertson	38
Lexington Insurance	23
Liberty International Underwriters	25
Liberty Mutual	5
Lloyd's of London	28
Locke Lord Bissell & Liddell	16
Mercer Ltd	7
Munich Re	29
Paris Re	20
Partner Re	19
Pinnacle Actuarial Resources	6
RLI Corp	10
St. Baldrick Foundation	34
Travelers	31
XL Specialty Insurance	15
Zurich Financial Services	9, 11

BI kicks off video series on property/casualty insurance

Business Insurance and *BI* supplement *Industry Focus* will present a series of video programs on property/casualty insurance topics, starting with coverage from the Property Casualty Insurers Assn. of America annual meeting Oct. 27-29 in Scottsdale, Ariz.

The Des Plaines, Ill.-based PCI represents more than 1,000 U.S. companies writing personal and commercial lines property/casualty business. Its annual meeting is a major event for primary insurers, brokers and reinsurance companies. Coverage of the event will appear online and in printed editions of *BI* and *Industry Focus*.

The video series, sponsored by IBM Corp., will include reports on the PCI meeting, insurance and reinsurance market conditions, trends, application of technology to core processes and strategies, and more.

To view the reports, visit *www.BusinessInsurance.com/knowledgecenter* or *www.IndustryFocus.com.*

AIG: Federal lobbying halt could have unintended consequences

CONTINUED FROM PAGE 1

prises have not been successful.

"We're stopping lobbying (to influence legislation), but not shutting down offices or firing people," an AIG spokesman said in an e-mail. "We will continue to monitor policy and have general discussions."

While AIG is an associate member of the National Assn. of Mutual Insurance Cos. that lobbies Washington, Jimi Grande, its vp-federal and political affairs in Washington, said that "NAMIC advocates on behalf of all its members and no one member in particular."

Meanwhile on the other side of Capitol Hill, AIG came under fire from Rep. Paul Kanjorski, D-Pa., who said he plans to introduce legislation limiting the compensation of AIG executives if the federal government does not do so.

"I must rebuke the greed of some AIG executives and agents," said Rep. Kanjorski, chairman of the House Financial Services Committee's Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, during a hearing last week on financial industry regulation. He said if federal authorities do not take steps to rein in AIG executive compensation, "I will do it legislatively."

Late in the week, New York Attorney General Andrew Cuomo said AIG had agreed to freeze payments to former CEO Martin Sullivan and freeze distribution of any funds from the $600 million deferred compensation and bonus pools to AIG's Financial Products unit, which has been blamed for AIG's financial problems (see related story.)

Observers say AIG's lobbying halt could have unintended consequences.

"The first thing, it is not surprising and in fact could have been fully anticipated that someone in Congress would raise the issue that people getting federally supported assistance could not engage in lobbying," said Tom Blank, vice chairman of Wexler & Walker Public Policy Associates, a Washington-based lobbying firm. Mr. Blank does not represent AIG or any financial services clients.

But lobbyists can keep lawmakers and regulators informed of policy nuances, said Mr. Blank, a former acting deputy administrator of the U.S Transportation Security Administration and a former communications director for then-House Speaker Newt Gingrich, R-Ga.

"Oftentimes, people on Capitol Hill, given the nature of their work, are a mile wide and couple of inches deep on the issues they have jurisdiction over," Mr. Blank said. "That's not a criticism. That's just the nature of the reality of how Capitol Hill works." Without informed input, "the result can be legislation that can be costly to implement, it can have negative effects in terms of its workability on the industries that are impacted by it. Laws can be made without the benefit of a lot of useful real world information that lobbyists provide."

"We shouldn't assume that everyone or an entity that lobbies is always seeking selfish interests," Mr. Blank said. "There are ways to advocate for good public policy."

He noted that that he had regulatory responsibility for airline security at TSA after the Sept. 11, 2001, terrorist attacks. "We implemented the new security regime after 9/11 through security directives. It would have caused chaos if I had not had representatives of the airline industry working with me in shaping those orders," he said.

Flow of information

If interested parties aren't or can't be heard, "the result is vital flow of information to the two branches of government gets shut down. It makes everybody's job harder to do," Mr. Blank said.

He said he sympathized with Sen. Feinstein's position. It "is not an unreasonable one in my view. That's because you really shouldn't have federally engaged entities seeking competitive advantage. AIG has gotten itself bailed out. I can see a concern where, if AIG is going to seek competitive advantage over its rivals, federal dollars shouldn't be paying for AIG to do that."

Veteran insurance industry lobbyists also stressed the need for two-way communication on Capitol Hill.

"AIG has always had an extremely effective presence in Washington, as well should any firm with so many billions of dollars on the line," said Joel Wood, senior vp of the Council of Insurance Agents & Brokers in Washington. "There is ample history of companies that didn't have a presence in D.C. who ultimately paid a steep price for failing to do so. Hopefully, given the intensity of congressional interest in all of the issues surrounding AIG and insurance regulation, AIG will continue to provide substantive resources so that Congress remains fully informed of the marketplace consequences of regulatory reform, without crossing over any political lines of lobbying and advocacy."

"I believe that policymakers here in D.C. benefit from any input from any significant company or presence," said Maria Berthoud, a senior vp who specializes in insurance and health issues at B&D Consulting, the Washington-based consulting arm of law firm Baker & Daniels L.L.P.

"The more information that members of Congress have, the better able they are to make the best decisions possible. It is in best interest of not only AIG but the policymakers as well, who benefit from having complete information available.

"AIG is not a GSE that has been nationalized like Freddie and Fannie Mae, so there is a significant distinction. They should not lose their ability to lobby because of the benefit to all involved," Ms. Berthoud said.

A consumer advocate said that banning AIG from lobbying is justified.

"It is very appropriate to ban AIG form lobbying as has been done Freddie Mac and Fannie Mae," said Craig Holman, legislative representative for consumer advocacy group Public Citizen in Washington. "These entities are now primarily governmental entities, and it's a contradiction to have a government entity lobbying the government. It suggests that the government entity has its own private interest that is distinct from the public's interest. Once they become government entities they should not be lobbying."

AIG freezes executives' pay and bonus packages

NEW YORK—New York Attorney General Andrew M. Cuomo said American International Group Inc. has agreed to freeze the $19 million plus other benefits provided for former Chief Executive Officer Martin Sullivan in his employment package.

In a letter Wednesday to current AIG Chairman and CEO Edward M. Liddy, and at a press conference, Mr. Cuomo said that AIG also has agreed that no funds will be distributed out of the $600 million deferred compensation and bonus pools of AIG's Financial Products subsidiary, which was the source of the credit default swaps that have caused the insurer's current problems.

AP PHOTOS

New York Attorney General Andrew Cuomo said until AIG pays back its federal loan, it should not pay executive bonsuses.

"It is my understanding that Joseph Cassano, the former head of the subsidiary, has a share totaling approximately $69 million of these funds," said Mr. Cuomo in his letter. "In addition, after Cassano, five other top executives in AIG Financial Products have a combined share in these funds totaling approximately $93 million.

"The American taxpayer is now supporting AIG, making the preservation of these taxpayer funds a vital obligation and a priority responsibility of your company," Mr. Cuomo said in his letter. "Taxpayers are, in many ways, now like shareholders of your company, and the new AIG has a responsibility to them in the first instance."

At the press conference, Mr. Cuomo was asked whether he would pursue payments that have been made to former Chairman and CEO Maurice R. Greenberg. Mr. Cuomo responded, "We have a separate case pending against Mr. Greenberg, and that's been an ongoing matter."

At the conference, Mr. Cuomo said, "My position is until the taxpayers recoup their investment in AIG, which is now $120 billion, plus interest, there should not be any contemplation of…executive bonuses, because I find it hard to conceive of a situation where executives could justify performance bonuses for management that virtually bankrupts the company. I don't want to add insult to injury."

Mr. Cuomo said his first step would be to freeze compensation and bonuses. Step two, he said, "which is more ambitious" is to determine "to what extent you can actually recapture money that has already been paid," which is an issue that is now being reviewed under New York's Uniform Fraudulent Conveyance Act.

"Everyone's talking about toxic assets," he said. "But let's also realize there were toxic practices that created the problem of the toxic assets."

Last week, Mr. Liddy agreed to help Mr. Cuomo recover bonuses and other payments to former executives. Mr. Liddy also agreed to end "all junkets and perks" for executives, canceling scores of planned AIG events that would have cost the company more than $80 million.

—By Judy Greenwald

AIG increases borrowing from government

NEW YORK—American International Group Inc. last week upped the amount has borrowed from the federal government and named two executives to key roles in its restructuring efforts.

New York-based AIG has now borrowed more than $90.3 billion from the government, according to a document posted by the Federal Reserve Board last Thursday. Total borrowings now have surpassed the initial $85 billion revolving credit facility the Fed's rescue plan granted AIG in September. That loan was followed by an additional $37.8 billion credit agreement earlier this month related to securities lending.

In an interview on PBS' "NewsHour with Jim Lehrer" Wednesday, Edward Liddy, AIG's chairman and chief executive officer, said that he thought and hoped that the nearly $123 billion in government assistance would be all the federal help AIG would need.

"It's very much a function of two things: one, our ability to stop the bleeding that we have in the financial products areas, and we've made good progress in that," Mr. Liddy said. "But it's also what happens to the capital markets," he said. "To the extent they continue to go down and we have to keep posting collateral…it's possible it may not be enough."

$90.3B

AMOUNT of money AIG has borrowed from the federal government's bailout package for the insurer.

In addition, AIG last week named Paula Rosput Reynolds has been named vice chairman and chief restructuring officer. Ms. Reynolds, a former chairman, president and chief executive officer of Safeco Corp., will oversee divesture of AIG assets and serve as chief liaison with the Federal Reserve Bank of New York.

AIG plans to sell noncore assets to repay funds borrowed from the government.

Richard H. Booth, AIG senior vp and chief administrative officer, has been named vice chairman-transition planning and chief administrative officer. His responsibilities include restructuring AIG's corporate center, overseeing the separation of companies AIG is selling, and executing AIG's transition to a new organizational structure. He will also continue his current AIG responsibilities.

"Both of these executives will serve us well as we restore AIG as a competitive enterprise that contributes to the economy and returns value to taxpayers and shareholders," AIG Chairman and Chief Executive Officer Edward M. Liddy said in a statement announcing the change. Both of the new vice chairmen will report to Mr. Liddy.

—By Mark A. Hofmann

News In Brief

CONTINUED FROM PAGE 1

9th U.S. Circuit Court of Appeals seeking a rehearing by the full court of last month's decision by a three-judge panel that approved San Francisco's health care spending mandate. Under the San Francisco ordinance, which went into effect in January, employers in the city must contribute to health care coverage to avoid fines. The three-judge panel had ruled unanimously that the ordinance does not conflict with the Employee Retirement Income Security Act.

Moody's may downgrade XL

Moody's Investors Service Inc. said it is considering a downgrade of the financial strength rating of XL Capital Ltd.'s insurance subsidiaries, in response to the company's estimated $1.6 billion to $1.7 billion third-quarter loss announced last week. The rating agency said it has also placed the Baa1 senior debt rating of XL Capital on review for a possible downgrade. The company currently has a financial strength rating of A1. Commenting on the third-quarter results, Moody's said in a statement that while XL raised substantial additional capital in August, it has since been almost entirely eroded from losses in XL's investment portfolio.

Marsh to form unit for smaller clients

Marsh Inc. plans to launch a unit, Marsh & McLennan Agency L.L.C., in the first quarter of 2009 to serve the needs of U.S.-based companies generating less than $75 million in revenue. The formation of the agency, which will be independent of Marsh's brokerage operations, recognizes that large and small companies expect distinctly different insurance buying experiences, said Jack Butcher, who was named president and chief executive officer of Marsh & McLennan Agency. Many of the details of the new agency were still being ironed out, including cities in which it will operate, insurers it will work with and the number of Marsh employees that will work for the agency, Mr. Butcher said.

Workplaces see injury rate drop

The rate of workplace injuries and illnesses in private industry declined in 2007 for the sixth straight year, according to the U.S. Department of Labor's Bureau of Labor Statistics. The number of nonfatal workplace injuries and illnesses reported by private industry employers declined from 4.4 cases per 100 workers in 2006 to 4.2 cases in 2007. Edwin Foulke, assistant secretary of Labor for occupational safety and health, and Elaine Chao, secretary of Labor, said the decline was largely due to workplace safety education, training and enforcement of guidelines.

Florida Supreme Court rejects lawyer fee caps

The Florida Supreme Court has ruled in favor of a workers compensation claimant requesting higher attorney fees as part of her award, effectively overruling a 2003 law passed to limit attorney fees in such cases. In overruling the state's First District Court of Appeal, the Florida Supreme Court found in *Murray vs. Mariners Health/ACE USA* that awarding attorney fees based strictly on a formula in state law limiting the fees to a percentage of the settlement sometimes results in unreasonably low attorney fees. One example is cases in which the benefits awarded are small but the legal issues involved are complex, meaning the claimant must hire an experienced attorney to perform substantial work; a percentage-based approach would produce inadequate fees for the attorney, the court said.

Flagstone buying Lloyd's agency

Flagstone Reinsurance Holdings Ltd. said it plans to buy Marlborough Underwriting Agency Ltd., the managing agency for Lloyd's of London syndicate 1861, from Berkshire Hathaway Inc. The syndicate writes a specialty portfolio of short-tail insurance and reinsurance. The acquisition does not include the existing Lloyd's corporate member or any liability business written in 2008 or prior years. Terms were not disclosed.

Contractors: Measure calls for single comp insurer

CONTINUED FROM PAGE 1

report released in September.

Before the start of the U.S.-led invasion of Iraq in 2003, only several hundred claimants received DBA benefits a year. In 2002, for example, 430 claimants received less than $8 million in benefits, according to the report.

DBA insurance costs are usually passed along to the federal government as a contract expense item and benefits must be extended to foreign nationals.

The rising costs driven by the wars in Afghanistan and Iraq led some Democratic lawmakers to accuse DBA insurers of reaping excessive profits (*BI*, May 19). The lawmakers claim that insurers providing DBA coverage have earned a 40% underwriting profit over five years, for a total of $600 million.

Criticism of excessive profits, however, may be unwarranted because DBA insurers encounter expenses that are not seen in providing domestic workers comp insurance, some industry sources say.

DBA insurers must fund benefits until a claimant is determined to have reached "medical maximum improvement," said Sara Payne, senior vp and a DBA expert at Rutherfoord International, a broker and managing general agent unit of Thomas Rutherfoord Inc. in Alexandria, Va.

With catastrophic war injuries, it can be years before a claimant reaches medical maximum improvement, and the insurer can bill the government for reimbursement of those benefit expenses, Ms. Payne said.

In addition, insurers incur additional expenses when they hire experts to handle sensitive claims payments for foreign nationals in Afghanistan and Iraq who can be killed by opponents of U.S. forces for receiving money from the United States, she said.

Still, the growing DBA expenses spurred Congressional action.

Some insurers and insurance purchasers, however, oppose a single-source insurance system.

Finding a single insurer to provide DBA coverage for all overseas Defense Department contractors will likely prove impossible because of the inherent dangers of war risks, the massive size of Department of Defense contractor operations and lack of information on DBA loss history, several experts agree.

The Department of Defense does not maintain claims loss history that could be used to develop a request for proposal for a single source DBA insurance program, they say.

Additionally, insurers prefer to underwrite and price DBA risks for single entities, rather that providing coverage under a single program arrangement that would require them to accept all risks for a set rate, several sources said.

That became evident when the U.S. Army Corps of Engineers in 2005 launched a pilot program to award a single source contract, they say. Chicago-based CNA Financial Corp. was they only insurer to submit a bid and was awarded the contract. The program is still operating.

A program for Pentagon contractors would be much larger than the one for the Corps contractors, observers say. The Department of Defense accounts for about 90% of all DBA business, according to congressional testimony.

"I don't know that there is one insurance carrier that would take on the entire Defense Department exposure because it's so voluminous," Ms. Payne said.

"The underwriters are resistant or reluctant to pick that up across the board," said Keith Flicker, a partner at Flicker, Garelick & Associates, L.L.P. in New York, who defends DBA insurers and contractors. "The increased volume you get because you are the only underwriter on the contract doesn't mean you are going to turn it into a profitable venture."

Several insurers that provide DBA insurance declined to comment or did not respond to an interview request, including New York-based American International Group Inc., Philadelphia based ACE USA, and CNA.

Opposition

The American Insurance Assn. opposes creating a single source program, said Bruce C. Wood, assistant general counsel for the AIA in Washington.

A competitive insurance market is more likely to reduce costs than turning to a single insurer, said Herbert Chestnut, a claimant attorney specializing in DBA cases at Herbert Chestnut & Associates in Marietta, Ga.

"I don't know why the DBA is so different (from other forms of workers comp insurance) to require the drastic action of having a single insurer," Mr. Chestnut said. "That is going to put way too much power in whatever (single) insurance company that turns out to be."

The Department of State and the U.S. Agency for International Development use a single source contract to provide DBA insurance for their contractors.

Under such programs, all agency contractors buy coverage from one insurer selected through a competitive bidding process. CNA underwrites the program for the Department of State and USAID with rates that are fixed annually.

Such pooling of risks is supposed to reduce premiums because of the larger risk pool, according to the Congressional Research Service report.

The Congressional Budget Office estimates that single source insurance for the Pentagon would produce more than $33 million in annual savings. And over time, evidence has shown that rates for DBA insurance charged to the Defense Department have been significantly higher than DBA insurance rates for the Department of State and USAID, the Congressional Research Service report states.

But at least one insurance buyer has had a different experience.

Rates for DBA coverage purchased from among competitive insurers for Department of Defense contracts are typically lower than rates for insurance that must be purchased from the single insurer under the Department of State program, said Richard J. Burggraf Jr., senior vp and chief risk officer in Fort Worth, Texas, for DynCorp International Inc.

DynCorp, a commercial and defense contractor, purchases significant amounts of insurance for both the Department of State and Department of Defense programs, Mr. Burggraf said.

To obtain better rates and improved claims service, Mr. Burggraf said he would rather purchase coverage from among competitive insurers than face a mandate of buying from only one.

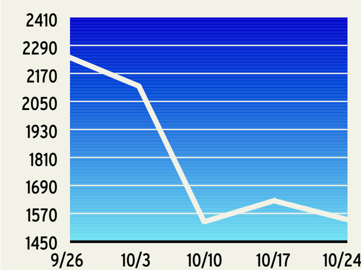
The Congressional Research Service report also suggested that Department of Defense DBA risks could also be self-insured. But the 2009 Defense Authorization Act does not mention that as a possibility.

Stock Index

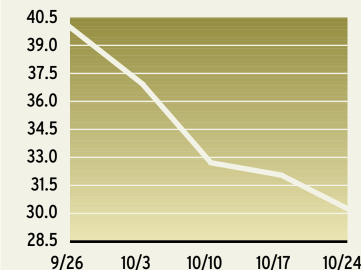
[10/20-10/24]

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

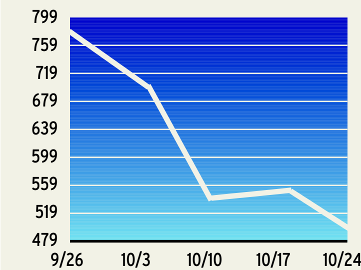
BI STOCK INDEX



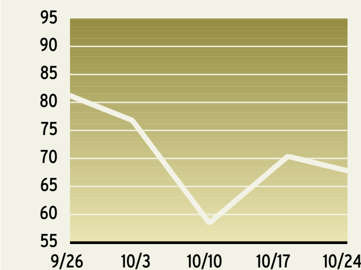
BI BROKERS INDEX



BI INSURER/REINSURERS INDEX



BI MANAGED CARE ORGANIZATIONS INDEX



Percentage change of BI Stock Index vs. key indicators

BI STOCK INDEX	1533.30	-6.56%
DOW JONES	8378.95	-5.35%
S&P 500	876.77	-6.78%

LARGEST GAINS

Endurance Specialty	18.59%
IPC Holdings Ltd.	15.75%
PartnerRe Ltd.	15.58%
Everest Re Group Ltd.	15.22%
Torchmark Corp.	10.56%

LARGEST LOSSES

Ambac Financial Group	-30.95%
MBIA Inc.	-30.64%
XL Capital Ltd.	-26.80%
Allstate Corp.	-19.16%
AIG	-19.05%

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

Business Insurance END PAGE

Contributing: Jeff Casale, Jerry Geisel, Mark A. Hofmann

Nobody covered stolen base in taco promo

Taco Bell Corp. will have to eat the cost of its latest World Series tie-in promotion.

Under the chain's "Steal a Base, Steal a Taco" promotion, everyone in America is eligible for a free taco because Tampa Bay Rays shortstop Jason Bartlett stole second base in Game 1 of the 2008 World Series.

Tacos can be claimed Tuesday from 2 p.m. to 6 p.m. local time at any Taco Bell location.

Although Taco Bell has insured some other promotional giveaways—including an offer to give away tacos if the falling Russian Mir spacecraft hit a target (it missed)—the World Series promotion is uninsured, according to a spokesman from Taco Bell.

He added that the chain opted to fund the promotion itself, as it did last year, when Boston Red Sox centerfielder Jacoby Ellsbury gave America free tacos when he swiped second base in Game 2.

NYT PHOTOS

"Mad Money" host Jim Cramer's suggestion that investors harass AIG employees drew a rebuke from chief Ed Liddy. Mr. Cramer apologized.

'Mad' man Cramer enrages AIG chief

It's not as if American International Group Inc. Chairman and Chief Executive Officer Edward M. Liddy hasn't had to deal with more than enough criticism in recent weeks as members of Congress and state officials have laid into AIG for a variety of sins real and maybe not so real.

But when CNBC "Mad Money" host Jim Cramer called on viewers earlier this month to harass AIG employees, Mr. Liddy decided a line had been crossed and fired back. More impressively, he got the volcanic Wall Street analyst to apologize.

According to a letter Mr. Liddy sent, Mr. Cramer said: "We should hound them in the supermarket, we should hound them in the ballpark, we should hound them everywhere they are. We should make fun of them and we should point fingers at them and we should tell them that you have no shame."

"Those comments are outrageous," Mr. Liddy wrote to the CNBC commentator. "I demand they be retracted and that you apologize to AIG's employees. It is one thing to criticize the executive leadership of AIG—that's fair commentary. But it is way out of bounds to incite people to confront and harass other AIG employees—hard-working, dedicated people who are running good businesses and are committed to our success. The employees of AIG did not cause this mess, but they are paying for it—in diminished 401(k) savings and in some job losses as we sell companies to repay the federal loan. The irony is that AIG employees did not cause the problem, but they will solve it. For that they deserve our praise and our gratitude.

"I await your prompt response."

Mr. Liddy got what he sought.

In an on-air apology, Mr. Cramer called "99.9%" of AIG's employees "fabulous, including most of my neighbors. It was the old guys who did this stuff. I'm sorry I made it seem like it's everybody else.

"Sorry, regular AIG guys. I did not mean you," he said.

Taming Jim Cramer ought to make some of the other challenges facing Mr. Liddy look quite manageable in comparison.

Former judge keeps pressing his pants case

Roy Pearson, a former District of Columbia administrative law judge, is nothing if not tenacious.

Mr. Pearson won national notoriety last year when he sued a local dry cleaner for $54 million for allegedly losing his pants. The pants were eventually found, and the case was eventually lost. In addition, Mr. Pearson later lost his job, after a District of Columbia judicial commission declined to extend his term.

As might be expected, Mr. Pearson has sued to get this job back. And he last week took litigiousness to a new level by suing to have his original suit against the dry cleaner revived. Mr. Pearson reiterated his claim that a sign at the dry cleaning establishment saying "Satisfaction Guaranteed" was fraudulent and that he was entitled to his millions.

Although appeals court judges hearing last week's appeal didn't seem overly impressed with Mr. Pearson's argument, they did not issue an immediate decision.

AP

Dry cleaner Jin Nam Chung is the target of a $54 million lawsuit by an ex-District of Columbia judge.

But no matter what they ultimately decide, it appears likely that Mr. Pearson will continue against daunting odds, challenging the very fabric of the legal system until his case has folded.

Bailout bill adds a new spin on benefits

When Congress passed a massive $700 billion financial institutions bailout bill last month, the small but growing number of employees who commute to work by bicycle had a reason to cheer that was unrelated to the core of the legislation.

Tucked into the Emergency Stabilization Act is a provision, which was introduced originally as free-standing legislation by bike-to-work advocate Rep. Earl Blumenauer, D-Ore., that gives new tax breaks to bike commuters effective Jan. 1, 2009.

Specifically, employers can provide up to $20 a month to employees riding their bicycle to work. The entirely tax-free money can be used to help offset the cost of purchasing, maintaining and storing a bicycle.

To qualify, employees must use a bicycle for a substantial part of their commute.

The insertion of the bike commuter tax benefit measure into the bailout bill is one more example of a time-honored practice on Capitol Hill in which huge so-called must-pass legislation becomes the vehicle for much smaller measures to win the votes needed for passage.

In fact, the bailout bill itself was grafted onto a mental health care benefits parity measure that the House of Representatives approved days earlier as a separate bill.

CLAIMS NO OTHER COMPANY CAN MAKE

Today, companies need to know their insurer will be there when they file a claim. The claims-paying ability of the AIG Commercial Insurance companies is unmatched:

- **We have one of the largest claims organizations in the business.** A staff of 6,000 claims professionals available to service our customers' claims every day.
- **High severity claims are a specialty.** 1,000 specialists help clients manage complex claims litigation. Our team has the depth and breadth to manage these claims.
- **Our claims specialists are experts in their fields,** including Excess Casualty, Commercial Property, Medical Malpractice, Aviation, Directors & Officers, Pollution Insurance Products and Workers' Compensation.
- **Our claims reach and expertise are unparalleled.** With a global network, we have "boots on the ground" where and when you need them.
- **We paid millions of dollars in claims today** and will do so tomorrow and the day after, too. In fact, we pay out an average of $73 million each business day.

Whether helping to manage complex litigation or reaching hurricane-affected insureds even before they report a loss, AIG Commercial Insurance companies stand behind every product we sell, today and every day.

www.aig.com/commercialinsurance

AIG Commercial Insurance is the marketing name for the domestic commercial property casualty insurance operations of American International Group, Inc. For additional information, please visit our website at www.aig.com. All products are written by insurance company subsidiaries of AIG Commercial Insurance Group, Inc. Coverage may not be available in all jurisdictions and is subject to actual policy language. Non-insurance products and services may be provided by independent third parties.