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Party power shifts could affect liability, pension legislation

Control of Congress critical for reforms

By MARK A. HOFMANN

WASHINGTON—The only thing clear about Nov. 5's midterm congressional elections is that their outcome remains murkier than usual.

And their outcome is particularly critical this year for both the risk management and benefits agendas. For example, a Democratic gain of only seven House seats could have a devastating effect on liability reform, say observers. But a shift of only one Senate seat to the Republicans could favorably change the dynamics of liability reform in that chamber, the same observers point out.

Small shifts in the balance of power could also have significant impact on how lawmakers deal with such varied matters as terrorism reinsurance legislation, pension reform and patients' bill of rights legislation. Yet, less than two weeks before the election, there are no clear trends in favor of one party or the other.

Adding to the uncertainty was the death last week of Sen. Paul Wellstone, D-Minn., who was locked in a close race (see related story).

"It is fairly clear that the outcome of midterm elections remains in doubt," said David Farmer, senior vp in the Alliance of American Insurers' Washington office. "I don't see a clear path for either party to make substantial gains, although...changes in control of both the House and the Senate are clearly a possibility."

"It just doesn't have the feel of a 'change election,' where voters have strong feelings," as they

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More coverage on page 28

Universal health care on ballot

Oregon considers single-payer system

By JUDY GREENWALD

SALEM, Ore.—Many employers fear that if Oregon voters approve the nation's first universal health care program in next week's election, the single-payer system will prove expensive, unwieldy and difficult to administer.

The proposal, which has attracted national attention, may also encourage similar approaches in other states, some observers say.

Measure 23 would create the Oregon Health Care Finance Plan, which would

See **OREGON**/page 32

Market's response to backstop uncertain

By MARK A. HOFMANN

WASHINGTON—If the draft federal terrorism insurance legislation becomes law, risk managers should see new capacity emerge relatively quickly.

But industry observers differ on how quickly that capacity would develop—and on how much impact the proposed federal terrorism cost-sharing guarantee would have on pricing. While many in the industry are sanguine about a federal backstop's positive effect on the marketplace, several uncertainties temper some observers' optimism.

The most significant caveat is that the exact shape of the proposal remains unknown, as not all members of the House-Senate conference committee assigned to come up with a bill have signed off on a White House-brokered compromise. With both houses recessed until after the Nov. 5 elections, final agreement isn't likely until next month.

"Very important structural issues remain," said Julie Rochman, senior vp with the American Insurance Assn. in Washington. She added, though, "I think everybody went into this process with the understanding that the ideal outcome would go right to the heart of the market dysfunction and draw underwriters back into the business."

"One of the key points we want to make is that, once the bill is finally signed by the president, we want to make sure that the appropriate pressure is put on the industry to respond positively," said Michael Phillipus, vp-external affairs for the New York-based Risk & Insurance Management Society Inc. "By that, we think what our members need to see is some expansion of capacity, along with some price adjustments."

Mr. Phillipus noted that President Bush has championed the measure as a way to bolster the economy. "To have the insurance industry fail to respond positively would be inappropriate," he said.

But "we have to remember that the protections under the bill are truly catastrophic. The industry is still going to be responsible for losses up

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Spotlight on

BENEFITS
REINSURANCE

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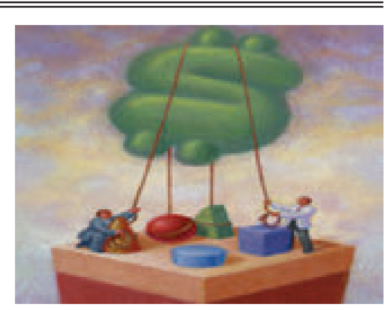

Late News

Premiums continue to rise: CIAB

Commercial insurance premiums continued to surge in the third quarter, according to the latest quarterly market index released by the Council of Insurance Agents & Brokers. More than 60% of medium-sized and large accounts handled by CIAB members saw premiums increase 20% to 50%. But 86% of survey respondents also expressed concerns about insurers' solvency. "Solvency is a top priority—and one the industry and regulators must take very seriously," said Ken A. Crerar, the president of the CIAB.

Australia planning terror cover backstop

The Australian government has released details of a four-layer plan to cover future losses from terrorism. The program would require insurers to retain some risk on the first layer of coverage. A second layer would be provided by a policyholder-funded pool of about $300 million Australian ($166.4 million), and above that would be a commercial loan facility of $1 billion Australian ($554.7 million). A government-funded indemnity would cover losses in excess of $1 billion Australian up to $10 billion Australian ($5.55 billion).

Plane crash kills benefits parity leader

Sen. Wellstone

Sen. Paul Wellstone, D-Minn., a champion of equitable health care coverage for mental disorders, was killed in a plane crash Friday in northern Minnesota. Sen. Wellstone, 58, was the co-sponsor of a 1996 law that bars group health plans from imposing discriminatory annual or lifetime dollar limits on coverage for mental disorders. More recently, Sen. Wellstone, along with Sen. Pete Domenici, R-N.M., led a Senate drive for complete equity in group plans for coverage of mental disorders. Sen. Wellstone was locked in a tight

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NEWSPAPER

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Hospital care driving health cost increases

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Witches, ghosts, goblins and underwriters

Editor Paul Winston writes about the terrifying trick-or-treat ritual that takes place each year at about this time—insurance renewal season.
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Working together to control drug costs

There's plenty that the government, health insurers and employers can do to restrain prescription drug costs, one of this week's editorials says.
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New breed of gem raises hard issues

Senior Editor Dave Lenckus writes about a new kind of diamond—created from the carbon extracted from the remains of deceased loved ones—that raises some unexplored questions for society as a whole and the insurance industry in particular.
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Closing loophole for underfunded pensions

The U.K. pensions minister has promised government action to address a legal loophole that allows solvent employers to close occupational pension plans even in cases where those plans are underfunded.
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REPORTING WEEKLY ON CORPORATE RISK, EMPLOYEE BENEFIT AND MANAGED HEALTH CARE NEWS

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Senate race with Republican challenger Norm Coleman.

CIGNA says it won't meet earnings target

CIGNA Corp. has warned that it won't meet earnings expectations due to increased expenses and higher claims costs. The health insurer said it is making significant changes to its organizational structure in response to its worse-than-expected financial performance. CIGNA said that its operating results for the third quarter will be about $205 million, excluding the more than $1 billion in special charges it had previously announced. For the full year, CIGNA said it expects operating profits of between $915 million and $950 million.

McLarens International, Maxson Young to merge

Loss adjusters McLarens International Group Ltd. and Maxson Young Associates Inc. have announced plans to merge. London-based McLarens International and Atlanta-based Maxson Young said in a statement that the merger should be complete by early next year. Terms of the deal were not disclosed. Earlier this month, Chicago-based McLarens Toplis North America announced the end of its eight-year relationship with McLarens International and changed its name to VeriClaim. VeriClaim has joined another international network to handle its international claims.

Appeals court throws out 'Jenny Jones' verdict

The Michigan Court of Appeals has thrown out the $29.3 million verdict in a wrongful death action against "The Jenny Jones Show." The decision overturns the 1999 jury award, which found that the show and its affiliates were negligent in the murder of a guest on the show. Scott Amedure appeared at a taping of "The Jenny Jones Show" in 1995 to reveal his secret crush on his friend, Jonathan Schmitz. Mr. Schmitz later admitted to killing Mr. Amedure three days after the taping.

Late News

PHOTO: REUTERS

In a 1999 file photo, Jenny Jones and an attorney discuss a wrongful death award against "The Jenny Jones Show." The verdict was overturned last week.

Union Carbide to appeal asbestos ruling

Dow Chemical Co.'s Union Carbide Corp. unit, the last defendant in a massive West Virginia asbestos case, says it will appeal a jury's finding that it is potentially liable for personal injuries to 2,000 claimants. After a monthlong trial, the jury found that Union Carbide may be held liable for injuries resulting from exposure to the company's products occurring between 1964 and 1972. The jury also found the company potentially liable for injuries to workers at six Union Carbide plants.

AIG posts gains in profits, premiums

American International Group Inc. posted net income of more than $5.62 billion for the first nine months of this year, a 60.8% increase over the comparable period in 2001. The insurer's property/casualty net premiums written increased by 35.6%, to $20.20 billion, for the nine-month period. New York-based AIG reported a nine-month combined ratio of 94.77% for its property/casualty operations, compared with 101.06% in the prior-year period. The third-quarter combined ratio was 94.54%, down from 111.52%.

Check out Businessinsurance.com

To get breaking news as it occurs, visit *Business Insurance*'s free online Daily News, located at *www.businessinsurance.com*. Sign up for your daily e-mail of breaking news. All the material in the Late News column, as well as other content in this week's issue, is generated from Daily News postings that appeared on the *BI* Web site in the previous week.

Online this week:

- Several **searchable directories** of risk management and insurance services providers.
- The **Datebook** calendar lists upcoming industry meetings and events and lets you add your own.
- A new **Commentary** from Editor Paul Winston joins the work of *BI*'s regular columnists.
- The **Online Forum** allows readers to exchange ideas, opinions and information.

Gallagher's revenues up, but writedowns hit profits

The hard insurance market helped boost Arthur J. Gallagher & Co.'s revenues by 24.5% for the first nine months of 2002, to $809.1 million. But writedowns of several investments in the broker's financial services division eroded nine-month profits, which declined 1% to $91.4 million. The broker said in a statement that it recorded $28.9 million in nonrecurring pretax writedowns on those investments in the third quarter. As a result, third-quarter profits dropped 44.4%, to $23.3 million.

Briefly noted

Catastrophe reinsurer **IPC Holdings Ltd.** has reported profits of $137.9 million for the first nine months of 2002, compared with a loss of $24.2 million in the same period in 2001. Gross premiums written increased 93.1%, to $242.7 million, compared with the year-earlier period....Germany's state-backed terrorism insurer will begin writing coverage Nov. 1, after receiving its license Friday from the country's financial services regulator. **Extremus A.G.** was formed following talks by insurers, reinsurers and the government about companies' inability to buy sufficient terrorism coverage in the private market....All American Life Insurance Co. has petitioned the entire 7th U.S. Circuit Court of Appeals to rehear a high-profile **reinsurance arbitration dispute**. Earlier this month, a three-judge panel of the court reinstated an arbitration award for Sphere Drake Insurance Ltd. against All American after a lower court threw out the award due to alleged partiality on the part of one of the arbitrators....**Willis Group Holdings Ltd.** has named Mario Vitale chairman of Willis Risk Solutions, the London-based broker's large-account practice. Mr. Vitale joined the broker in 2000 as a group executive vp of global sales and marketing. Previously, Mr. Vitale was president of the risk management divisions of insurers Kemper Insurance Co. and Reliance National Insurance Co.

Private facility would offer war risk, liability cover

New insurer for airlines is set for takeoff

By EDWIN UNSWORTH

LONDON—Insurers and brokers are developing a program to offer aviation war risk and third-party liability coverage with $2 billion in aggregate limits.

Efforts to assemble the capacity were prompted by the European Union's decision not to extend state-backed terrorism insurance programs beyond Oct. 31.

The coverage, which is led by a London-based unit of American International Group Inc., provides war risk and third-party liability insurance limits of $1 billion per occurrence and $2 billion aggregate. Commercial aviation coverage available since the Sept. 11, 2001, terrorist attacks has offered only $1 billion in aggregate limits.

The coverage also includes a provision for passenger war risk liability that will provide coverage if an airline's primary policy is canceled.

In addition, the program will include a clause canceling coverage if a government-backed program becomes available. The International Civil Aviation Organization is currently discussing the formation of Globaltime, an insurance program that would require funding by various governments (see story, page 33).

The new commercial coverage will be led by AIG, with a 25% share. Other insurers on the program include AXIS Specialty Ltd. and Berkshire Hathaway Inc. The premiums charged for the coverage are expected to be lower than the rates currently charged by the U.K.-government backed program that was set up after the Sept. 11, 2001, attacks.

Downgrade raises Trenwick concerns

By DOUGLAS McLEOD

HAMILTON, Bermuda—Trenwick Group Ltd.'s stock price was battered last week after two rating agencies cited concerns about its debt obligations in separate actions on the insurer's financial strength and credit ratings.

Meanwhile, the Bermuda-based insurer said it has hired independent actuaries to review the loss and expense reserves of all of its operating units, and simultaneously announced a new underwriting facility in which Chubb Re Inc. will act as a fronting company for Trenwick America Reinsurance Corp.

A.M. Best Co. downgraded ratings of four Trenwick underwriting units to B+ and that of one subsidiary—Stamford, Conn.-based Chartwell Insurance Co.—to B from their previous A- level, citing concerns about Trenwick's operating leverage and limited financial flexibility.

Best specifically said that a $75 million senior note maturing in April 2003 will "place further pressure on the organization's capital resources" and that Trenwick's "negotiating position with its various creditors is becoming increasingly tenuous."

The downgrade below the A- level left Trenwick in violation of a covenant in a $230 million letter of credit facility it maintains with a syndicate of banks to capitalize its Lloyd's of London underwriting operations. The breach led Standard & Poor's Corp. last Monday to place its BB counterparty credit rating of Trenwick under review, with negative implications.

Unless Trenwick can renew or replace the LOC facility, which is set to expire next month, the insurer "will no longer be able to collateralize its capital requirements to continue operating at Lloyd's for the 2003 year of account," S&P noted.

Furthermore, if Lloyd's draws down outstanding LOCs, Trenwick would be required to repay its lenders immediately, and any default on the agreement could cause the banks to require full collateralization of the $230 million balance, S&P said.

Trenwick's stock price plummeted 30% following the rating agency actions last Monday, to $3.16 per share from $4.52 the previous Friday. The share price continued to fall during the week before turning up on Friday to close at $3.

Best and S&P say they will keep Trenwick's ratings under review pending further information from the company. S&P analysts expect to meet with Trenwick management shortly to discuss the LOC facility renegotiations and the impact of the covenant breach on the insurer's "liquidity, business position and future operating performance."

Trenwick officials did not return calls seeking comment. A spokesman for Trenwick's London operations said that "negotiations are currently under way to renew the current LOCs."

On Friday, Trenwick announced that indendent actuaries will review its reserves in a study that will take 60 to 90 days to complete. The insurer said it will record any required adjustments to reserve levels in the fourth quarter.

At the same time, Trenwick reported an agreement under which Trenwick America Re will produce up to $400 million in U.S. reinsurance business for Chubb Re during

See TRENWICK/page 39

401(k) blackouts unlikely to create employer burden

By JERRY GEISEL

WASHINGTON—Employers should find it easy to comply with new Labor Department regulations requiring them to give 401(k) and other defined contribution plan participants advance notice of periods, known as blackouts, during which transactions can't be conducted.

For the most part, the regulations mandate what most employers do—advising plan participants well in advance of blackouts periods.

"This pretty much codifies what has been happening anyway," said Michael Weddell, a retirement consultant in the Southfield, Mich., office of Watson Wyatt Worldwide.

"While not (previously) a legal requirement, employers do provide notice," said Valerie Miller, a consultant with Hewitt Associates Inc. in Lincolnshire, Ill.

Still, the new regulations mandate a level of detail in blackout notices that not all employers have met. And because the penalties for noncompliance are so stiff—$100 per day per plan participant—employers may opt to provide plan participants affected by blackouts with a model notice prepared by the Labor Department and included in the regulations.

"Employers will use the notice, perhaps in addition to what they are already communicating," Mr. Weddell said.

The regulations were mandated by corporate governance and accounting reform legislation Congress passed this summer (*BI*, July 29).

A key part of the legislation requires employers to provide 30 days' advance notice of blackout periods to participants in 401(k) and other defined contribution plans, such as 403(b) plans, which cover employees working for nonprofit organizations, and 457 plans, which are sponsored by state and local governments.

The law, though, does not require advance notice for blackouts that do not exceed three business days.

The notice requirement was triggered by the misfortunes of Enron Corp. 401(k) plan participants, who collectively lost about $1 billion when the value of company shares they held in the plan evaporated in the wake of the company's restatement of financial results to report massive losses.

The participants' losses were so big, in part, because of the design of Enron's plan. Enron made its matching contributions only in company stock, and it required participants to hold onto those shares until age 50, leaving employees of the Houston-based energy company unable to sell shares as their value declined.

See BLACKOUT/page 38

12th Annual World Captive Forum

Event to provide opportunities for captive education, dialogue

By RODD ZOLKOS

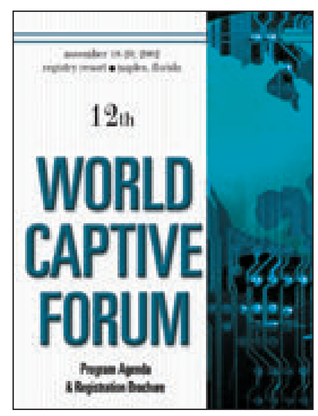
NAPLES, Fla.—The 12th Annual World Captive Forum will provide attendees with opportunities for "Strategic Networking" as they learn about the latest issues related to captive insurance.

This year's forum, scheduled for Nov. 18-20 at the Registry Resort in Naples, Fla., will include educational workshops and speeches from industry experts, as well as an exhibition area and numerous opportunities for one-on-one exchanges with panelists and networking with other attendees.

The forum is produced by *Business Insurance*, the Quest Group of Cos. and Tillinghast-Towers Perrin.

Monday schedule

The forum begins with opening workshops from 3 p.m. to 5 p.m. Monday, Nov. 18. One, which will look at the latest developments in captive basics, will feature a panel including Nicholas Dove, president of Quest Insurance Solutions Ltd.; Michael Maglaras, president of Michael Maglaras & Co.; and D. Hugh Rosenbaum, principal at Tillinghast-Towers Perrin.



Meanwhile, a parallel session, moderated by Mitchell J. Cole, principal at Tillinghast-Towers Perrin, will examine opportunities and realities for employee benefits in captives with speakers Virginia Bartlett, senior vp at Clark/Bardes Consulting; and Gary Langsdale, risk manager at International Paper.

A third concurrent session will look at investments for captives. Speakers on that panel include Timothy K. Collins, technical adviser-captive and offshore insurance transactions for the Internal Revenue Service; Thomas J. McDonald III, managing director-insurance and banks at Brown Brothers Harriman & Co.; Carol Pierce, assistant vp and managing director, alternative markets, at A.M. Best Co.; and Walter Shulits, director of institutional marketing at Eaton Vance Management. John Foehl, senior vp at Sum-

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St. Paul cuts pension benefits

DB plan pay credit reduced, but 401(k) match boosted

By JERRY GEISEL

ST. PAUL, Minn.—The St. Paul Cos. Inc. is trimming pension benefits, boosting employees' health insurance premium contributions and consolidating health plans in an attempt to reduce benefit costs by $50 million per year.

Under the changes, which will take effect on Jan. 1, 2003, St. Paul will cut future benefit accruals in its cash balance pension plan. Under the new formula, employees whose age and service equal 39 or less will receive an annual credit equal to 3% of pay, compared with 6% previously. Those whose age and service equal 40 to 59 will receive a credit of 4%, down from 8%, and those whose age and service equal 60 or more will receive a credit of 5%, down from 10%.

In addition, St. Paul employees will pay an additional $50 per month for family health care coverage, bringing their total monthly contribution to $180. St. Paul also will reduce the number of companies with which it contracts for health plans, from four to one. Beginning next year, plans will be offered exclusively through United HealthCare Corp.

The St. Paul, Minn.-based insurer decided to make the changes after determining that its benefit plans generally were much richer than its competitors'.

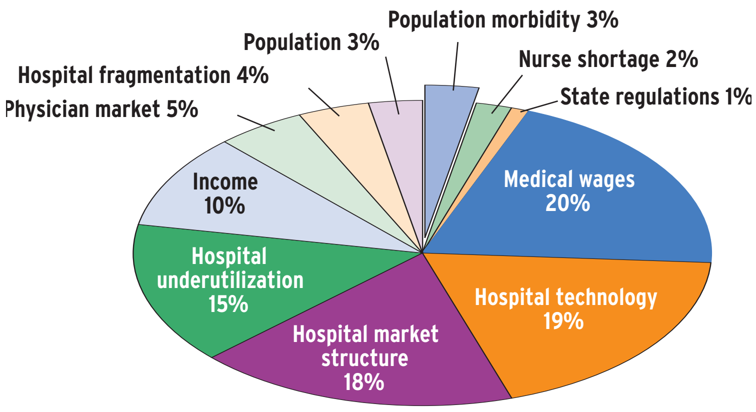
"While we have to be competitive to attract employees, we also have to be competitive" in our cost structure, a St. Paul spokeswoman said.

In addition to making the cuts, St. Paul will beefing up its 401(k) plan by improving the matching contribution.

The match, which is made in company preferred shares, will increase to 6% of pay from 4%.

KEY DRIVERS OF HOSPITAL COSTS

Leading factors in the growth of inpatient costs, 1998-2000



Source: Blue Cross & Blue Shield Assn.

Hospital costs are key driver of medical care inflation: Blues

By MICHAEL PRINCE

Rising health care costs stem largely from the growth in costs for hospital services, according to a Blue Cross & Blue Shield Assn. report released last week.

The Blues' report, which brings together research conducted by several organizations, notes that although hospital costs are not rising as quickly as some other expenses, the sheer size of hospital costs makes their price increases the biggest factor in rising health care costs.

"While the recent rate of inpatient expenditure growth has not been as high as those of pharmaceuticals and outpatient services, because hospital inpatient care represents the largest single component of health care expenditure, even relatively small rates of growth can have a large absolute effect on health care expenditure," the study states.

About 21% of total health care spending is for inpatient hospital care, and another 15% is for outpatient hospital care, the study states. Physician services account for 17% of total spending, and prescription drugs account for another 10%.

Although inpatient spending has risen by an average of about 5.9% annually between 1998 and 2001, it accounts for about 34% of the growth of total health care expenditures, the study states.

The association commissioned and coordinated a number of separate studies, each looking into a specific area of health care spending. Joel Hay, a health economics professor at the University of Southern California in Los Angeles, authored the hospital spending segment.

According to the study, the biggest factors in hospital cost increases are increased use of expensive new technology and consolidation among hospitals. That consolidation has given the facilities greater leverage when negotiating fees with health plans, the study says.

The study states that 19% of the increase in hospital costs is related directly to the use of medical technology, and 18% is related to hospital consolidation.

"Technology is the key driver of hospital costs," Scott Serota, president and chief executive officer of the BC/BS Assn., said during a press conference announcing the survey's release.

The study also shows that for every 1% increase in hospital market share in a geographical area caused by the consolidation of health care providers, inpatient hospital costs increase by double that amount.

Consolidation could, in theory, lead to lower hospital costs through greater efficiency, but that has not yet occurred, Mr. Serota said.

Outpatient services have also pushed up overall health care costs, the study shows.

Between 1991 and 2002, outpatient costs rose an average of 12.1% per year, a jump in costs second only to that of drug prices in the same period.

Mr. Serota said that health plans, by contrast, have not driven up costs. He noted that the percentage of premium dollars set aside for health plans administrative costs and profits has not increased in recent years.

Mr. Hay said, though, that health plans have become largely unable to curb rising costs. In the past few years, managed care tools "really seem to have run out of steam," he said at the press conference.

While managed care was successful in the 1990s in holding down costs, we are now in a new era, Mr. Hay said. In this new time, managed care plans must monitor the use of expensive technology to make sure it is employed appropriately.

The study, "What's Behind the Rise: A Comprehensive Study of Healthcare Costs," is available at www.bcbs.com.

Paul Winston

Trick or treat? Buyers beware!

It's that time of year again when, full of hope for the best but fearful of the alternative, people set out in search of what the market has to offer. They take great care with their preparations, having spent considerable time in the planning and execution of how they will present themselves. They may go alone but often will rely on teams for support. And people new to the experience often will be accompanied by their mommies.

Renewal season? No, I'm talking about Halloween, though some risk managers might wish their mommies could hold their hand through the scary experience of renewing their property/casualty insurance programs.

As my children prepare for the Oct. 31 ritual of dressing up and going door to door to get candy for me, I consider the parallels between tricking or treating on Halloween and the trick or treat the insurance market holds for buyers this fall.

Paul Winston

Just like the frights that are associated with Halloween, the market offers ghosts, heart-stopping surprises, zombies, witches and warlocks, demons, haunted houses, slashers, skeletons ready to leap from closets and black cats. About the only specter I can't think of a parallel for is the sociopathic supernatural flesh-eating ghoul, but give me time.

And just like Halloween, there is trepidation and uncertainty as buyers climb the steps of their insurer's home, bag in hand, wondering if they will receive treats, or if they have stumbled on a house where the people delight in scaring the wits out of little kids.

Perhaps the biggest uncertainty this year is whether Congress is going to give the market a trick or a treat. It seems to have reached agreement on a terrorism insurance backstop (treat). But then it left town without dotting the i's and crossing the t's (trick). Also, the compromise bill as outlined would back insurer losses in the event of another catastrophic event (treat). But then the Treasury would try to recoup its outlay with a surcharge on policyholder premiums (trick).

Now we are left to wonder when and how the final measure will materialize, which is sort of like watching a horror film where the heroine is threatened by a band of vampires, and the tension mounts as we await the salvation of daylight or someone with a sharp wooden stake.

And then there's the question of what insurers will do when the measure passes. Will buyers see relief at year end, as insurers get the terrorism reinsurance they need (treat)? Or will they claim the relief came too late, and the mechanics are too unclear, to factor into their underwriting for year-end renewals (trick)?

Other Halloween surprises await buyers and sellers in the current marketplace.

Asbestos liabilities, for example, are zombies rising from the grave. The industry thought it had buried this problem for good after the major asbestos producers made massive settlements. Not only do they persist, but they also are growing and changing and still menacing the industry.

Demons and ghouls are plainly the trial attorneys who continue to look for new and more costly ways to torment businesses and drive up their risk financing costs. In addition to the ones whose dark arts transform people with no asbestos symptoms into claimants, we have the ones who transform simple claims into nationwide class-action mills.

There are plenty of skeletons lurking in the dark to spook the industry. Consider the thin, skeleton-like quality of some companies' reserves. Or how about skeletal investment returns that have forced underwriters to underwrite for the first time in decades. As with any Halloween horror, there's always the chance of one more skeleton around the corner. In the industry's case, it might pop out when they next have to mark their investments down to market values, after watching the stock market continue on its long, stomach-wrenching descent.

In the current weak economy, there also are lots of sociopathic slashers to frighten people and remind them of the likes of Freddy Krueger or Norman Bates. There are underwriters slashing limits. CFOs slashing risk management department budgets. Rating agencies slashing insurer and reinsurer financial strength ratings.

In all, there are many reasons for both buyers and sellers in the industry to be nervous this Halloween season. Will they get a trick or a treat?

As with the ritual of going door to door, though, even if you first get a trick, eventually you should get a treat. And if you don't, you can always egg the house.

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Editorial

Single-payer is not the fix

SHOULD WE MOVE TO a single-payer health care system?

That is a question on which Oregon's electorate will be voting Nov. 5 and is an issue that likely will receive much more attention in the months ahead.

Certainly, we can understand why so many people are frustrated with the current employment-based system. Costs are rising, seemingly inexorably, and more people are losing coverage as the cost of premiums increasingly becomes unaffordable for individuals and for employers.

In the view of some, Canada offers a striking example of a successful single-payer system, with universal coverage at a per capita cost far less than in the United States, where more than 40 million people lack health insurance.

So, does the Canadian success mean we should do the same? We don't think so, certainly not yet. For starters, what works in Canada would not necessarily work here. While huge geographically, in population, Canada is about one-tenth the size of the United States. A legitimate question is whether a single-payer system could be administered efficiently and effectively in a country as big and diverse as the United States.

Similarly, we lack confidence that the government here has the resources, or could obtain them, to run such a program.

This isn't to say that our health care system isn't in deep trouble. It is. But we believe that it is too soon to say that we should give up on the private sector as being able to deliver affordable, high-quality health care.

Drug changes are needed

IT WOULD BE DIFFICULT, amid all the publicity of late, to be unaware of the huge difference in the cost of certain prescription drugs purchased in the United States compared with Canada.

Take Lipitor, the popular cholesterol-reducing drug, for example. The retail price in the United States is about $270 for a three-month supply. In Canada, the price at some online drug stores is just over $180. And that is just one of many examples of big price differentials.

Why the big difference in costs? The weak Canadian dollar, which means greater purchasing power for U.S. consumers is one reason, but more significantly, the Canadian government imposes price controls on drugs.

Unsurprisingly, the cost differentials are not going unnoticed, and dozens of online Canadian pharmacies are popping up to fill prescriptions written in the United States.

That U.S. residents have to resort to such tactics, which are of questionable legality, speaks volumes about the high cost of prescription drugs here.

While we are no fan of government price controls, we do believe that government, health insurers and employers can do plenty to restrain drug costs.

The first step, one just taken by the Bush administration, will reduce the time it takes generic manufacturers to bring their products to market. To be sure, drug developers do deserve protection—given the huge research costs and risks—from the introduction of competing products by lower-cost generic manufacturers. But the delays that are now permitted are too long, and consumers pay dearly for them.

A more substantive step would be adding a prescription drug benefit to the Medicare program. The U.S. government's huge purchasing power surely would mean lower prices for retirees.

Insurers also need to take action to control costs, and some are doing just that. Blue Cross & Blue Shield of Illinois has launched a program that provides small payments to pharmacies that switch patients to lower-cost generics from high-cost brand-name drugs, while Blue Cross & Blue Shield of Michigan has a pilot program in which it will waive or reduce copayments for enrollees who switch to generics.

As for employers, they need to carefully examine the copayment differentials between generics and brand-name drugs to ensure that the plan design encourages optimal use of generics.

We hope the actions taken by the private sector, along with limited government action, will make price controls unnecessary. Price controls, we believe, can do more harm than good in the long run.

Schillerstrom

Letters to the Editor

Health insurance system could be improved

To the editor: In Editor Paul D. Winston's commentary of Sept. 30, "No Simple Remedy for Coverage Woes," he points out that the current economic model of health care insurance coverage runs "headlong into the belief of most people—rightly or wrongly—that health care is an entitlement."

This poignant statement sums up our predicament. In the United States, health care is not a right. You can read the Constitution any way you like, and you will not be able to demonstrate this entitlement. Even in those countries where health care is granted as a right to all, though, there is still a limit to the level of treatment that can be accessed by the general population without paying—or waiting—for the privilege. In addition, those countries provide this limited level of care not for free but in exchange for high taxes.

I agree that, if Americans accept these basic facts, a better insurance financing system for the provision of our health care can be considered. Coincidentally, I have a proposal to make.

I came up with this proposal with my home state of Florida in mind. I feel it is a proposal to which insurance companies can respond and one that will meet the basic needs of the population and politicians. My proposal is as follows:

Provide basic health benefits to all persons who come to a health care provider. There are two major factors here: 1) the savings in administrative costs of not having to determine the coverage eligibility for every single person who comes to a health care provider; and, 2) an agreement by the Legislature on an

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Letters to the Editor

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Spotlight Editor: Judy Greenwald

Reinsurers shifting more health risks to buyers

By MICHAEL PRINCE

Health reinsurance, including medical stop-loss coverage for self-insured employers, continues to be a sellers' market.

Rates are still rising, coverage has become skimpier and buyers have been forced to take on more risks.

"I don't see us heading into a soft cycle for a while," said David Wilson, chief actuary at NiiS/Apex Group, a health reinsurance consulting firm in Princeton, N.J.

In the early 1990s, many health reinsurers had paid little attention to profits as they looked to increase their market share. As part of this market-share underwriting, many health reinsurers assumed large chunks of business produced by managing general underwriters, who were paid based on the volume of business written rather than its profitability. In addition, inexperienced players entered the field, further pushing down rates.

In the early 1990s, many health reinsurers ignored profits as they looked to increase their market share. Rates began to rise in 1999, as they sought to make up for losses.

Then, in the mid- to late 1990s, losses began to pile up, and several players—including Swiss Reinsurance Co.—exited the field. Rates began to rise in 1999, as health care costs soared and reinsurers sought to make up for losses.

In the past two years, price increases have reflected medical cost inflation plus added increases to make up for previous losses, said Michael Shevlin, senior vp at American Re HealthCare, a unit of American Re-Insurance Co. in Princeton, N.J.

With higher rates in 2000 and 2001, profits have returned for reinsurers. And the turnaround is picking up speed, observers note.

"The market has made a dramatic turnaround," Mr. Shevlin said.

"It's pretty hard to lose money in health reinsurance right now," Mr. Wilson said.

Unlike in the late 1990s, when coverage was sold at prices below expected claim costs, reinsurers today are looking to make a profit. Reinsurance buyers need to adapt to this new environment and look at reinsurance as "protection from true catastrophic claims," explained Charles Crispin, president of Evergreen Re Inc., a health reinsurance broker in Stuart, Fla.

Prices this year have risen by 20% to 30% for self-insured employers' medical stop-loss coverage policies renewing in

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Group life cat re rates jump following Sept. 11 attacks

Market imposing tighter terms, cutting back on capacity

By JUDY GREENWALD

Reverberations from the Sept. 11, 2001, terrorist attacks continue to be felt in the catastrophe reinsurance market for group life risks.

In response to the attacks, which are estimated to have cost life insurers as much as $4.5 billion, catastrophe reinsurance rates are increasing by multiples, terms are tightening and capacity is withdrawing.

But the much larger noncatastrophe segment of group life reinsurance has not been drastically affected by Sept. 11, and some observers say that market generally remains competitive, with relatively few rate hikes.

Most group life insurance is not reinsured. Observers note that many of the major group life insurers reinsure little, if any, of their business, because they are well diversified and have the capital to absorb the losses. As a result, most life reinsurance is written for primary insurers with smaller books of group life business.

Only about 2% to 3% of the group life reinsurance business is reinsured, said Chris Stroup, Armonk, N.Y.-based chief executive officer of Swiss Re Life & Health America Inc., a leading market in that sector.

Swiss Re estimates that, of the roughly $6.5 trillion group life insurance market, less than $200 billion is ceded to reinsurers. And catastrophe business is just a small portion of the group life reinsurance market, said Mr. Stroup.

Because of this, and because cat rates were relatively low prior to 9/11, even if the hikes are passed on they are unlikely to

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NAIC proposes guidelines on pools / page 24


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Group life: Catastrophe rates increase after Sept. 11

Continued from page 10

have a significant impact on employers, observers say.

All group life reinsurers, though, for the first time are paying close attention to the issue of geographic concentration of risk in light of the Sept. 11 attacks. As a result, reinsurers are seeking much more information about risk concentration in their underwriting. However, life reinsurers still have work to do to catch up with the property catastrophe business in this area, observers say (see story, page 14).

Terms tighter

Catastrophe reinsurance coverage is triggered when an event results in a specific dollar amount of loss and a certain number of lives lost. It is most often written on an excess, rather than proportional, basis.

Such coverage was relatively inexpensive before Sept. 11. "Life cat before 9/11 was a no-brain purchase," said Mike Plappert, assistant vp at reinsurance intermediary Towers Perrin Reinsurance in Philadelphia. "It was really cheap. There was a lot of capacity for a very modest amount of premium. And, of course, after 9/11 all that changed," he said.

Robert McGinnis, executive vp and chief operating officer of group operations for CNA Insurance Cos. in Chicago, said: "You used to be able to get a much higher amount of coverage with terrorism included in the past, and now you get much lower amounts of coverage that exclude terrorism.

"So, for example, you could go from $100 million of coverage inclusive of terrorism for 'x' price to $10 million that excludes it for a price that is four times as much as what you paid a year ago," he said.

As result, "we do not have as much reinsurance as we would like, nor do we have as much as we used to have," Mr. McGinnis said.

Whereas in the past, CNA would look at the reinsurance market once a year or every couple of years, "now, we're pretty much in a constant state of looking at what's been available," he said.

Mr. McGinnis said he investigates "any time we get a rumor that someone is offering more reasonable coverage or coverage including a more expansive view of terrorism." However, he has yet to learn of any reinsurer offering coverage "that resembled—even remotely—pre-9/11 coverage."

UnumProvident Corp. renewed its life catastrophe coverage right after Sept. 11 and is paying 10 times what it had previously, although it retained its coverage for nuclear, chemical and biological events, said Al Riggieri, Portland, Maine-based vp of corporate finance.

However, the insurer is now preparing for its next renewal, and "the early check we have on the market is that every reinsurer will have biological, chemical and nuclear exclusions. The market is not softening. It's staying very hard, very firm, and...we will have capacity issues in terms of adequate coverage," said Mr. Riggieri.

Capacity shrinking

Tom Corcoran, a principal with Tillinghast in Simsbury, Conn., said some group life insurers "are going without, some are paying the higher rates, some are taking less reinsurance. It's a combination of things. Most, I think, are going with less protection than they would like to have and paying the extra cost for that."

"I don't see any short-term relief," he added. "The markets do have a way of sorting themselves out eventually, but it could be awhile."

Swiss Re's Mr. Stroup said: "We're offering roughly, in total, the same capacity. We've just restricted the amount of capacity we'll offer to any particular client."

There is certainly more interest in obtaining cat protection, "but capacity is not available, and most suppliers in the market in some way or another have restricted capacity," he said. "Rate increases five times what they were pre-Sept. 11 would not be unheard of," he added.

"Almost no U.S. reinsurers are writing it at this point," said David Nussbaum, vp of group and special risks at Orlando, Fla.-based Hannover Life Reassurance Co. of America. Hannover, a unit of Germany's Hannover Reinsurance Co., left the catastrophe market but remains active in the noncatastrophe segment.

> **'I don't see any short-term relief. The markets do have a way of sorting themselves out eventually, but it could be awhile.'**
>
> *Tom Corcoran*
> *Tillinghast*

Mr. Nussbaum said Hannover has no immediate plans to re-enter the market. "I don't think anybody else is going to get back into it very quickly," he said. "We get requests all the time and we ask questions and say, 'Have you tried this company or that company?' and usually the answer is, 'Yes, and they don't do it anymore, either.'"

ING Groep N.V. unit ING Re also decided to withdraw from the catastrophe part of the group life reinsur-

Continued on next page

Continued from previous page

ance business after Sept. 11, said Terry Dickinson, Minneapolis-based vp of group life reinsurance. The primary factor, he said, was "the volatility that we all experienced on Sept. 11. There was a general awareness in the marketplace prior to Sept. 11 that catastrophe business was a volatile business. But, certainly, Sept. 11 created a new awareness of really how volatile that catastrophe market could be," he said.

Some life insurers are finding it less difficult than others to get adequate catastrophe reinsurance.

Rodney Clark, a director at Standard & Poor's Corp. in New York, said that "companies with better results, better relationships with their reinsurers, seem to have more negotiating power." He said he has heard of cases in which an insurer has kept its catastrophe cover without a terrorism exclusion. This, however, generally involves situations where the insurer places other lines of business with the reinsurer, and "the reinsurer decided to provide more favorable terms for a better client," he said.

There was an awareness prior to Sept. 11 that catastrophe business was volatile, but 'Sept. 11 created a new awareness of really how volatile that catastrophe market could be.'

Terry Dickinson
ING Re

Meanwhile, the federal government may take steps to address the capacity shortage.

The federal backstop legislation pending in Congress contains a provision that calls on the secretary of the Treasury to report to Congress on the availability of group life insurance. Based on this report, the secretary has the discretion to allow group life insurers to participate in the proposed federal program, which, in its current form, would apply only to property/casualty lines. The program would allow the federal government to share the risk of loss from future terrorist attacks with the insurance industry.

Meanwhile, most observers say demand has increased for noncatastrophe, per-risk reinsurance—which covers individual employees above a net retention—as insurers denied coverage in the catastrophe market seek additional excess coverage.

Kimberly Johnson, vp at Hartford, Conn.-based Hartford Life Insurance Co., a major group life reinsurer, said there is "evidence that more companies are increasing their use of reinsurance for group as a way to manage the catastrophic risk."

Ms. Johnson said, "Our rates for per-risk coverage have not changed significantly since Sept. 11, but we are requiring more detailed information from our clients as part of the underwriting process."

Swiss Re's Mr. Stroup said, "We haven't seen any significant change in rates."

"Rates are still very competitive," said Hannover Re's Mr. Nussbaum. There are a lot of companies out there still marketing group life" reinsurance.

CNA's Mr. McGinnis said rates are up because the reinsurers that provide the coverage were hit by Sept. 11. But, he added, the hikes are more in the 20% to 25% range, which is "far more reasonable" than the 400% to 500% increases being sought for cat coverage.

Life reinsurers sharpen focus on risk concentration

By JUDY GREENWALD

Group life reinsurers are paying a lot more attention to geographic concentration these days.

Since the Sept. 11, 2001, terrorist attacks, many group life reinsurers—like many of their property/casualty counterparts—are beginning to pay serious attention to the issue of risk aggregation, the possibility of multiple losses in a single geographic area (*BI*, March 18).

There is still a long way to go, though, before life reinsurers can attain the same degree of sophistication as property catastrophe reinsurers.

'We're pushing very hard to get data on underlying concentration' of risk in group life reinsurance.

Nicholas von Moltke
Employers Reinsurance Corp.

Concentration of risk "is not something they really underwrote" for before Sept. 11, said Scott Robinson, vp and senior analyst at Moody's Investors Service in New York.

Now, though, "there's concerted effort to understand the risks there," said Robert Garofalo, managing senior financial analyst at Oldwick, N.J.-based A.M. Best Co.

Rodney Clark, director at Standard & Poor's Corp. in New York, said, "There has historically been much more modeling and much more focus on the nonlife side in terms of concentration risk, but…post-World Trade Center, absolutely, direct companies and reinsurers are taking a harder look at what data do they have available, (and) what they should have."

"It's become a much more significant factor in the thought patterns" of group life reinsurers, said Mr. Clark. "I think it will take a long time before the group life insurance sector gets as well evolved as the property/casualty sector in terms of assessing concentration risk, but it's definitely moving in that direction, toward more sophisticated modeling and measurement."

"We're pushing very hard to get data on underlying concentration," said Nicholas von Moltke, senior vp at Employers Reinsurance Corp. in Overland Park, Kan., which writes group life reinsurance. But, he added, "I'm not happy with the level of data we get, and when we don't get data, we have to make some assumptions which potentially will not favor our clients, because we have to assume more of a worst-case than a best-case scenario.

"It is imperative for the entire industry that they get a much better handle on where the exposure is," Mr. von Moltke said. He pointed to property cat modeling and said, "I see the group life industry needing to get to that level."

"I'm disappointed that we haven't moved further and faster than we have a year on from what I call the 'wake-up call,'" he added.

Looking at geographic concentration is "the biggest change in the group insurance and reinsurance industry, without a doubt," since Sept. 11, said Terry Dickinson, Minneapolis-based vp of group life reinsurance at ING Re. "Everybody is very concerned about identifying where their risks are at, where their concentrations are, and they're trying to find tools to manage that risk and get that information in useful form" so the business can be priced. This is true for both the catastrophe and non-catastrophe portions of the group life reinsurance business, said Mr. Dickinson.

"For the first time, ceding companies and reinsurers recognize how important it is to have good demographic information on the underlying insurers, so the risk management practices have improved in the last 12 months," said Chris Stroup, Armonk, N.Y.-based chief executive officer of Swiss Re Life & Health America Inc.

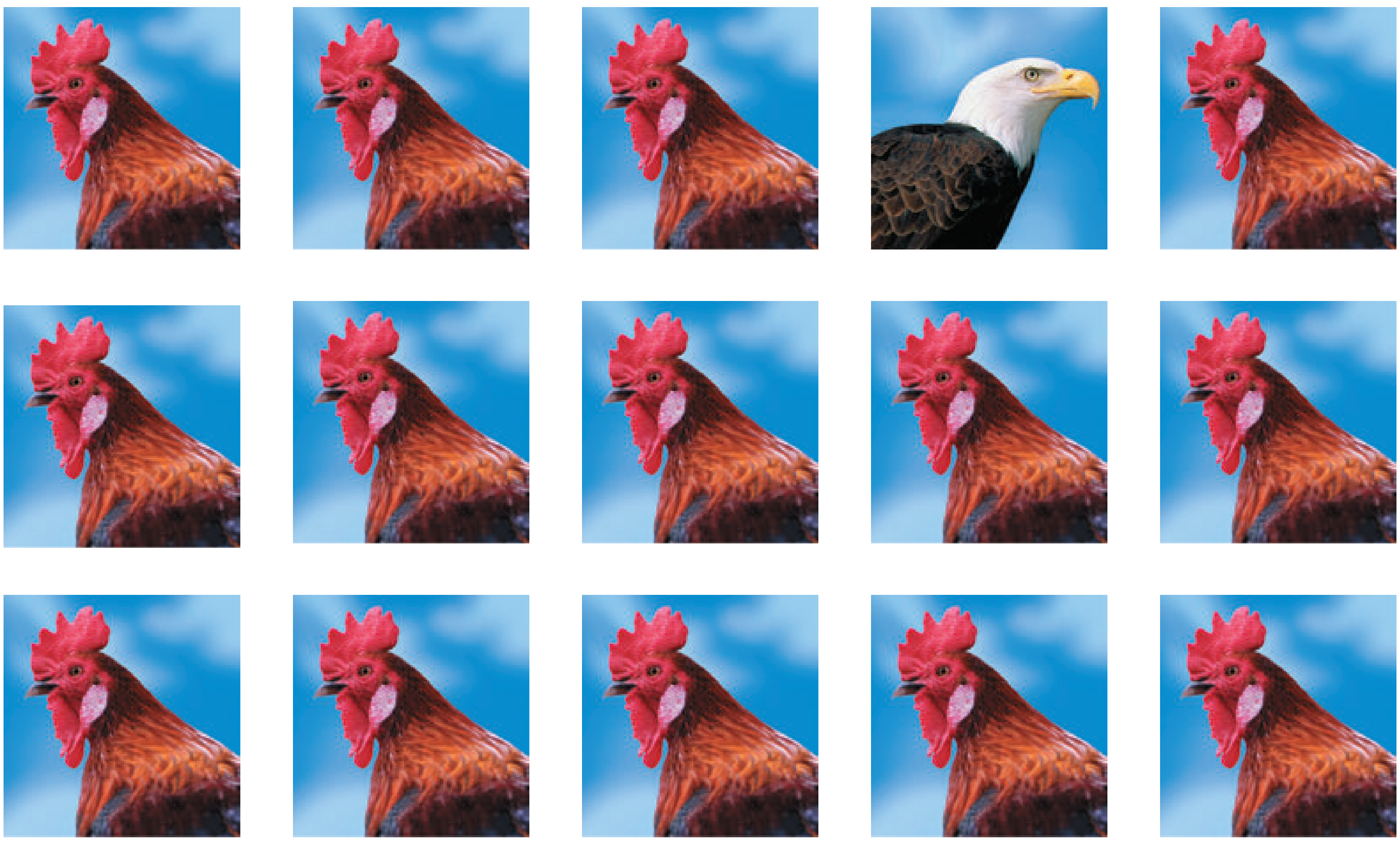
"Now, ceding companies routinely are collecting geographic information on underlying insureds and sharing that information with reinsurers," he said, "so both primaries and reinsurers can do a better job of managing group concentrations, managing exposures and generally better risk management."

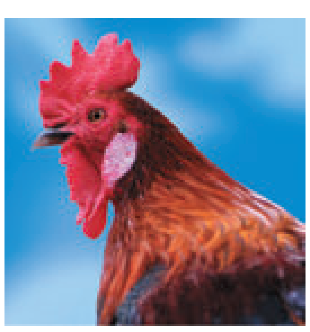
This is not fundamentally different from what the property/casualty industry went through after hurricanes Hugo and Andrew, said Mr. Stroup.

Mike Plappert, assistant vp at reinsurance intermediary Towers Perrin Reinsurance in Philadelphia said, "Everybody now has to justify to senior management and retrocessionaires they're tracking concentrations, they know where the concentrations are and they have them contained."

Group life reinsurers are also paying closer attention to risk concentration across product lines, said Tom Corcoran, a principal with Tillinghast in Simsbury, Conn. They recognize that a group life reinsurer could have three separate claims from a single event stemming from its group life coverage, a workers compensation carve-out that includes death and disability coverage, and travel accident coverage. Before Sept. 11, "they weren't as worried about that," he said.

The pecking order has changed.





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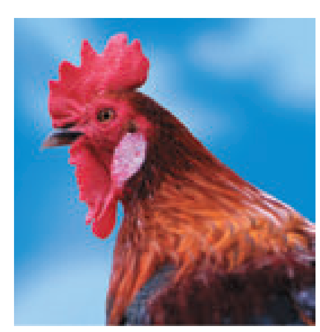

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Health re: Buyers shouldering more risks

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2002, with similar increases seen for health plans and provider organizations renewing their reinsurance programs, brokers and consultants say. Although increases for stop-loss coverage have moderated somewhat compared with the last year, health reinsurance buyers are not yet seeing the same sort of relief.

Several trends have converged to push up reinsurance rates. Perhaps most importantly, the underlying increases in medical costs "translate into fairly high stop-loss trends," pointed out Cara Jareb, consulting actuary for Watson Wyatt Worldwide in Washington.

Also, reinsurers are hiking prices to make up for losses in other lines, especially those stemming from the Sept. 11, 2001, terrorist attacks.

"Prices in the health care reinsurance market are largely driven by losses on the P/C side," Mr. Wilson said. Several major property/casualty reinsurers also write health reinsurance.

Added to this mix is the reduction of overall capacity stemming from consolidation among reinsurers.

"Pricing is tougher as a result of lessening of capacity," said David Wynstra, division president of Gallagher Healthcare Insurance Services in San Francisco, a unit of Arthur J. Gallagher & Co.

> **'Pricing is tougher as a result of lessening of capacity.'**
>
> *David Wynstra*
> *Gallagher Healthcare*
> *Insurance Services*

The squeezing out of many managing general underwriters has also pushed up rates, many said. During the 1990s, the business written by many of these companies proved to be loss-making for health reinsurers. When reinsurers subsequently ended their relationships with MGUs, many of them simply disappeared, said Donald Drelich, president and chief executive officer of D.W. Van Dyke & Co. of Connecticut Inc., a reinsurance intermediary in Westport. "About one-third of them are no longer around," he said.

Moreover, reinsurance and stop-loss insurance buyers are paying more for less coverage.

The biggest trend in the past year has been the "imposition of more and more limits on coverage," Mr. Crispin said.

Not only are aggregate caps falling but caps on individual services also are being added to policies. "Within the last two years, it certainly has become the norm," he said.

For example, reinsurers may cap per-day coverage for hospital stays at $2,500, forcing a self-insured employer or a managed care plan to absorb any costs above that amount. Mr. Crispin said he also has seen caps on coverage for many

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Health re: Buyers shouldering more risks

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expensive high-tech medical devices, such as assistive equipment worn by cardiac patients, he said.

Buyers have agreed to these restrictions to lower their premiums, a trend that Mr. Crispin expects to continue.

Policies also include higher retention levels than they have in the past. To reduce premium hikes, buyers have been asking for a higher retention, often pushing the level at which coverage kicks in to over $100,000.

"It's a matter of how much they think they can handle vs. the price of the premium," explained Ms. Jareb.

Reinsurers have also increased the practice of "lasering," observers said. This involves carving out individual employees with high-cost claims and assigning a separate, higher retention to them that puts more of the risks onto the employer.

All these trends add up to a time of greater risk assumption for buyers. Unlike in past years, all parties, including reinsurance buyers, are taking on more risks and have an incentive to reduce claims costs.

"It's not just the reinsurer that is concerned with the profitability of the business," Mr. Shevlin said.

As a result, employers are putting more emphasis on case management to keep costs in check, he said.

Despite these efforts, some reinsurance buyers may not understand all the new risks they are assuming. Before adding risks, buyers should obtain an actuarial study of anticipated future medical losses and determine whether it makes sense to shoulder more of these losses or pay to shift the risks onto others, Mr. Wynstra said.

"I don't believe it's been properly evaluated and taken into account" by many buyers, Mr. Crispin said. In particular, he said he doesn't believe all buyers fully understand the exclusions reinsurers have placed in policies or have started to enforce after years of neglect, he said.

For self-insured employers, though, the worst times may be coming to an end, Mr. Shevlin said. In recent months, rate increases have moderated as stop-loss insurers have pushed their combined ratios down to around 90%.

"Basically, people are achieving their appropriate underwriting margins" with employer stop-loss insurance, Mr. Shevlin said.

As a result, prices in 2003 for the medical stop-loss coverage will rise by only enough to cover increases in rising health care costs, likely around 15%, he said.

This trend will probably continue for a few more years, Mr. Drelich predicted.

But for reinsurance for managed care organizations and providers, the future is not as rosy. Profits for reinsurers in these two areas have not been as strong, and combined ratios have not come down as much as in the stop-loss arena, observers say.

As a result, they predict, rates will continue to rise to provide those reinsurers the revenue they need to climb out from under years of losses.

Mr. Shevlin doesn't expect the soft market of the 1990s to return unless waves of naive capacity come into the industry. "That is a threat to the stop-loss market," he said.

One source of this capacity could be the reinsurers formed mainly in Bermuda after the Sept. 11, 2001, terrorist attacks. While these startups are focusing on the property/casualty market, "they are venturing into the accident and health area," Mr. Drelich said.

So far, this activity has been minimal, but it could accelerate, and the concern is that the startups might lack the underwriting discipline of the current crop of health reinsurers.

"It has not been significant yet, but there is potential for them to soften the market," Mr. Drelich said.

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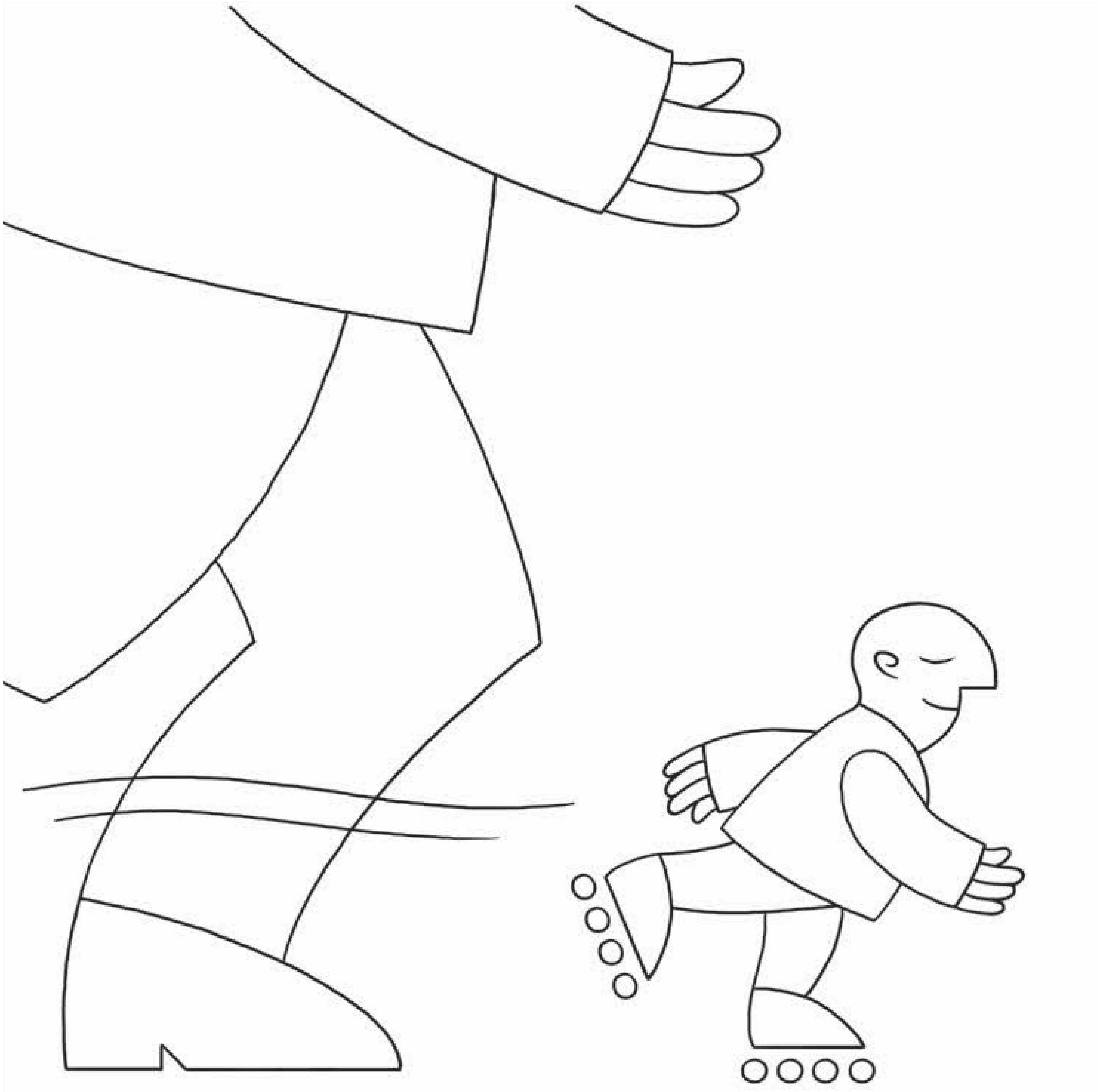

Reinsurers unable to drive hikes in disability rates

Competition, large retentions by primary insurers helping to blunt impact on pricing

By ROBERTO CENICEROS

Employers renewing long-term disability coverage may soon see firmer rates and tighter conditions, but market watchers say disability reinsurers probably won't be responsible for those developments.

In contrast to the property/casualty market, in which reinsurers exert significant influence over rates and coverage terms, reinsurers have little sway in the pricing of group long-term disability insurance.

There are several reasons for this, observers note. Strong competition exists among the many disability reinsurers, but more significant is the large field of direct writers of group disability insurance. The largest of those insurers retain more than 80% of their underwriting risk, explained Pat Miele, the president of Miele Consulting in Falmouth, Maine. Reinsurers' limited role sharply reduces their ability to influence insurer pricing strategy, he said.

The group disability insurance market generates about $6 billion to $7 billion in premiums annually, said Thomas C. Kirner, director of market development for the Smith Group, a Portland, Maine-based firm that provides reinsurance consulting services to disability insurers. Mr. Kirner explained that a lack of disability market data makes it impossible to estimate total reinsurance premium volume.

Several disability market experts note that many of the largest disability insurers purchase their reinsurance coverage on an excess basis. In this arrangement, reinsurers are financially responsible once a claim exceeds a predetermined amount.

Many smaller disability insurers, though, purchase reinsurance coverage on a quota-share basis, a form of proportional reinsurance in which reinsurers assume a set percentage of risks.

In addition, smaller insurers often work through "turnkey" reinsurers or underwriting managers. Turnkey reinsurers do more than merely back claims with funding. They provide a variety of "backroom" services on behalf of the insurers, including underwriting, claims management, the development of product language and product pricing, explained Pamela Saunders, chief executive officer of Disability Consulting Group, a Portland, Maine-based disability reinsurance underwriting manager in which Overland Park, Kan.-based Employers Reinsurance Corp. is a shareholder.

In fact, turnkey reinsurers often insist on determining the product language and pricing, Ms. Saunders

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Disability: Reinsurers not driving price increases

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said. But to remain competitive in the group disability market, the turnkey reinsurers must keep their rates in line with those of the large direct writers, she said.

Large primary insurers "set the tone" in the disability market, agreed David Mitchell, vp of client management and products for Disability RMS, a turnkey disability reinsurer in Portland, Maine. In a market in which insurers are not seeing higher premiums, reinsurers can't demand increases either, he said.

Employers may notice an increase in the premiums they pay for long-term disability coverage, though. Several observers said they recently have seen insurers raise rates about 10% for existing accounts while discounting prices to win over new business.

Some insurers have two pricing strategies, one strategy for renewal accounts and a second one for acquiring business, explained Mr. Mitchell. So far, he said, he has not seen insurer rates firming for new business.

Overall, rates "are not getting any softer," Mr. Mitchell said, "but it's definitely a buyers' market out there at the street level."

Employers currently focus much of their attention on reducing their rising health insurance premiums and thus have little time to shop for bids when renewing ancillary lines such as group disability coverage, said the Smith Group's Mr. Kirner. Consequently, he said, insurers can raise premiums and still retain their customers.

Overall, rates 'are not getting any softer…but it's definitely a buyers' market out there at the street level.'

David Mitchell
Disability RMS

Yet some employers renewing their group disability coverage continue to benefit from the buyers' market.

Mr. Miele, who provides reinsurance consulting services to insurers, said that one of his insurer clients recently bid on a California hospital account. The insurer client lost the bid when the incumbent underwriter lowered its price, even though it was already losing money on the account.

For a few years now, purchasing market share has been common among group disability insurers, several observers say.

"You have 10 large, very credible, well-known companies out there that, at any point in time, may want to increase their market share," said Richard Clement, vp-group underwriting for the Smith Group. "They will try and buy business, and that is going to put pricing pressure on the rest of the companies."

But along with some indications that primary insurers are raising their rates, at least on renewal business, observers also say that insurers, if they cannot obtain the rate increases they want, are seeking to tighten underwriting conditions.

Insurers are attempting to lower their maximum disability claim payments so that the amount is enough for a claimant to live on but not to maintain the lifestyle he or she enjoyed while working, sources say. The insurers are also trying to limit the coverage of disabilities such as drug and alcohol problems and "subjective" conditions such as fibromyalgia and chronic fatigue syndrome.

Limitations on these "are becoming more widespread," Mr. Kirner said.

Insurers generally propose such plan design changes when employers object to price increases, said Veronica Hellwig, a senior consultant in Wellesley Hills, Mass., for Watson Wyatt Worldwide.

But employers should exercise caution before accepting such changes in conditions, Ms. Hellwig warned. Employee relations could be strained by suddenly excluding certain disabilities, she said.

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Regulators try to prevent personal accident spirals

NAIC proposes guidelines to forestall future Unicover-type reinsurance pool disasters

By CAROLYN ALDRED

While arbitrations and litigation continue over hundreds of millions of dollars of disputed workers compensation carve-out business assumed by life insurers and reinsurers, U.S. regulators are working to develop guidelines to prevent another Unicover-type debacle.

The National Assn. of Insurance Commissioners this summer published a white paper titled "Guidelines on the Regulation of Voluntary Accident and Health and Property and Casualty Underwriting and Reinsurance Pools." The guidelines will be submitted to the Financial Committee at the NAIC's December meeting, after final amendments are made this month, an NAIC spokeswoman said.

The regulatory guidelines were developed largely in response to the 1999 collapse of the Unicover Occupational Accident Pool, a reinsurance pool that wrote hundreds of millions of dollars in loss-making workers comp carve-out business.

Unicover was one of several facilities that carved out the personal accident and health components of workers comp business and placed that business in the life insurance market in the 1990s. Much of the business written by such facilities was ceded into the personal accident market in a tight spiral that has resulted in potentially huge losses for participants, including property/casualty insurers and reinsurers and life insurers and reinsurers.

In circumstances that resemble the excess-of-loss spiral that plagued the London market in the 1980s and early 1990s, many of the reinsurers are exposed as both cedents and reinsurers. Several are refusing to pay the claims, arguing that they were not informed that they were assuming the same risks several times over, which has led to dozens of arbitrations and legal proceedings.

Ongoing disputes include:

- Litigation between Swiss Reinsurance Co. and Lincoln National Corp. Swiss Re is seeking to reduce by $770 million the $2 billion it initially agreed to pay Fort Wayne, Ind.-based Lincoln National for its life reinsurance operations. Much of the dispute relates to workers compensation carve-out business written by Lincoln National. Litigation is proceeding, a Swiss Re spokesman said (*BI*, June 3).
- Arbitration proceedings between John Hancock Life Insurance Co. and several property/casualty reinsurance companies, including Clarendon National Insurance Co. Hannover Re Group, parent company of New York-based Clarendon, would not comment on the arbitration proceedings or on litigation surrounding Hannover's purchase of Clarendon.

The regulatory guidelines were developed largely in response to the 1999 collapse of the Unicover pool, which wrote hundreds of millions of dollars in loss-making workers comp carve-out business.

Sources close to the issue claim that Boston-based John Hancock is in arbitration with more than a dozen companies over hundreds of millions of workers comp carve-out claims.

A John Hancock spokesman confirmed that the company was involved in a number of disputes involving carve-out business but would not provide details.

The life insurer has set aside $133.7 million for liabilities relating to workers compensation carve-out business, he confirmed.

John Hancock also remains liable

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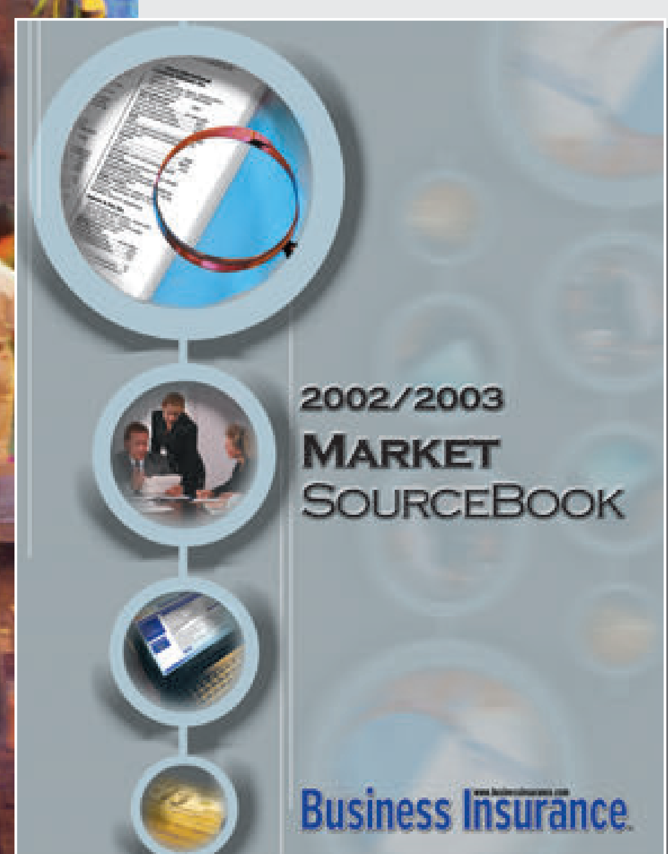

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Carve-out: Guidelines aim to prevent future spirals

Continued from page 24

to policyholders under a coinsurance agreement with UNICARE Life & Health Insurance Co., a subsidiary of Thousand Oaks, Calif.-based WellPoint Health Networks Inc., after selling a major portion of its group insurance business to UNICARE in 1997, according to Hancock's annual report.

WellPoint's most recent Securities and Exchange Commission filings refer to "a number of legal proceedings to which John Hancock is a party," involving disputed reinsurance arrangements "with respect to personal accident insurance and the occupational accident component of workers compensation insurance."

WellPoint "believes that it has a number of defenses to avoid any ultimate liability with respect to these matters and believes that such liabilities were not transferred to the company as part of the acquisition," according to August SEC filings.

John Hancock recently was ordered to pay $5.9 million, plus interest of $1 million, and 90% of all legal costs, in an arbitration award with Philadelphia-based Legion Insurance Co., now in rehabilitation. Additional damages for future claims will be decided in another arbitration (*BI*, Sept. 30).

> **'When the carve-out market collapsed, more than $550 million of capacity disappeared.'**
>
> *Peter Zaffino*
> *Guy Carpenter & Co.*

- Litigation in London's High Court involving Brighton, England-based property/casualty reinsurer Sphere Drake Insurance Ltd. and Bermuda-based broker Stirling Cooke Brown Holdings Ltd. The trial, which began early this year, is expected to continue for several more months.

SEC filings of other companies indicate that there are dozens more arbitrations involving many other property/casualty and life companies, with many of the disputes arising from workers compensation carve-out business written through pools and other facilities.

In the history of accident and health reinsurance, "there may have been as many as several dozen pools managed by a dozen or so managers representing several hundred million of per-occurrence capacity," according to the NAIC's white paper, which notes, though, that "these numbers have diminished in recent years with a series of adverse market situations," including the unraveling of Unicover.

"The recent abuses have heightened regulatory concern and industry criticism of the pool managers," the white paper notes, adding that "much of the insurance industry was affected by this situation one way or another."

Many accident and health pools are in runoff, and many pool managers ceased to exist as member companies withdrew from pools, greatly diminishing their capacity, the white paper notes.

"When the carve-out market collapsed, more than $550 million of capacity disappeared," estimated Peter Zaffino, managing director of New York-based reinsurance intermediary Guy Carpenter & Co. Mr. Zaffino stated in a Guy Carpenter report that the main reasons for this capacity loss were the Unicover pool, poor results and the Sept. 11, 2001, terrorist attacks.

Stephen A. Crane, chief executive officer of Bermuda-based AlphaStar Insurance Group Ltd., formerly known as Stirling Cooke Brown Holdings, said the ongoing disputes and refusals to pay claims are causing severe cash flow problems for many insurers.

"The workers compensation carve-out business was the reason the white paper has been developed. (It) has been amended to handle pools in general, which also deals with the workers comp carve-out business," an NAIC spokeswoman said.

Among the white paper's recommendations are that:

- Each U.S. state review its legal framework to determine if it has the requisite statutory authority to oversee the financial condition of voluntary life, accident, health and property/casualty pools and associations.
- States must be capable of monitoring pool activity and its impact on the financial condition of companies that participate in such pools or associations. The white paper outlines criteria under which pool participants must annually monitor their continued participation.
- NAIC actuarial task forces should consider the feasibility of requiring an actuarial opinion with respect to the pools' business.
- The NAIC should consider whether pools and associations should be subject to its model audit rule and be required to file an independent statutory audit opinion.

The working party earlier examined the legal concerns surrounding life and health insurers' authority to assume workers comp carve-out business and discovered considerable confusion and variations among states. The working party recommended last year that each state "review its legal framework to identify whether workers compensation carve-out business is explicitly allowed or disallowed."

Congress: Control critical to reform

Continued from page 1

did eight years ago, when Republicans won control of the House for the first time in 40 years, Mr. Farmer said.

"We're paying attention to all the close races, if for no other reason than to see how Congress ends up," said Joe Quigley, political director of the American Insurance Assn. "With so many close Senate races, it will be interesting."

Of particular concern to liability reformers is control of the House, said Sherman Joyce, the president of the American Tort Reform Assn. in Washington.

"Republican control of the House is critical," Mr. Joyce said. A Democratic majority would mean that Rep. John Conyers, D-Mich., a foe of tort reform, would become chairman of the House Judiciary Committee.

"With Rep. Conyers as chairman of the House Judiciary Committee, it is unlikely that proposals on class action reform and medical liability reform can be expected to see the light of day. There, the majority status is more significant than in the Senate," Mr. Joyce said.

"Ultimately, it does matter…who controls the committee process," said Carl Parks, senior vp in the National Assn. of Independent Insurers' Washington office. Mr. Parks said that the plaintiffs bar has been particularly active in this year's elections. "The trial bar has had increasing clout in the political process. They're very, very engaged," he said.

Mr. Parks cited the close Colorado Senate race as an example. In a rematch of 1996, it pits Sen. Wayne Allard, R-Colo., against attorney Tom Strickland, who enjoys very strong support from the trial bar.

The close party division is particularly critical given the broad liability agenda before Congress, Mr. Joyce noted.

"Good progress has been made on class action reform, and I think that the groundwork has been established for dealing with asbestos litigation in the Senate. If control were to revert to the Republicans in the Senate, then the fact that you have as Judiciary Committee Chair Orrin Hatch, who would be a champion and advocate of these reforms—both asbestos and class action—clearly means their prospects would improve substantially," Mr. Joyce said, referring to former Judiciary Chair Orrin Hatch, R-Utah, who would resume that position in a GOP-controlled Senate.

Mr. Joyce also predicted that if a terrorism reinsurance bill becomes law, "there will be interest in taking up the question of whether an innocent party that is the victim of a terrorist attack should be subject to punitive damages" in the next Congress if the GOP prevails.

'A patients' bill of rights under GOP control would not impose massive new costs on an already-overstretched health insurance delivery system.'

Joel Wood
Council of Insurance Agents & Brokers

A shift in party control could have a noteworthy impact on some benefit concerns as well, including so-called patients' bill of rights legislation, which stalled again in the just-ended Congress.

"Where we'd see a difference in a shift of control would be in the employee benefits arena," said Joel Wood, senior vp of the Council of Insurance Agents & Brokers in Washington. "Investment advice bills affecting 401(k) plans, for example, could probably be enacted. We would have fewer worries about increasing mandates that undermine the employer-based health insurance system. A patients' bill of rights under GOP control would not impose massive new costs on an already-overstretched health insurance delivery system," Mr. Wood said.

"I don't think patients' bill of rights is a dead issue; it's an unresolved issue. The difficulty remains the same as it's been from the start, which is the sharp differences between the two parties on the issue of liability," said Paul Dennett, vp-health policy for the employer-backed American Benefits Council in Washington.

"That division is one that is very likely to continue in the next Congress as well, regardless of which party has control. Especially in the Senate, there's not likely to be a 60-vote working majority that will allow (one party) to set the agenda on its own terms. Neither party is likely to be able to do that,

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Congress: Control critical to reform

Continued from previous page

regardless of how individual races work out. It will make issues like a patients' bill of rights very difficult to resolve. It's hard to find the middle ground, and, politically, it's been very difficult for either party to impose its will," Mr. Dennett said.

"There's probably greater prospects for movement on prescription drugs in the next Congress. The administration has clearly signaled a strong interest in finding a way to bring that issue to closure," he said.

"The key issue is whether an acceptable middle-ground proposal can emerge, which has proved to be very difficult in an election year. But the chances for that would likely improve in 2003. The only way prescription drugs can move ahead is with the development of a middle-ground alternative because of the lack of a 60-plus majority in the Senate," Mr. Dennett said.

The almost-certain lack of a filibuster-proof majority for either party also puts the brakes on pension reform, said James Delaplane, who served as vp-retirement policy at the American Benefits Council until last week, when he joined a Washington law firm.

"I don't see a lot changing in the environment relating to 401(k) reform, regardless of the outcome of the elections," Mr. Delaplane said. The Senate will be very closely divided no matter which party is in charge, and the Senate has been the real bottleneck on pension reform, as it has been on other issues. The only constellation I can see, politically, that might significantly increase the odds of a bill is Republicans maintaining control of the House, (and) Republicans gaining control of the Senate," he said. Such a development could allow the GOP to pick up enough Democrats in the Senate to support a moderate bill, he said.

Insurance industry observers are watching individual races for reasons beyond their impact of the balance of power, noted the CIAB's Mr. Wood. He pointed to a Texas race as an example.

"Tom Reiser is running as the GOP nominee in open 25th District of Texas," Mr. Wood said. "The owner of Technical Risks—an energy specialty insurance broker that was just sold to Brown & Brown, Mr. Reiser would be a terrific addition to the House, given his intense knowledge of the commercial property/casualty industry," he said.

Insurance initiatives on ballot in several states

Voters in several states on Nov. 5 will determine the outcome of ballot initiatives and judicial races that are of importance to employers and insurers.

One vote that is being closely followed is a ballot initiative on the implementation of a single-payer health care system for Oregon (see story, page 1).

In other states, voters are considering a range of issues, including investment rules for state funds and state ownership of health care services.

And businesses and insurers in several states are hoping elections will lead to a change in the majority in those states' supreme courts.

Ballot initiatives

- Colorado voters will decide whether to approve an amendment to the state constitution that would allow local governments, such as special districts, counties and cities, to jointly own health care services or facilities with private companies or individuals.

The amendment also would provide that the local government's and the private company's share of ownership in such a service or facility be based on the amount invested by each. It also would prohibit local governments from going into debt or pledging credit to create and operate health care partnerships and would prevent a partnership created to provide a health care service from being considered a local government or public body.

The proposal applies to health care services provided primarily through county and special district hospitals and local health departments.

- Voters in Michigan, Montana and Oklahoma will determine how to administer their states' share of

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Ballot: States consider insurance-related initiatives

Continued from previous page

the $206 billion settlement reached between tobacco companies and state attorneys general in 2000.

The Michigan initiative proposes that 90% of the settlement revenues be allocated for health care purposes.

In Montana, voters will decide whether 49% of the state's tobacco settlement money should be spent on anti-smoking initiatives.

In Oklahoma, a ballot initiative would change certain procedures related to the state's tobacco trust fund. If the ballot initiative is approved, monies spent from the fund would be based on the average market value of the fund, not to exceed 5.5% of its average value each year. Currently, monies spent from the fund cannot exceed its annual earnings.

- Oklahoma voters also will decide whether the Legislature can enact laws permitting state entities to limit the contractual liability of parties contracting to provide information technology goods or services to the state. Liability could not be limited to less than the amount of the contract.
- In Montana, voters will decide whether to change the investment rules for local-government group self-insurance programs to allow up to 25% of the funds to be invested in private corporate capital stocks. Currently, such investments are not permitted.
- In South Carolina, an initiative proposes broadening the range of companies in which state employee pension funds can be invested.

Judicial elections

- In Ohio, insurers and employers are closely watching two Supreme Court races that could end what insurers view as the four-to-three activist majority of the court.

In one Ohio Supreme Court race, insurers support Maureen O'Connor, whom they see as an advocate of judicial restraint, over incumbent Justice Tim Black, who is strongly supported by trial attorneys and labor unions.

In the other race, insurers support the re-election of Justice Evelyn Stratton over challenger Janet Burnside.

Justice Stratton has "demonstrated judicial restraint in her time on the bench," said a spokesman for the American Insurance Assn.

- Insurers and business leaders in Alabama are supporting Republican incumbent Harold See in his bid to remain on the state's Supreme Court. He faces Democrat James H. Anderson and Libertarian Tom Bear in the race.

"We want to hold on to See," said a spokeswoman for the American Insurance Assn. The spokeswoman said the justice is "more of a friend of business" than are his opponents.

- In Mississippi, insurers and the business community are hoping attorney Jess Dickinson will defeat Chuck McRae in the race for a seat on the state's Supreme Court. Neither candidate is affiliated with a political party.

The AIA spokeswoman said Mr. McRae has been clear about his opposition to tort reform efforts, and there has been "an active campaign by business in Mississippi to defeat him."

Michael Bradford, Mark A. Hofmann, Sally Roberts, Gavin Souter and Joanne Wojcik contributed to this report.

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New faces could create educational challenges for reform advocates

Election could see big regulator turnover

By MEG FLETCHER

As many as 37 new insurance commissioners could be appointed or elected as a result of the Nov. 5 elections.

The potential for such a significant turnover creates educational challenges for the advocates of regulatory reform issues such as industry modernization, several insurance industry representatives say.

Contributing to the potentially large turnover are gubernatorial elections in 36 states and a mayoral election in the District of Columbia. Of these, at least 20 states will be electing new governors, because the incumbents are not seeking re-election for personal reasons or due to term limits.

"It is definitely an unusual year because it is eight years—a typical term-limit cap—after the 1994 election, which was truly a landmark year," said Cheye Calvo, the Washington-based committee director for the National Conference of State Legislatures' Financial Services Standing Committee. A significant number of new Republican governors were elected in 1994.

A newly elected governor often appoints his or her own insurance commissioner, either immediately after taking office or at the end of a prior commissioners' term in office. Traditionally, few governors reappoint sitting commissioners, especially those from other parties.

Terri Vaughan of Iowa, the current president of the National Assn. of Insurance Commissioners, is one exception. She was appointed by a Republican governor and retained by his successor, a Democrat.

In addition, of the four incumbent insurance commissioners up for re-election this year, only two are running (see related story).

Florida also will appoint a new commissioner, due to a 1998 change in the state's constitution that was subsequently clarified by passage of a law. Essentially, the change merged the duties of comptroller and treasurer into that of a chief financial officer and eliminated the elected post that previously combined the duties of insurance commissioner, treasurer and fire marshal. Tom Gallagher, who holds that position, is running unopposed for the CFO post.

'I have a concern about the loss of the brain trust' that developed the NAIC's regulatory modernization agenda.

Robert Zeman
National Assn.
of Independent Insurers

A special commission—consisting of the governor and three other elected cabinet members, including Mr. Gallagher—will appoint two new regulators to oversee insurance and financial institutions/securities, respectively.

Nationwide, "the conventional wisdom is that the Democrats will pick up some seats" in midterm elections, said Bruce Ferguson, vp-state relations for the Washington-based American Council of Life Insurers. With gubernatorial appointments following suit, "the tilt will be to the left among (insurance) commissioners," Mr. Ferguson predicted.

"I have a concern about the loss of the brain trust" that developed the NAIC's regulatory modernization agenda, said Robert Zeman, senior vp and assistant general counsel with the National Assn. of Independent Insurers in Des Plaines, Ill.

Another insurance trade group spokesman, though, said he is less concerned about that. John Lobert, senior vp-state government affairs with the Alliance of American Insurers in Downers Grove, Ill., said that regulators championing modernization are not expected to lose their posts in Arkansas, the District of Columbia, Iowa and Ohio.

Insurance issues, though, "are particularly impacted by turnover, generally because of the complexity of the issues and the need for balance among the different interest groups" in order to establish viable public policy, said Paul Blume Jr., Chicago-based vp-Midwest region for the American Insurance Assn.

The challenge of educating policymakers about insurance issues may be even greater in the 11 state legislatures in which 322 legislators will be "termed out" in this election, according to the NCSL.

Four states to elect commissioners

Four states are set to elect insurance commissioners to four-year terms on Nov. 5, and in half of those races, incumbents are not running. Summaries of the races follow:

California

Employer associations say they want California's next commissioner to improve the solvency of workers compensation insurers and to help stem rising workers comp costs.

Democratic candidate John Garamendi, a former California insurance commissioner, and Republican Gary Mendoza both say that, if elected, they will address workers comp woes. However, neither has clearly rallied employers' support.


PHOTO: AP/WIDE WORLD
Mr. Garamendi

Several employer associations say they are not backing either candidate because their charters prohibit such endorsements.

The race has not been well publicized and has featured little advertising by either candidate, noted Willie Washington, legislative director for the Sacramento-based California Manufacturers & Technology Assn. "It just isn't a highly visible game, and only those of us who work in (insurance politics) keep track," he said.

Mr. Mendoza is a health plan consultant at Los Angeles law firm Riordan & McKinzie. From 1993 to 1996, he was state corporations commissioner, regulating health maintenance organizations. Mr. Mendoza has said that he plans to fight fraud and address problems in the workers comp system if elected. Much of his campaign, though, has focused not on such issues but on attacking Mr. Garamendi for the sale of Executive Life Insurance Co. assets during his previous term as commissioner.

In 1991, Mr. Garamendi became California's first elected insurance commissioner, a post he left when he made an unsuccessful run for governor in 1994. ELIC became insolvent in 1991, and Mr. Garamendi oversaw the sale of its assets, including a junk bond portfolio that later grew in value. Policyholders charged in lawsuits that he sold the portfolio for too little, depriving them of retirement funds. He maintains he got the best deal he could for policyholders.


Mr. Mendoza

Mr. Garamendi has pledged to clean up the department, which was shaken by charges of misconduct against Commissioner Chuck Quackenbush, a Republican who resigned in July 2001. Harry W. Low, who was named to replace Mr. Quackenbush, opted not to seek election.

Mr. Garamendi says he will im-

Continued on next page

Continued from previous page

prove the workers comp market by encouraging insurers to operate in California.

Among other changes, employers want the new commissioner to discourage competition that reduces insurance rates to the point of causing insolvencies, said Dominic DiMare, a lobbyist for the California Chamber of Commerce in Sacramento.

Georgia

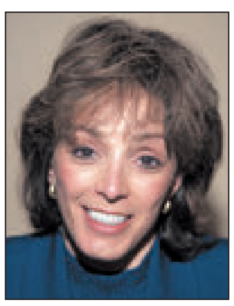
A crackdown on insurance fraud and reforms to Georgia's workers comp system are among the accomplishments John W. Oxendine cites in his campaign for a third term as insurance and fire safety commissioner.

The Republican incumbent's opponents are a Democratic former stockbroker and a Libertarian candidate who has worked with risk management software as a small-business owner.

Mr. Oxendine notes that, as commissioner, he secured additional funding for the state insurance fraud unit, which has hired more investigators. Regulatory reforms he directed have reduced workers comp costs by as much as 50%, and fewer businesses are in the state's assigned-risk plan, he claims.

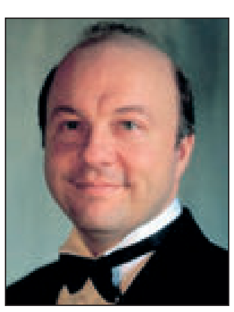
Mr. Oxendine

He is running against Lois Cohen, a Democrat who left her job as president of a securities firm to focus on her campaign. Ms. Cohen says she is chiefly concerned with protecting the interests of consumers. Ms. Cohen says she wants stronger laws and additional regulations to protect buyers from unfair practices but will take into consideration the needs of insurers.



Ms. Cohen

Libertarian Helmut Forren has worked as a consultant and business owner with experience in risk management software. He maintains that his perspective is not marred by preconceived notions about the insurance industry. He says Georgia and the nation need a two-tier system of health care coverage, made up of high-deductible group plans to cover catastrophic illnesses and individual health accounts for routine expenses. He also is seeking tort reform to end exorbitant medical malpractice awards.



Mr. Forren

Kansas

Kansas will have a new commissioner as a result of two-term Democrat Kathleen Sebelius' decision to enter the gubernatorial race rather than seek re-election.

Republican Sandy Praeger, a three-term state senator who chairs the Financial Institutions and Insurance Committee, is running against Democrat Jim Garner, a six-term state representative.

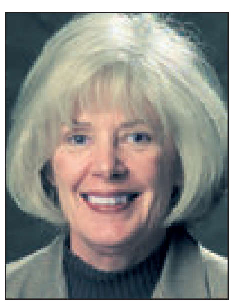
As a legislator, Mr. Garner played a key role in passing mental health parity legislation in 2001, and in 1998, he authored the law that bans insurers' use of DNA and genetic information in coverage decisions.

Mr. Garner

He stresses that he has not accepted any campaign funds from insurers or agents regulated or licensed by the Kansas department. This is consistent with legislation he introduced this year that would prohibit commissioner candidates from taking such contributions.

Mr. Garner supports tax credits for small businesses to defray their cost of employee health insurance, and he has vowed to establish a prescription drug assistance program for the elderly.

Ms. Praeger says on a campaign Web site that there is work to do "on issues such as prompt payment of claims, preventing abuse in the use of credit scoring and ensuring that premium increases are justified and equitable."



Ms. Praeger

She also wants to streamline the department by encouraging state agencies to pool resources and data, and to strengthen the competitive balance in the Kansas insurance market. "The best solutions to problems of large premium increases and consumer claim complaints lie in a strong and healthy marketplace that encourages competition," her site states.

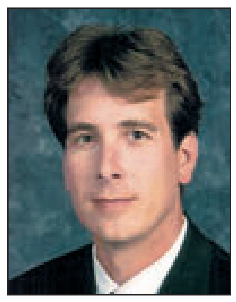
Both candidates support Ms. Sebelius' rejection earlier this year of a proposed merger of Indianapolis-based Anthem Inc. and Blue Cross & Blue Shield of Kansas, the state's largest health insurer. Ms. Sebelius said the deal would reduce the Kansas Blues plan's surplus and increase rates for small-group and individual policyholders. In June, a district court overturned her decision and remanded it to the insurance department. Although Ms. Sebelius has appealed to the Kansas Supreme Court, the new commissioner likely will face the issue.

Oklahoma

The gloves are off in the race for Oklahoma commissioner, and both candidates are taking jabs at each other. In the latest round, Republican candidate Doug Barry filed a lawsuit against Democratic incumbent Carroll Fisher over personnel records Mr. Fisher obtained from Farmers Insurance Group, Mr. Barry's employer for the past nine years.

The records—including Mr. Barry's original job application and a diploma—show that he graduated from the University of Oklahoma, but he, in fact, did not. Mr. Barry, who says he has never claimed to be a college graduate, maintains the documents have been altered. He says the commissioner abused his power by obtaining files from an insurer he regulates.

Although Mr. Barry said he believes Mr. Fisher is trying to hurt his integrity, "I'm very concerned that he's trying to strictly use his position for political gain."



Mr. Barry

The suit, filed Oct. 15 in Oklahoma County District Court, is seeking to block Mr. Fisher from publicly discussing the file and is seeking undisclosed damages. A hearing is set for Oct. 29.

Mr. Fisher, who called the suit "frivolous," says he called Farmers Insurance and Oklahoma University inquiring about Mr. Barry's education after receiving an anonymous tip.

"I'm not making it as a campaign issue," Mr. Fisher insists. "I just want him to sing the truth about his diploma that's been forged."

Turning the tables, Mr. Barry criticizes Mr. Fisher for accepting thousands of dollars worth of gifts from people within the insurance industry to furnish his new office building. "He actively and aggressively solicited $50,000 in very expensive items for the department, yet his monogram is engraved in the desk and his name is all over the tapestry on the windows," Mr. Barry says. "That's just wrong."

"We never solicited one gift whatsoever," Mr. Fisher countered. He said various people donated items but that they are "Oklahoma state property. It was never gifted to me."

Mr. Barry also criticizes Mr. Fisher for earlier this year providing doctors with what he describes as "campaign stickers" to affix to claims, with the message, "I'm a friend of Carroll Fisher, Insurance Commissioner."

Mr. Fisher

Mr. Fisher claims the stickers were meant to help get medical claims paid in a more timely manner. "My feeling is, I'm the regulator of the insurance industry, and anything that I can get them to do to be more responsive to the people of Oklahoma and pay their claims, that's my responsibility."

Mr. Barry countered: "It's odd that a commissioner of an industry is pressuring adjusters in the industry to pay claims quicker to the commissioner's friends."

While the sticker campaign has stopped, the state ethics commission is investigating.

Mr. Fisher, who was elected commissioner in 1998, cites among his accomplishments a mediation program that promotes arbitration rather than litigation for settling insurance disputes.

Mr. Barry said his campaign has always focused on the onslaught of rate increases occurring in the personal lines and commercial lines market. "We are seeing triple-digit rate increases for commercial across the board," he said. "But what we're seeing more than the rate increases is the limited amount of companies that will write commercial lines policies."

He said that, if elected, he will work at attracting more A+ rated insurers to the state to increase competition.

Michael Bradford, Roberto Ceniceros and Sally Roberts contributed to this report.

Oregon: Universal care vote set

Continued from page 1

pay for all "medically necessary" health services by any state-licensed practitioner, including preventive, inpatient, outpatient, mental health, dental, vision, prescription and long-term care services. There would be no exclusions for pre-existing conditions, and state residents would not be subject to deductibles, copayments or insurance premiums.

The system also would replace Medicare, Medicaid and the medical portion of workers compensation and automobile insurance.

The plan would be financed by transfers to a fund of all federal, state and local governmental health payments, an individual progressive income tax and a new payroll tax on employers, which will have a maximum rate of 11.5%. The 15-member board that will administer the plan also has the power to issue revenue bonds if there are funding shortfalls. The measure would take effect in 2005.

The measure's proponents say it would ensure that all Oregon residents have access to affordable, quality health care. As of 2000, Oregon had a population of 3.4 million.

But critics of the proposal, including employers, say it would be fiscally devastating to an already economically troubled state.

In addition, they say it would cause businesses to flee Oregon, lead to long waiting times and inefficiencies in health care delivery, and encourage ill people to move to Oregon for its medical services, which will add to the plan's economic burden.

> **'The package of promised benefits is so broad that I have some difficulty understanding exactly how anybody could have assumed that all those benefits can be paid for on a universal basis.'**
>
> *Patrick Pine*
> *ESCO Corp.*

Opponents say Oregon voters will reject the measure once they realize its tax implications. But even they acknowledge that Oregon voters—who approved the nation's only law allowing physician-assisted suicide in 1996 and the medicinal use of marijuana in 1998—can be iconoclastic. Recent polls leave the likely outcome of the vote in doubt because of the large number of still-undecided voters.

Mark Lindgren, chair of Eugene, Ore.-based Health Care for All-Oregon, which is sponsoring the measure, said the new system change is needed because "health care costs have gone up substantially, and more and more people are just a paycheck away from losing their health care coverage."

But Patrick Pine, benefits manager at Portland, Ore.-based ESCO Corp., a steel parts manufacturer, said that though he understands people's frustration with the cost and availability of health care, "The package of promised benefits is so broad that I have some difficulty understanding exactly how anybody could have assumed that all those benefits can be paid for on a universal basis."

In addition, the plan's financing depends in part on the Bush administration's willingness to agree to a waiver to redirect money now going to the state's existing low-income health system, which is "easier said than done."

Furthermore, as an employer with employees in multiple states, "I haven't quite figured out what does a company like us tell our employees." In addition, "we have employees (who live) right across the Columbia River in Washington" who work in Oregon but who would not be eligible under the plan.

The two sides differ as to the program's likely cost.

Advocates say a study shows it would cost \$19 billion annually and that health care spending would be similar to what it would be without a single-payer system. But, a study commissioned by the Washington, D.C.-based American Assn. of Health Plans concludes the program would cost \$23 billion to \$28 billion in 2005 and would create a \$3.5 billion to \$10.4 billion budget shortfall, even assuming the maximum increase in taxes.

"Measure 23 will cripple Oregon's economy by imposing a tax burden that Oregonians cannot sustain," said Leonard Hagen, manager of legislative affairs at Portland, Ore.-based Regence Blue Cross & Blue Shield.

"We just think it's a poorly designed proposal," said Lisa Trussell, legislative representative of the Salem-based Associated Oregon Industries, an employer group.

Phil Griffin, project manager for human resources at Portland-based utility NW Natural, said, "I've never seen a government system that does that well, and I would think that, probably, Medicare and Medicaid are good examples of that."

"There, quite frankly, are some in the insurance industry who think that the Oregon system is such a guaranteed disaster that it will be nice to see it go into effect, just so it can crash and burn. But we think on the whole that does a disservice to the people of Oregon and the health system generally," said a spokesman for the Washington, D.C.-based Health Insurance Assn. of America.

Commentary

New breed of gem raises hard issues

When you hear about someone getting stoned, you might picture an individual under the influence of a controlled or illegal substance. A cruel form of punishment in some Third World countries also might come to mind.

But that expression has taken on another meaning with the announcement several weeks ago of a new service for the bereaved—a service that raises not only some interesting new ideas but also some unexplored questions for society in general and the insurance industry in particular.

If you somehow missed the media blitz over this new service, here's a quick summary:

A Chicago-based company, LifeGem, announced that it has developed a process that extracts carbon from the remains of loved ones—humans or pets—and then replicates the forces of nature to create up to 100 high-quality diamonds from that carbon within weeks. The company currently can create one- to three-quarter carat diamonds, but it expects to offer 1.3 carat stones eventually. Prices vary depending on the number and the weight of the precious stones ordered, but customers should expect to pay between \$2,000 and \$10,000 for one stone.


Dave Lenckus

The company's mission "is to provide comfort for grieving family members and encourage positive reflections of those who have passed on by offering a memorial product of ultimate individuality and beauty." And value. Created diamonds are as valuable as mined diamonds, the company says.

Interest among customers as well as funeral homes that want to offer the service is ahead of expectations and is growing steadily, according to a LifeGem spokesman.

If this new service can help someone deal better with the loss of a family member or Fido, then, by all means, brush up on the difference between facets and baguettes.

Ironically, this service may even save lives. If it catches on, the demand for mined diamonds could drop, which should lead to fewer mining deaths and injuries. That would be good news not only for those miners who remained employed but also for life and workers compensation insurers.

But the idea and the purported value of these created stones raise some thought-provoking questions, a few of which are not for the squeamish.

First, consider the potential behavior of immature, misguided and financially strapped individuals with access to these gems. For example, teenagers typically try to pry extra money from their folks, who themselves may be scratching for some scratch to pay bills. In a moment of weakness, would Junior or Dad hock Grampa for gas or mortgage money?

Or, would a compulsive and terminally unlucky gambler let Aunt Bertha ride in hopes of that one big score that never has and never will hit?

This new service raises some insurance issues as well.

Imagine the unimaginable—that one of these stones is stolen during a home invasion. What's the crime here—a robbery or a kidnapping? We have to know to file the right type of insurance claim.

We also have to be concerned about the potential for insurance fraud involving these created stones.

Insurance companies already have to guard against the criminal element in society that arranges a spouse's demise to collect life insurance proceeds. How could anyone doubt that someone like that would use the life insurance proceeds to stone the spouse, sell the jewels surreptitiously, report them stolen and file an insurance claim?

Sure, that thought is unpleasant, but take this tip to the bank: Skip town immediately if your family suddenly starts calling you Rocky.

These thoughts may disturb some readers, but you probably should prepare for much more attention to this topic. If this service catches on, you have to expect this subject to creep into movies and TV shows, just as the Internet has become a vital element in the storylines of many movies.

Maybe we should expect remakes of hits such as "Heaven Can Wait" and "Romancing the Stone." I suppose "Diamonds Are Forever" would be another possibility, but who remakes James Bond films?

I wonder whether it's too soon to remake "Die Hard."

One theme song possibility is "Diamonds Are a Girl's Best Friend," which now takes on a new, literal meaning.

Senior Editor Dave Lenckus' commentary appears periodically in Business Insurance and on www.businessinsurance.com. He can be reached by e-mail at dlenckus@crain.com.

Proposed firefighter walkout brings prevention efforts to the fore

U.K. strike threat highlights fire risk

By CAROLYN ALDRED

U.K. companies are checking their fire-prevention equipment and contingency plans in preparation for a national strike by firefighters.

Negotiations were continuing late last week between the U.K. government and the Fire Brigades Union to avert a potential walkout from Oct. 29-31. The action would be the first of several planned strikes—expected to total 45 days by Dec. 24—stemming from a pay dispute. The U.K. military will provide firefighting services in the event of a walkout.

In response to the threatened strike—the first by U.K. firefighters in 25 years—the government, insurers and brokers are urging companies to review their fire-control plans and procedures.

This situation "dramatically highlights the need for companies to proactively assess risk," said Richard Reddaway, vp of corporate insurance and risk management at London-based pharmaceutical company GlaxoSmithKline P.L.C.

"The proposed strike by (firefighters) represents a serious threat and an increased chance of organizations being unable to tackle and control an outbreak of fire in their premises," according to an advisory bulletin that broker Marsh Ltd. sent last week to its clients.

The U.K. government expects that "the vast majority of businesses shall be able to continue their commercial activities unaffected by the dispute," according to a statement on a special Web site created by the Office of the Deputy Prime Minister. Nevertheless, it says that businesses should "institute supplementary measures and arrangements to prevent incidents and minimize the consequences of reduced emergency response cover."

Insurers and brokers, meanwhile, are providing commercial clients

See FIRE/page 35

PHOTO: BBC/NEWSCAST

PHOTO: AFP

U.K. businesses are reviewing fire prevention and control efforts amid threats of a labor strike by firefighters, the first in 25 years. Shown in the inset is a sticker firefighters are distributing to support their cause.

Italian insurers protesting plan for steep tax hike

By ROBERTA KEDZIERSKI

ROME—Italian insurers are protesting a proposed tax increase that they say will cost them nearly 4 billion euros ($4.08 billion).

The tax increase, if passed by Italy's Parliament will put insurers at a competitive disadvantage to insurers based outside of Italy, the insurers argued in front of a parliamentary commission earlier this month.

The government says that the tax increase will cost insurers only an extra 900 million euros ($917.6 million) a year.

The tax increase is part of a radical 2003 budget proposal intended to stem a downturn of 51 billion euro ($52.0 billion) in fiscal income for the Italian government, due to the worldwide economic slowdown.

The main tax change affecting insurers curbs their ability to write off losses. Previously, insurers faced few restrictions in the estimation of their loss reserves.

Under the 2003 budget, insurers will be able to write off losses only up to the value of 98% of their technical reserves for the previous three years. The remaining 2% would be written off in equal parts over the following nine years.

Insurers claim that this constitutes a tax-free forced loan to the government. Further, they say, it penalizes fast-growing companies more than their slower-growing competitors.

"If a company wants to write more business, it will want to ensure it has enough in reserve to pay out in the event of a claim," said Claudio Pinna, an actuarial consultant at Adelaide Consulting in Rome. "If it is prevented from doing so, it will think twice."

In addition, insurers argue that because banks and investment houses would not be subject to the same measures, these would have an advantage over the insurance companies in a number of areas, such as the management of pension funds. The provision will also put Italian insurers at a disadvantage to foreign insurers that are not subject to similar tax provisions, they say.

Speaking before a parliamentary commission on Oct. 8, Alfonso Desiata, the chairman of the Associazione Nazionale fra le Imprese Assicuratrici, the Italian insurers association, challenged the government's calculation that the loss of the tax break would cost Italian insurers only 900 million euros.

According to Mr. Desiata, the impact of these measures—if enacted—would lead to a loss to the insurance industry of just

See TAXES/page 35

Termination loophole to close

Pension regulators vowing tide change

By SARAH VEYSEY

LONDON— The U.K. pensions minister has promised government action to address a legal loophole that allows solvent employers to close occupational pension plans even if those plans are underfunded.

Danish shipping company Maersk & Co. this month decided to terminate its U.K. defined benefit pension plan, which is underfunded by about £3.5 million ($5.4 million).

Under U.K. law, Maersk can close the plan without making good the shortfall because the plan meets the United Kingdom's minimum funding requirement.

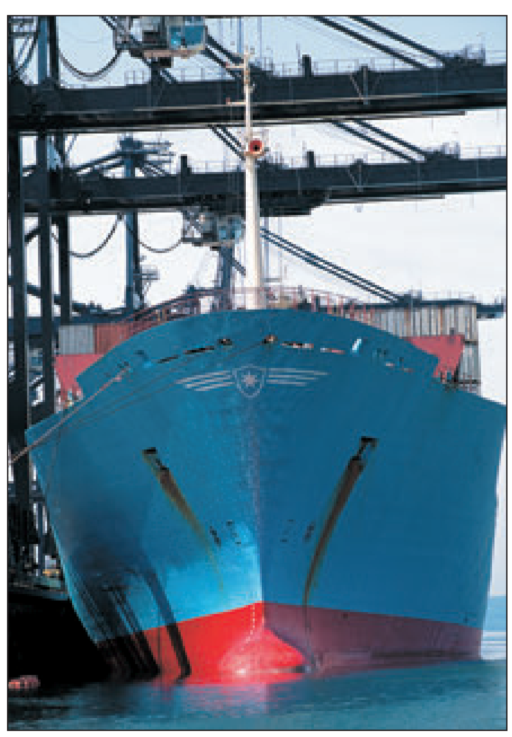
"It is not our policy to run defined benefit pension provision," Maersk said in announcing the closure of the plan, which provides occupational pensions for employees of its U.K. subsidiary, Sea-Land Services. Maersk blamed the funding shortfall on "unprecedented economic conditions that have caused fundamental changes in the pension industry."

The plan, which has 126 deferred members—those not yet drawing benefits—has assets of £6.4 million ($9.9 million) and liabilities of about £9.9 million ($15.3 million).

The company said it would meet the £500,000 ($773,600) cost of winding up the plan, which will include buying annuities to continue pension payments to retired workers and to allow deferred members to transfer the value of benefits already accrued.

But the London-based Occupational Pensions Advisory Service, an organization that aids pension plan participants, said that

See PENSIONS/page 35



A shipping company's move to terminate a pension plan has riled U.K. regulators.

World Updates

Gerling negotiating sale of reinsurance lines

Gerling Konzern Allgemeine Versicherungs A.G. says it still is in talks about the sale of parts of its property/casualty reinsurance business. Earlier this month, the German insurer said it would cease writing new business in some reinsurance lines if it had not found a buyer for that business by Oct. 18. A Gerling spokesman said Gerling is still involved in talks but had decided not to attend last week's reinsurance meeting in Baden-Baden, Germany, because of the uncertainty surrounding the future of the reinsurance unit.

Asbestos taking toll on ABB subsidiary

Asbestos liabilities may bankrupt Combustion Engineering Inc., the company's parent has warned. Zurich, Switzerland-based ABB Asea Brown Boveri said the asbestos liabilities of its Stamford, Conn.-based unit will exceed the U.S. unit's $812 million in assets if its "historical settlement policies are continued into the future." ABB is "considering various options for resolving the asbestos liability, including the possible reorganization of Combustion Engineering under Chapter 11 of the U.S. Bankruptcy Code," the company said in a statement.

ICAO extends deadline for Globaltime

The deadline for countries to commit to a global aviation war risk insurance program has been extended until Feb. 14, 2003. The International Civil Aviation Organization has worked with brokers and insurers to develop a government-backed program, known as Globaltime, which would cap coverage at $1.5 billion per insured and per occurrence for claims in excess of $50 million. ICAO, which has 188 contracting countries, needs support from countries representing 51% of its annual contributions. As of last week, ICAO was 13 percentage points short of that.

OECD issues pension guidelines

The Paris-based Organization for Economic Cooperation and Development has approved guidelines for pension fund administration aimed at protecting benefits from mismanagement and fraud. The OECD said the guidelines are intended to provide "a road map for regulating private pension funds." The OECD said high-profile bankruptcies are jeopardizing retirement benefits, while underfunded company pension plans are drawing increased scrutiny from credit rating agencies.

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LEGAL NOTICE

THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

IN THE MATTER OF THE LIQUIDATION)
OF GALLANT INSURANCE COMPANY AND) 02 CH 04056
VALOR INSURANCE COMPANY)

NOTICE OF CLAIM FILING DEADLINE AND PROCEDURES

PLEASE TAKE NOTICE, that on August 23, 2002, the Circuit Court of Cook County, Illinois, entered Orders of Liquidation ("Orders of Liquidation") against Gallant Insurance Company ("Gallant") and Valor Insurance Company ("Valor"). Nathaniel S. Shapo, Director of Insurance of the State of Illinois, is the statutory and court-affirmed Liquidator of Gallant and Valor (the "Liquidator").

TAKE FURTHER NOTICE, that pursuant to the Orders of Liquidation, all rights and liabilities of Gallant and Valor and their policyholders, creditors and stockholders, and all other persons interested in their property or assets, are fixed as of August 23, 2002, unless otherwise provided in subsequent orders of the Court.

TAKE FURTHER NOTICE, that on October 16, 2002, the Circuit Court of Cook County, Illinois, entered an Order Providing for the Filing of Claims and the Setting of Claim Filing Deadlines ("Claim Filing Order"). Pursuant to the Claim Filing Order, all persons, companies or entities who have, or may have claims against Gallant or Valor, their property or assets, or against a Gallant or Valor insured or policyholder, shall have the right to present and file with the Liquidator proper proofs of claim on or before February 23, 2004 at 4:30 p.m. (C.D.T.).

TAKE FURTHER NOTICE, that any insured under an insurance policy issued by Gallant or Valor shall have the right to present and file with the Liquidator a proper proof of claim setting forth a contingent claim on or before February 23, 2004 at 4:30 p.m. (C.D.T.). No contingent claim shall be allowed for purposes of participating in any distribution of estate assets that may be made at the fourth priority level, 215 ILCS 5/205(1)(d), unless such claim has been liquidated and the insured claimant has presented and filed evidence of payment of such claim to the Liquidator on or before August 23, 2004 at 4:30 p.m. (C.D.T.). Any contingent claim for which a proper proof of claim is filed on or before February 23, 2004 at 4:30 p.m. (C.D.T.), but which is not liquidated on or before August 23, 2004 at 4:30 p.m. (C.D.T.), may be estimated pursuant to 215 ILCS 5/209(4)(b) for purposes of participating in any distribution of estate assets that may be made at the fifth priority level, 215 ILCS 5/205(1)(e), unless otherwise directed by the Court.

TAKE FURTHER NOTICE, that the form and required contents of all proofs of claim are described in 215 ILCS 5/209. Proofs of claim, along with supporting documents, if any, are to be filed with, and may be obtained from, the Liquidator of Gallant or Valor, c/o the Office of the Special Deputy Receiver, located at 222 Merchandise Mart Plaza, Suite 1450, Chicago, Illinois 60654. A proof of claim shall be deemed "filed" with the Liquidator upon the Liquidator's receipt thereof. The Liquidator reserves the right to require such additional information with respect to any claim filed with him as he may deem necessary. The Liquidator further reserves any and all defenses available to Gallant or Valor upon all filed claims. All proofs of claim must be duly sworn to before an officer authorized to take oaths.

THE LAST DATE FOR THE FILING OF PROOFS OF CLAIM WITH THE LIQUIDATOR IS SET FORTH ABOVE. NO PERSONS, COMPANIES OR ENTITIES HAVING OR CLAIMING TO HAVE ANY CLAIM AGAINST GALLANT OR VALOR, THEIR PROPERTY OR ASSETS, OR AGAINST A GALLANT OR VALOR INSURED OR POLICYHOLDER, SHALL PARTICIPATE IN ANY DISTRIBUTION OF THE ASSETS OF THE COMPANY UNLESS SUCH CLAIMS ARE PROPERLY FILED WITH THE LIQUIDATOR ON OR BEFORE FEBRUARY 23, 2004 AT 4:30 P.M. (C.D.T.)

Cathleen M. Travis
Special Deputy Receiver

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LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
In re:
NORTH ATLANTIC INSURANCE COMPANY LIMITED
(Petition of Colin Graham Bird and Paul Anthony Brereton Evans)
Case No.: 97-41602 (RDD)

PLEASE TAKE NOTICE that on October 17, 2002, the United States Bankruptcy Court for the Southern District of New York entered an order pursuant to 11 U.S.C. §§ 105(a) and 304(b) (the "Order") granting the Petition in this case and permanent injunctive relief that, among other things, gives full force and effect in the United States to the Scheme of Arrangement, dated August 15, 2002 (the "Scheme") between North Atlantic Insurance Company Limited and its Scheme Creditors and enjoins all persons and entities from taking any action inconsistent with the Scheme.

Any person wishing to obtain a copy of the Order should contact Theresa D'Agostino at (212) 610-6300 or at theresa.d'agostino@allenovery.com. The Order and the Scheme are also available to review and download at **www.northatlantic.co.uk.**

Dated: New York, New York
October 17, 2002

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Fire: Strike renews risk focus

Continued from page 33

with detailed fire-prevention checklists and loss prevention advice.

London-based Royal & SunAlliance Insurance Group P.L.C. has advised companies to:

- Avoid "hot work" unless it is necessary to maintain business continuity, in which case workers should stand by with firefighting equipment.
- Prevent the accumulation of combustible materials.
- Remove waste materials as promptly as possible.
- Ensure that fire-protection systems are in working order.
- Enforce no-smoking policies.

Coverage issues

The Assn. of British Insurers confirmed that commercial fire policies will remain in force during strike days.

However, in a memo that Willis Group Ltd. sent to its clients, the broker points out that that insurers are issuing detailed guidance notes to policyholders and that at least one insurance company, which is not named, has indicated that compliance with these procedures is expected.

As a result, "it is reasonable to conclude that in the event of a fire loss, the insurance cover arrangements could be deemed invalid if it proves that they have not been followed," the Willis memo warns.

Risk managers "will be reminding all company locations to be more vigilant than normal; to minimize all hot work, such as welding; and to make sure that combustible material is not lying around,'' said David Ketley, insurance manager for Cargill Europe in Cobham, Surrey, and the chairman of the fire prevention committee of the Assn. of Risk & Insurance Managers.

Companies could try to minimize the risk of fire by, for example, rescheduling deliveries of combustible materials and rearranging some aspects of production during strike periods, said Paul Taylor, head of business risk management of London based-retailer Kingfisher P.L.C.

London Underground Ltd. plans to close 19 of its deepest subway stations during strike days because of safety concerns, the subway operator confirmed.

"We'll be able to offer a slightly reduced service to our customers, but safety will not be compromised," said Safety Director Mike Strzelecki in London.

Companies also should review their crisis-management plans, said AIRMIC Executive Director David Gamble in London.

U.K. labor unions also are urging employers to conduct risk assessments, and unions in some sectors, such as the rail, chemical and nuclear industries, are warning that their members may stop working during strikes for safety reasons.

Municipal concerns

Local authorities also are extremely concerned about the threat of strikes by firefighters, said Malcolm Alexander, who chairs the emergency planning committee for East Hertfordshire District Council.

"We are reviewing and updating our risk assessments," he said, looking at issues such as "event planning, operating (elevators) in high-rise buildings, fire safety on school premises."

If strikes occur, local authorities will face "the prospect of much larger and more devastating fires," warns Zurich Municipal, a Portsmouth-based unit of Zurich Financial Services Group. Zurich Municipal, which is among the largest insurers of U.K. local authorities, is providing clients with guidance and a checklist.

Changes in practice

The increased sophistication and effectiveness of loss control measures, such as sprinkler systems and fireproof construction materials, has led many U.K. companies to eliminate their in-house firefighting teams, said Mr. Alexander, a former chairman of the defunct Occupational Fire Protection Assn.

The OFPA, an association of companies with in-house firefighting operations that was founded in 1941, closed last year as a result of dramatically diminished membership.

Many industrial companies have replaced in-house fire brigades with emergency-response teams, which are not equipped to fight fires, he said.

Occupational fire brigades usually are made up of employee volunteers who undergo firefighting training. Such teams act to control fires until a professional fire brigade arrives.

Companies with their own firefighting teams include Eurotunnel P.L.C., which operates the English Channel tunnel. A spokeswoman for Eurotunnel said that normal operations would continue during strike days and that the company would rely on the French fire brigade and its own fire team.

Pensions: Regulators promise law change

Continued from page 33

Maersk's move could leave some of its plan members receiving just 60% of the benefits they had expected. OPAS described Maersk's move as "immoral and setting a very dangerous precedent."

"Employers should not be allowed to walk away from their promises to employees," said Malcolm McClean, chief executive of OPAS.

Andrew Smith, the U.K. secretary of state for work and pensions, promised action to stop solvent companies from walking away from their occupational pension commitments.

> **Not too many employers would want to follow Maersk's steps 'because of the requirement that...you have to put in enough money to secure the annuities for the pensioners.'**
>
> *John Ball*
> *Watson Wyatt Worldwide*

"I accept that this type of situation is very dangerous for employees who face cuts in contributions to their pension schemes," Mr. Smith said in a statement. "There is a serious challenge here. I have asked for this type of situation to be looked into" in a government green paper on pensions.

Defined benefit pension plans do not contain "cast-iron guarantees" that members will receive full benefits on retirement, said Matthew Demwell, a consultant at Mercer Human Resource Consulting in London. Mr. Demwell said that employers should begin to find ways to communicate to their employees this "harsh reality."

If a solvent employer does decide to wind up a pension plan, it is subject to "debt on the employer" regulations, explained John Ball, a consultant at Watson Wyatt Worldwide in London. These rules are designed to ensure that those plan members already drawing their pensions receive full benefits, he said.

"Nonpensioners, whether they are people who have left the company and haven't drawn their pension yet or people who are still working, have to get a cash-equivalent transfer value–the transfer value of their benefits–but that will not be enough money for them to go and buy an annuity for them to secure their (full) benefits. In fact, they will be a long way short," Mr. Ball said.

The minimum funding requirement, which was designed to ensure that plan participants would receive some benefits even if their employer were to become bankrupt, is calculated by comparing the market value of the plan's assets with the value of its liabilities.

But, in the event of a pension plan being wound up, the MFR does not ensure that all members in the plan will receive the full benefits they had been expecting on retirement, explained Anthony Miller, a partner at HighamNobbs Consulting, an actuarial and pensions consultant in London.

"It effectively tries to guarantee that they will get a full transfer value, which isn't the same as securing full benefits with an insurance company," Mr. Miller said.

Many plans are funded to 120% or 130% of their MFR requirement in order to meet their future liabilities, explained a spokesman for the government's Occupational Pensions Regulatory Authority.

"The plan is that, in the fullness of time, the MFR will be replaced by something called a scheme-specific funding standard–so they won't have this 'one-size fits all' rule," said the OPRA spokesman. "It'll be a funding standard that is specifically tailored and structured by the trustees and the actuaries" of a plan.

Despite fears that other companies will follow suit, Maersk's decision to wind up its defined benefit plan while the company is solvent is unusual, according to the OPRA spokesman. In most cases, he explained, solvent employers chose not to wind up pension plans, because it is fairly expensive to do so.

"I don't think too many employers would want to do what Maersk are doing because of the requirement that, if you are a solvent employer, you have to put in enough money to secure the annuities for the pensioners" already drawing their pensions, Mr. Ball said. "It is probably only if you have got a very poorly funded scheme, where you have got to put a lot of money in anyway, that a company might take the decision to actually pull the plug entirely."

Taxes: Insurers protest hike

Continued from page 33

under 4 billion euros. The government's estimate differs from that of the ANIA because the government has assumed that insurance companies' premium income in 2002 will be the same as in 2001, he said.

In reality, insurers are seeing increased premium income in 2001 compared to 2002, Mr. Desiata said, and their technical reserves for nonlife business are thus likely to rise by 8%, to 3.76 billion euros ($3.83 billion) in 2002.

Technical reserves for life business will grow by 20% over the same period, to 40 billion euros ($40.78 billion). Taking the average of the last three years as 33.97 billion euros ($34.63 billion), this would leave Italy's insurers exposed to the tune of 4 billion euros.

The measures are currently being debated in Parliament. In the light of a number of errors and omissions throughout the budget proposals, there is a strong likelihood that the finished document may be somewhat different from the original, a number of observers say.

Nomination deadline Nov. 19 for Risk Manager of the Year

Complete nominations for the 2003 Risk Manager of the Year and Risk Management Honor Roll, which will be named in April, are due by Nov. 19.

The 2003 Risk Manager of the Year will be the 26th individual to receive the honor, which was first presented in 1978 to commemorate the 10th anniversary of *Business Insurance*. The award recognizes outstanding performance in the field of risk management. The Risk Management Honor Roll, added in 1981, recognizes the achievements of risk managers in various segments of the field.

Beginning with the 2002 awards, *Business Insurance* entered a partnership with the Risk & Insurance Management Society Inc. to co-sponsor the awards. Honorees will be profiled in the April 7, 2003, issue of *Business Insurance*, which will be distributed at RIMS' annual conference in Chicago. The honorees also will be formally recognized by RIMS during the conference.

Nominations will be evaluated by a panel of independent judges. The highest-scoring candidate will be named Risk Manager of the Year, and remaining individuals will be placed into one of four categories: corporations with sales exceeding $300 million; corporations with sales of less than $300 million; government entities; and tax-exempt or nonprofit entities. The highest-scoring candidate in each of the categories not represented by the Risk Manager of the Year is named to the Risk Management Honor Roll, subject to the judges' discretion.

A nominee need not handle risk management duties full time, but he or she must be a full-time employee of the organization whose program he or she directs. Risk managers anywhere in the world are eligible. Anyone acquainted with a candidate's work may submit a nomination. All nominations are confidential; only honored candidates will be announced.

For a nomination form or more information, contact Karen Tucker, *Business Insurance*, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; 312-649-5319. Forms also can be printed at *www.businessinsurance.com* and at *www.rims.org*, which features an interactive nomination form.

Forum: Event to offer captive education, dialogue

Continued from page 3

mit Strategies Group, will moderate the investments panel.

Following the initial Monday workshops will be an interactive special-topics workshop offering an opportunity to discuss issues that arise in the first round of sessions and other topics. Facilitating that workshop will be Messrs. Cole and Rosenbaum from Tillinghast, Summit's Mr. Foehl and Robert "Skip" Myers, a partner at Morris, Manning & Martin L.L.P.

Tuesday schedule

Tuesday morning will begin with a keynote address examining the current state of the insurance market featuring David Mair, former director of risk management and purchasing for the U.S. Olympic Committee and former president of the Risk & Insurance Management Society Inc.; and Susan Rivera, president of ACE INA Holdings Inc. Paul D. Winston, editor of *Business Insurance*, will moderate the session.

Later Tuesday morning, a pair of sessions will focus on current developments in cell captives and reinsurance networks and strategies. Quest's Mr. Dove will moderate the cell captive session, which will include a panel with Rick Irvine, a director at PricewaterhouseCoopers; Michael Murphy, president of RiskCap Inc.; and David Watson, senior vp at Collateral Resources.

Speakers for the reinsurance session will include Andrew Berry, president and chief operating officer at GRX Technologies; Jean Stalcup, senior vp at Employers Reinsurance Corp.; and Stephen Wyckoff, a managing director at Marsh Inc. Brian Kawamoto, executive vp and managing director at Lockton Cos. Inc., will moderate the session.

During a buffet lunch with exhibitors Tuesday, Kathryn Westover, president of Captive Advisory Services Inc., will discuss modern risk financing.

Immediately following lunch, one of two concurrent sessions will examine advanced possibilities cell companies offer to finance risk, while the other will focus on fronting issues. Speakers on the cell financing panel will include Nicholas Leighton, director of insurance services for Caledonian Bank; Ben Sturges, director, risk financing group, at the Bank of Scotland; and Christopher Towner, president of Towner Management Group. Judy Lindenmayer, a producer with Hobbs Group L.L.C. and former risk manager of Fidelity Investments, will moderate the session.

Panelists for the fronting session will include Brian Donovan, president of Steel Tank Insurance Co.; William T. Torpey, senior vp of Old Republic Risk Management Inc.; and a speaker from AIG Insurance Management Services Inc. Katherine Allen, a senior vp at Discover Re, will moderate the session.

Wednesday schedule

Wednesday morning will feature a captive case studies session offering attendees an opportunity to learn from the experience of various types of captive owners. Panelists for the session, which will be moderated by Tillinghast's Mr. Rosenbaum, include John Donahue, director, risk financing and captive operations at the California State Automobile Assn.; Steel Tank's Mr. Donovan; and Chris Perrott, manager, insurance at BP P.L.C.

Following the case studies will be a session examining tax developments related to captives. James R. Cameron, partner at Baker & McKenzie; and Michael Phillipus, former manager-risk management at Pennzoil-Quaker State Co., will be the speakers. C. Jeffery Triplette, vp risk management-insurance at Duke Energy Corp., will be the moderator.

A box lunch will follow the tax development session and will include a conference roundup facilitated by Mr. Rosenbaum, giving attendees a final chance to follow up on forum topics.

Among the new features at this year's forum will be the Cyber Café, located in the exhibit hall and offering computer stations with high-speed Internet access for attendees' use during exhibit hours. Also new will be a networking poolside break Tuesday afternoon at which private villas will be available for meetings with clients or prospects from 3 p.m. to 6 p.m.

Full registration for risk managers for the forum is $975. Registration for non-risk managers is $1,250, with a $975 fee for second and subsequent registrants from the same company. The captive regulator fee is $495, and the fee for additional exhibit personnel is $750, with a maximum of two. The social pass fee for spouses and non-industry guests of paid attendees is $150.

The fee for the optional golf tournament, beginning at 8 a.m. Monday, Nov. 18, is $200.

The Registry Resort is full, but hotel reservations can be made at the Hilton Naples, within walking distance of the Registry, at 239-430-4900, or at the Edgewater Beach Resort & Club, a Registry sister property, at 239-403-2165.

For more information, contact Lisa Holly Ferrier, conference coordinator, at 952-928-4659 or e-mail *lholly@harringtoncompany.com*. A registration form can also be downloaded at *www.captive.com/CaptiveForum*.

Letters to the Editor

Continued from page 8

acceptable level of basic benefits.

How can this be accomplished?

I propose a blend of actuarial science with the state bidding process—put the health care coverage of all individuals within actuarially and epidemiologically determined regions of the state out to bid. It is my gut feeling that the risk any winning insurer takes on for one of these regions would be no greater than the exposure the same insurer gains through costly statewide marketing efforts. Of course, this would take a great deal of analysis, but the best talent for this mammoth task lies within the cubicled floors of our insurance companies.

Another key piece of this plan is the elimination of administrative costs by ending the need to determine coverage eligibility. I am proposing the elimination of Medicare, Medicaid (and all government coverage packages), HMOs and plans that exclude pre-existing conditions.

All of the tax-based funds tagged for these government programs would go to the state to use toward regional contracts. Employers and individuals would still pay premiums for coverage, but they would pay them to the winning insurer for their region.

My hypothesis is that the competition among insurers for each region, coupled with the elimination of several layers of administration, will keep these taxes and premiums down for several years.

For many reasons, insurance is, by far, the best mechanism for financing health care. Insurance companies are already well equipped to respond to market changes and, by definition, to unforeseen risk. The status quo is not working for insurance companies any more that it is for the uninsured or underinsured.

I believe that the talent for reforming health care lies within our great insurance companies. They know how to evaluate the risk within a given population, how to define the regions within the state that would work for them, what could feasibly be covered, and at what price. Our health insurance companies do this type of analysis constantly.

They also know how to use the tools you mentioned–such as government backstops, reinsurance and insurance pools–to cover the possibility of catastrophic losses. If our Legislature would embrace the knowledge held within the insurance industry, there are no limits to the solutions.

Therefore, I disagree that there are "no remedies for coverage woes" available to the American citizen.

Stephanie Warrington
Alachua, Fla.

Products & Services

Transamerica expands retirement assessments

LOS ANGELES—Transamerica Retirement Services is offering its personalized retirement savings assessments to a wider range of its clients.

The assessments, originally offered to a small group of customers, now are available to employer clients with first-year

retirement plan deposits of at least $500,000. The assessments are offered at no cost to plan sponsors.

The assessments provide employees with information they need to make decisions on retirement savings and investments. Each assessment shows the participant his or her current balance, determines how much is needed to retire, analyzes sources of retirement income and suggests possible strategies for reaching retirement goals.

Transamerica also has upgraded its Web site to make it easier for plan sponsors and others to access information and monitor results. Employees can access the site to monitor fund performance, receive information on investing, use retirement planning calculators and get other information.

The Web site is at *www.ta-retirement.com.*

Open enrollment module available

UNIONDALE, N.Y.—Online Benefits Inc. has added an online enrollment assistance module to its Benergy communications platform.

The module, called Ready…Enroll, helps companies prepare employees for open enrollment. It also has the

capability to handle new-hire orientation tasks, voluntary benefit campaigns, 401(k) participation and more.

To prepare employees for open enrollment, the module mines existing data from the Benergy platform. It can work at the "front end" to prepare workers for enrollment using paper forms or through Web-based applications.

"This year, many HR departments have chosen not to adopt full-service benefits administration technology due to budget and resource constraints," said John Gedney, executive vp of Uniondale, N.Y.-based OnlineBenefits, in a statement. "We designed Ready…Enroll as a practical alternative."

More information is available at *www.onlinebenefits.com.*

Tool calculates payroll deductions

BLUE BELL, Pa.—E-Duction has developed Payroll Exchange, a new product that allows employers to automatically calculate and record payroll deductions for benefits.

The new product can also determine future deductions and communicate changes to the employer and employee.

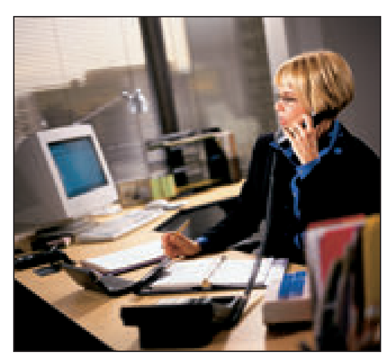
Payroll Exchange allows human resources professionals to reduce costs and saves time and expense for payroll managers by accounting for deductions across the organization and among multiple vendors, claims Blue Bell, Pa.-based E-Duction.

In addition, the system can make it easier to introduce new benefits because the expense and workload is reduced, the company said in a statement announcing the new product.

More information is available at *www.e-duction.com.*

Retirement plan info, forms online

PORTLAND, Ore.—Standard Insurance Co. is offering retirement plan sponsors online access to plan information and administrative forms as part of its PlanNet Web site upgrade.



"These new services give plan sponsors instant access to the information and materials they need, such as administrative and enrollment-related forms, plan documents and amendments, summary plan descriptions, loan policies and trust reports," according to a statement by Christine R. Raudonis, vp of administration, retirement plans at the Portland, Ore.-based insurance company.

In addition to providing financial data on plans and access to participant account information, PlanNet offers guides to administration procedures, contact information for plan sponsors and Standard Insurance, and other reference materials.

Terror bill: Response uncertain

Continued from page 1

to $10 billion, so, obviously, there is an appropriate premium-loading for their share of losses," Mr. Phillipus said.

Under the draft program, the federal government would cover 90% of the losses above an insurer's deductible, and the insurer would cover 10%. The government could recover its payments below a fixed amount on an industrywide basis—$10 billion in the first year—through a surcharge, up to 3% of premiums, on policyholders. Losses covered by the federal program would be capped at $100 billion (*BI,* Oct. 21).

The draft also contains a sunset provision that will end the program after three years, noted Matt Mosher, a financial analyst for A.M. Best Co. in Oldwick, N.J.

"Risk managers and insurers still need to manage their concentration of risk," he said. "It's a short-term protection, a short-term backstop. Ultimately, you have to manage your risks in the long run, and when this goes away, you're going to be left with that risk unless the reinsurance markets change dramatically in the next two years."

One issue that remains unclear is how captives would be treated if the draft becomes law.

"We think that the language modifications that we helped secure put us in a better position than before the preconference legislation," said Jon Harkavy, chairman of the legislative committee of the Vermont Captive Insurance Assn. and vp and general counsel of Risk Services L.L.C. in Arlington, Va. "It's still pretty much up in the air. Prior to the draft bill, with some ambiguity, it appeared that all captives were required to participate in the program, thus subjecting them to an unfunded mandate. Now, it appears as though participation would be up to the direction of the Treasury secretary."

Positive initial reaction

Despite the concerns, the still-incomplete draft generally is drawing praise from industry observers.

"From a practical standpoint, if this does in fact pass, I think this should open up additional capacity and limit the restrictions that many of the large-line property underwriters had been placing on their capacity," said Alexandra Glickman, managing director and practice leader of Gallagher Real Estate & Hospitality Services in Los Angeles, a unit of Arthur J. Gallagher & Co.

"If it passes, there stands a good chance that London and other nondomestic markets will see that they are not standing out alone, and they will come forth and offer up capacity," she said. "Basic supply and demand should lead to a reduction in the pricing."

Randy Schreitmueller, vp of marketing for Johnston, R.I.-based Factory Mutual Insurance Co.—which does business as FM Global—welcomed the draft as "a very positive step for both insurers and customers."

Noting that the program would come into being only in the event of a catastrophic terrorist attack, he said, "the bigger issue is, how well does the coverage provided by the government plan match with the exclusion that the treaty reinsurers have imposed? To the extent there's a close match, I think this could have significant and rapid impact on the available capacity." He added that there could be a potential "gap or domestic type of terrorism incident that the reinsurer would exclude and the government program wouldn't respond to (either). That's the type of thing we would be looking at as a company."

"To the extent this new plan will help us deliver the coverage that our customers clearly need, we're grateful for the relief this program could provide," Mr. Schreitmueller said.

"There have been numerous reports of restrictions in the marketplace and lack of availability," said Scott Harrison, managing director of KPMG L.L.P.'s national insurance regulatory practice in Washington. "I would expect that the legislation would result in increased availability. That's what it was intended to do. The companies have been saying, 'If we get this type of federal backstop, we will be more comfortable in writing this coverage.'"

Impact on pricing

"It's our great hope and expectation that a 90% government reinsurance backstop will make the terrorism line imminently affordable for most, if not all, corporate consumers," said Joel Wood, senior vp-government affairs for the Council of Insurance Agents & Brokers in Washington.

"I just don't know what impact it would have on pricing. I certainly can't see how it could raise the pricing. I think it would broaden the market, and we always look at a broader market as being more price-efficient," said Richard S. Betterley, president of Betterley Risk Consultants Inc. of Sterling, Mass.

KPMG's Mr. Harrison said that adequate regulation should eliminate the potential danger of insurers acting irresponsibly.

"Anytime you create a backstop, such as this, there is the potential for that kind of thing, but that's what good regulation is all about," he said. "Congress specifically contemplated that the states would do their job in effectively regulating the sale of this product."

There remains, though, a difference of opinion over how quickly risk managers would see the positive impact of the legislation.

"My understanding is that as soon as the legislation is signed by the president, it will take effect immediately. And the practical impact of that will be that insurers will immediately receive the benefit of the reinsurance and direct insureds will also be the beneficiaries of coverage," said Gary Marchitello, managing director of the global property practice at Aon Risk Services in New York.

"To me, it seems overwhelmingly positive," he said, though he added the caveat that the final details of the proposal aren't yet known.

"I think it will happen fairly quickly, and those carriers who have made a substantial amount of income from the terrorism risk will now be forced to price their products more competitively," said Gallagher's Ms. Glickman.

Best's Mr. Mosher was more cautious, though. "I wouldn't expect (improvements) to be extremely fast. I think there are some concerns about what the details are behind it. Again, companies are still looking to manage their risks—would they want to bring a lot business on the books that has that exposure?"

Blackout: Rules won't create significant burden

Continued from page 3

In addition, Enron employees received only 25 days' notice of a blackout, which occurred as the company was changing plan administrators and as the price of Enron's shares was sinking.

Aside from mandating a 30-day advance notice requirement, the regulations specify in some detail the information that must be included in the notice.

Among other things, that information must include the expected beginning and end dates of the blackout; a list of the transactions, such as changing investment options and taking out loans and hardship withdrawals, that will be affected by the blackout; and the suggestion to plan participants that they review their current investments in light of their inability to direct or diversify their account balances during the impending blackout.

The notice, which can be delivered through first-class mail or electronically, must also include the name, address and telephone number of the plan administrator responsible for answering questions about the blackout.

In addition to exempting brief blackouts from the requirement, the regulations also waive the advance notice requirement when a blackout occurs "due to events that were unforeseeable or circumstances that were beyond the control of the plan administrator."

One example, provided in the regulations, of such an unforeseeable event would be a computer failure that prevents a plan administrator from recording and distributing loans. In that situation, the regulations require notice to be provided as soon as possible, unless the employer or administrator determines that providing notice is not practical.

The regulations waive the advance notice requirement for a blackout that does not exceed three business days and a blackout that occurs 'due to events that were unforeseeable or circumstances that were beyond the control of the plan administrator.'

The Labor Department said it expects that such situations would be rare and that it still would require the plan administrator to put in writing the circumstances that precluded compliance with the 30-day advance notice requirement.

"This is something you want to keep in your files," said Hewitt's Ms. Miller.

The most common reason for plan blackouts is the switching of plan administrators, which requires participant records to be transferred from one administrator to another. Typically, employers change administrators when they are dissatisfied with the quality of service they have received or when another provider offers additional services.

When plans change administrators, blackouts typically last between two and four weeks, said Marilyn Scalia, a vp with Mellon HR Solutions in Fort Lee, N.J. "Companies do exert pressure to get this done as quickly as possible," Ms. Scalia said.

Variables that can affect the length of a blackout period include the level of cooperation of the outgoing plan administrator and the quality of plan records, consultants say.

With its contract ending, an outgoing administrator may lack an economic incentive—beyond the maintenance of its good name—to expedite the changeover, Watson Wyatt's Mr. Weddell said.

Action on 401(k) stock sale bill unlikely this session

By JERRY GEISEL

WASHINGTON—Once considered certain to pass, legislation to require employers to allow employees to sell company stock contributed as 401(k) plan matches after a few years now seems likely to die, benefit experts say.

Earlier this year, amid the Enron Corp. debacle that cost that company's 401(k) plan participants about $1 billion after the value of the Enron shares they held collapsed to virtually nothing, Congress seemed poised to take action to reduce the likelihood of future 401(k) disasters.

First, the House of Representatives passed a 401(k) reform package, which included provisions such as allowing plan participants to sell company stock contributed as a match after three years, requiring employers to improve investment education and allowing employees to purchase investment education on a pretax basis.

That action was followed by the Senate Health, Education, Labor and Pensions Committee passing a partisan bill, proposed by committee chairman Sen. Edward Kennedy, D-Mass., mandating employee representation on 401(k) boards and allowing an employer to offer company stock as a matching contribution or an investment option, but not both.

The Senate Finance Committee followed with unanimous passage of a measure more along the lines of the House bill. After that, despite pledges by Senate Majority Leader Tom Daschle, D-SD, to bring a measure combining elements of the two committee-passed bills to the floor for a vote, no action has been taken.

PHOTO: AFP/LUKE FRAZZA

Senate Majority Leader Tom Daschle, D-S.D., pledged to bring 401(k) reforms to the Senate floor for a vote, but no action was taken.

The 401(k) reform issue, like many others, was pushed aside by matters of more-immediate concern, such as congressional debate on possible U.S. military action against Iraq.

The betting now is that the issue is dead, at least for this session.

"The chances are very, very slim," said Kyle Brown, an attorney with Watson Wyatt Worldwide in Washington.

"I think it is over," concurred James Delaplane, who served as vp-retirement policy with the American Benefits Council in Washington until last week; he now is a partner with a Washington law firm.

Partisan politics was one reason that led to the demise of the post-Enron 401(k) reform legislation. Some say congressional Democrats were not eager to forge a deal, believing that, in the end, President Bush would get the credit for a compromise measure.

At the same time, public interest in the issue has faded somewhat, decreasing public pressure on Congress to act.

"Neither party saw a substantial downside risk on failure to reach a deal," Mr. Delaplane said.

Some say that legislators also became increasingly worried that congressional action could do more harm than good.

"People got a little skittish about overregulation," said Mark Ugoretz, president of the ERISA Industry Committee in Washington.

Finally, the 401(k) reform issue, like many others, was pushed aside by matters of more-immediate concern, such as congressional debate on possible U.S. military action against Iraq.

"There were more-pressing matters," Mr. Brown said.

The meltdown of Enron employees' 401(k) account balances, which inspired the various measures, was attributed, at least in part, to Enron's plan design. Enron matched employees' salary deferrals only in stock in the Houston-based energy company and required that employees hold onto the shares until reaching age 50.

Such features are common in 401(k) plans, though in the wake of the Enron disaster, several major employers—including AOL Time Warner Inc., Gannett Co. Inc., Gillette Corp., Mellon Financial Corp. and Walt Disney Corp.—have eased or eliminated restrictions on the sale of company stock contributed as a match.

Aetna to develop mail-order drug unit

By MICHAEL PRINCE

HARTFORD, Conn.—Aetna Inc. next year will end its contract with prescription benefit manager Express Scripts Inc. and create its own in-house mail-order drug operation.

Aetna

The transition, which will begin in January 2003, will be complete in April, Aetna said

The insurer, which already has its own PBM operations, will develop the new unit around a mail-order drug company it is in talks to buy. A spokesman for Hartford, Conn.-based Aetna would not provide details about that deal.

Aetna said it hopes the move will give it greater control over its drug costs.

The insurer currently has 8 million members in its prescription drug plan, accounting for about $4 billion in spending each year, a company spokesman said. About 10% of that total involves mail-order drugs managed through St. Louis-based Express Scripts, the spokesman said.

Bringing the mail-order service in house is "a better way for us to handle pharmacy," he said.

Aetna may face some obstacles in its efforts to cut costs by developing its own mail-order operations, said Sean Brandle, vp at The Segal Co. in New York.

In particular, Aetna may have a hard time matching the price discounts that the much larger Express Scripts can obtain because of its negotiating leverage, he said

Mr. Brandle noted, though, that the insurer will be able to keep rebates that drugmakers often provide to PBMs for promoting their drugs. "They may not get as good a deal on certain drugs from certain makers, but they will get to keep all the discounts," he said.

Mr. Brandle said the move likely does not signal a trend. Few health plans have in-house PBM operations to which mail-order businesses could be added, he said.

"You do need that infrastructure that Aetna has," he said.

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Issue of October 28

For the Record

This roundup of news from the previous week is generated by *BI*'s daily news reporting. To get breaking news as it occurs, log on to *www.businessinsurance.com*, or sign up online for free *BI* Daily News by e-mail.

Nine-month cat losses at $3.7 billion: PCS

Insured catastrophe losses for the first nine months of the year total about $3.7 billion, according to the Property Claim Services unit of the Insurance Services Office Inc. The estimate includes roughly $675 million in insured property losses during the third quarter. Jersey City, N.J.-based ISO noted that "catastrophe losses in the quarter were relatively low because there were fewer tornadoes...196 compared with 273 last year, 247 in 2000 and 237 in 1999."

Oxford to post charge to settle securities suits

Oxford Health Plans Inc. will take a $151.3 million charge against its third-quarter earnings to settle class-action securities lawsuits filed in 1997. The company is offering to settle the suits for $161.3 million. Oxford said the additional $10 million will come from Reliance Insurance Co., which wrote Oxford's directors and officers liability coverage. Although Oxford's policy has a limit of $25 million, because Reliance has entered liquidation Oxford expects to recover only $10 million under the policy.

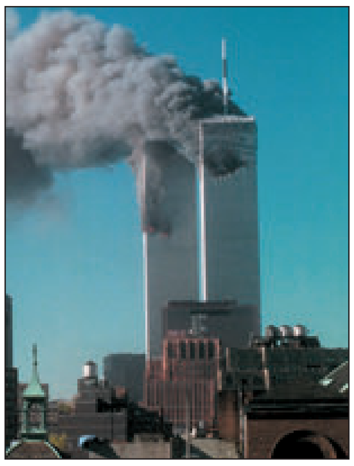

PHOTO: STACY WALSH ROSENSTOCK

Swiss Re says the destruction of either WTC tower would have jeopardized the entire complex.

WTC leaseholder, insurer issue engineering reports

World Trade Center insurer Swiss Reinsurance Co. has released an engineering report that concludes that the destruction of one tower at the WTC would have "compromised the future viability of the entire complex." The report counters engineering studies prepared for WTC leaseholder Silverstein Properties Inc. that conclude that the collapse of one tower would not have caused structural damage to the other and that the surviving tower would have remained a "viable" building. If the WTC loss is determined to be two occurrences, the engineering reports could be used to determine how much of the loss to attribute to each occurrence.

USI raises $90 million in initial public offering

USI Holdings Corp. raised about $90 million in its initial public offering last week. The brokerage sold 9 million shares at $10 each. Proceeds will be used to reduce USI's debt to $130 million. USI had originally planned to offer 11.4 million shares at between $13 and $14, but it revised its offering, citing stock market conditions. Merrill Lynch & Co. was the lead underwriter of the issue.

Acordia forms reinsurance broker

Acordia Inc. has established a reinsurance brokerage unit that will focus on placing coverage for regional insurers and program business, as well as on alternative risk transfer. Acordia Re will place a broad range of reinsurance coverages, including property/casualty, workers compensation and finite risk, according to an Acordia statement. The unit also will provide access to captive and capital markets coverage. Alfred H. Blanton will head Acordia Re. Mr. Blanton was most recently executive vp at JLT Re.

Paul Ingrey to receive Insurance Leader honor

Paul B. Ingrey, chairman and chief executive officer of Arch Reinsurance Ltd., has been named the 2002 Insurance Leader of the Year by the School of Risk Management, Insurance and Actuarial Science of the Peter J. Tobin College of Business at St. John's University. Mr. Ingrey retired as chairman and chief executive officer of F&G Re Inc. in 1996 but came out of retirement to head Arch Re last year.

MMC posts gains for first nine months

Improved insurance brokerage results led to nine-month gains in revenue and net income at Marsh & McLennan Cos. Inc. Nine-month revenues at MMC rose 2.9% to $7.80 billion, compared with the same period last year. Risk and insurance services revenues jumped 13% to $4.34 billion; investment management revenues fell 15.2% to $1.70 billion; and consulting revenues rose marginally to $1.76 billion. Net income for the first nine months jumped 26.9% to $1.05 billion.

St. Paul records nine-month loss

The St. Paul Cos. Inc. posted a $26.4 million net loss for the nine months ended Sept. 30, compared with a $352.3 million loss for the comparable period a year ago. Net written premiums decreased 0.3%, to $5.71 billion. The insurer posted a 112.6% combined ratio vs. a 123.9% ratio for the comparable period a year ago. The loss reflects, in part, the $380 million aftertax impact of St. Paul's settlement of asbestos litigation in the second quarter.

Briefly noted

Indiana State University in Terre Haute said it will use a $20 million grant from Lilly Endowment Inc., the largest in ISU's history, to create NetWorks, an arm of the ISU School of Business, to improve financial services. Plans call for NetWorks to develop centers of excellence on topics such as risk management and ethical leadership....**Hilb, Rogal & Hamilton Co.** posted nine-month profits of $48.9 million, a 93.6% increase over the same period in 2001. Revenues increased 33.2% to $324.1 million....**RenaissanceRe Holdings Ltd.** reported profits of $262.6 million for the first nine months of 2002, more than double its profits for the same period last year. Gross premiums written for the catastrophe reinsurer also more than doubled, to $1.01 billion.

Online Poll [10/21 - 10/25]

If terrorism insurance legislation is enacted, do you expect coverage to become more available and affordable:

Immediately **12.8%**	By Jan. 1, 2003 **15.6%**
By March 31 **18.4%**	By June 30 or later **53.2%**

Take part in our weekly poll at *www.businessinsurance.com*

Trenwick: Ratings downgraded

Continued from page 3

the remainder of 2002 and 2003. Chubb Re will collect a 5% fronting fee on two-thirds of the business and will cede to Trenwick 100% of incurred losses in excess of premiums collected and investment income earned, according to Trenwick. Chubb, which will retain underwriting control, will receive one-third of any profits generated by the business and Trenwick will receive the remaining two-thirds.

Trenwick has agreed to deposit $50 million with Chubb Re to secure its reinsurance obligations, and all premiums collected through the facility will be paid to Chubb, Trenwick said.

Trenwick, a holding company for underwriting units in the United States, London and Bermuda, has suffered poor results for a variety of reasons since the beginning of last year.

For 2001, the insurer posted gross revenues of $1.03 billion and a net loss of $154.4 million, with bottom-line results hurt by reserve strengthening and the Sept. 11 terrorist attacks.

In this year's first half, Trenwick recorded revenues of $611.5 million and a net loss of $50.2 million, with most of the loss stemming from a writeoff required by an accounting rule change, the insurer's Securities and Exchange Commission filings show.

Not all of the news has been bad, though. Trenwick last month settled a dispute with a unit of Swiss Reinsurance Co. over a catastrophe put agreement triggered by Trenwick's Sept. 11 losses. Under the settlement, the Swiss Re unit will pay Trenwick $40 million in exchange for convertible preferred stock.

Trenwick also reached a deal last month under which Berkshire Hathaway Inc. is providing funding and reinsurance support for Trenwick's Lloyd's operations for the 2002 year of account.

In July, Trenwick also repaid the $195 million balance of a loan from the same syndicate of banks that provides the $230 million LOC facility for its Lloyd's unit.

The LOC facility is up for renewal next month, though, and S&P raised concerns about the impact of the Best rating downgrade on the facility and Trenwick's ability to continue operating at Lloyd's. In its own second-quarter SEC filing, Trenwick cautioned that any inability to renew the credit agreement or find other sources of Lloyd's capital would require it to "reduce or cease" its underwriting at Lloyd's next year.

Trenwick's international operations segment—which includes its Lloyd's operations—accounted for $316.8 million, or 51.8%, of its first-half revenues, SEC filings show.

Best, meanwhile, found that Trenwick "remains constrained in its ability to generate a level of capital from ongoing business that is consistent" with an A- rating. The agency also noted the strain on Trenwick's capital resources of the upcoming $75 million note repayment.

For Trenwick, the timing of the rating agency actions "stinks," one insurance analyst observed, noting that insurers are gearing up for the year-end renewal season and the actions will not help Trenwick in the marketplace.

The London-based Trenwick spokesman replied, however, that "there's plenty of business about."

BI Stock Index [10/21 - 10/25]

Up-to-the-minute data for all 87 companies that compose the *BI* Stock Index can be found at *www.businessinsurance.com*

Percentage change of *BI* Stock Index vs. key indicators

BI Stock Index	Dow Jones	S&P 500
0.03	1.46	1.50
1911.28	8443.99	897.65

Largest gains

Gainsco Inc.	24.00%
SCOR	12.14%
Philadelphia Cons. Holding	11.50%
PMA Capital Corp.	8.37%
RLI Corp.	7.99%

Largest losses

CIGNA Corp.	-37.67%
Trenwick Group Ltd.	-33.63%
Sierra Health Services	-31.73%
Acceptance Insurance	-17.13%
Lincoln National	-8.59%

Weekly change by market segment

Brokers	0.34%
Insurers/Reinsurers	0.09%
Managed Care Organizations	-8.09%

Source: CNET Investor (investor.cnet.com)