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Judge sets hearing date in WTC policy dispute / 4

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\$4

Anthem, WellPoint merger to add scale, broaden reach

Deal to create new HMO giant

By JUDY GREENWALD

INDIANAPOLIS—The new managed care company to be formed by the \$16.4 billion merger between Indianapolis-based Anthem Inc. and Thousand Oaks, Calif.-based WellPoint Health Network will provide large employers with an additional option to place their national account business.

Combined, the two companies, which now operate essentially in different geographical areas, will serve nearly 26 million medical members and operate as a Blue Cross or Blue Cross & Blue Shield licensee in 13 states. The combined

entity will rank as the nation's largest managed care company by membership.

Their similar cultures as Blue Cross licensees, extensive experience in acquiring other organizations and highly regarded managements should all contribute to a relatively smooth integration, say observers.

The deal could also create savings for employers if the combined operation is more efficient. Because the two do not operate in the same regions, the merger is not expected to reduce competition for employers' business.

WellPoint and Anthem announced their deal the same day Minneapolis-based UnitedHealth

Group Inc. announced its planned \$2.6 billion purchase of Rockville, Md.-based Mid Atlantic Medical Services Inc. Most observers describe the timing as coincidental, rather than a portent of major merger and acquisition activity (see stories, page 38).

Anthem is the Blue Cross & Blue Shield licensee for Indiana, Kentucky, Ohio, Connecticut, New Hampshire, Colorado, Nevada, Maine and Virginia, excluding the immediate suburbs of the District of Columbia. WellPoint has Blue Cross operations in California and Blue Cross & Blue Shield operations in Georgia, Missouri and

See **HMOs**/page 38

Pension funding bill clears panel

Senate must reconcile different approaches

By JERRY GEISEL

WASHINGTON—With the deadline for action drawing near, Congress is closer to enacting stopgap pension funding relief that employers are urgently seeking.

Last week, the Senate Health, Education, Labor and Pensions Committee unanimously approved legislation that would allow employers for the next three years to use more liberal interest rate assumptions to value pension liabilities, a change that would cut employers' contributions by tens of billions of dollars.

Under the legislation, co-sponsored by Committee Chairman Judd Gregg, R-N.H., and Sen. Edward Kennedy, D-Mass., employers would value pension liabilities during 2004, 2005 and 2006 using an interest rate based on the yields of long-term, highly rated corporate bonds. The Treasury Department would determine the interest rate based on a blend of corporate bond indexes.

This new methodology would, for that interim three-year period, replace the current one, which is based on yields of the 30-year Treasury bond, and reduce employers' pension contributions by roughly \$30 billion, ac-

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PHOTO: EPA PHOTOS

Firefighters were unable to contain wildfires that swept through Cedar Glen, Calif., last week, destroying more than 200 homes.

Losses from wildfires could exceed \$1 billion

By ROBERTO CENICEROS

While Southern California's deadly wildfires will generate business interruption and commercial property damage claims for insurers and reinsurers, most of the losses will fall on personal lines companies.

As of Friday, at least six fires—some of which had merged into larger conflagrations—contin-

ued to burn, at one point spread across five counties. At least 20 people have been killed and more than 2,500 homes have been destroyed since the first fires began around Oct. 21.

Gov. Gray Davis said the toll from the fires, including property damage, firefighting expenses and economic losses, would exceed \$2 billion.

Insured losses "could eventually become the

See **FIRES**/page 37

Late News

FMLA expansion dropped from bill

House and Senate negotiators have stripped from an appropriations bill a provision that would have expanded the federal Family and Medical Leave Act to cover family members of men and women called up for active military service. Under the provision, employees whose spouses, children or parents are called to active duty or are notified that they will be activated in support of a "contingency" operation, such as deployment of troops to Iraq, would have to be offered FMLA benefits by their employers.

Group seeks to overturn California care mandate

A business coalition plans to mount a referendum campaign to overturn a California "play or pay" law mandating that employers provide workers with health care coverage or pay into an insurance pool. The coalition, Californians Against Government Run Healthcare, says it will gather the signatures of 373,816 registered voters to put the referendum on the ballot for California's March 2004 primary elections. Coalition members include the California Chamber of Commerce, the California Retailers Assn. and the California Restaurant Assn.

Department of Labor sues MEWA executives

The U.S. Department of Labor filed a civil lawsuit last week against executives of TRG Marketing L.L.C., alleging failure "to prudently manage the firm's health plan." TRG, a multiple employer welfare arrangement, currently faces up to \$17.5 million in unpaid health claims from some of its 11,000 group and individual participants nationwide, according to a Labor Department statement. The lawsuit alleges that TRG executives William Paul Crouse and Carmelo Zanfei diverted health plan assets to pay personal expenses for themselves and family members.

IRS permits FSA exercise equipment buys

An Internal Revenue Service information letter permitting deductions for the purchase of

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Special Report

BEST OF THE WEB 2003 WINNERS

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Congress to consider poll results in evaluating TRIA

Treasury to survey buyers on terror insurance market

By MARK A. HOFMANN

WASHINGTON—Risk managers should keep a close eye on the mailbox starting this week.

That's because selected risk managers will receive questionnaires from the U.S. Treasury Department concerning the state of the terrorism risk insurance market, said Mark J. Warshawsky, acting assistant Treasury secretary for economic policy. Insurers and reinsurers—but not agents and brokers—will also receive the surveys. "We basically wanted to get at the primary components of the market—which is the buy side and sell side"—or risk managers and underwriters, Mr. Warshawsky explained.

Not surprisingly, the Risk & Insurance Management Society Inc. is urging any members who receive the survey to respond to the document. As RIMS President Lance J.

Ewing noted, the results of the survey could help determine whether the federal government continues its terrorism risk insurance backstop program, which is scheduled to end on Dec. 31, 2005.

The backstop allows the federal government to pay for some of the losses of a truly catastrophic future terrorist attack. The program was designed to give insurers time to devise a commercial market solution to handling the exposure.

A section of the Terrorism Risk Insurance Act—which created the government backstop—also requires Treasury to provide Congress by June 30, 2005, with a report on the effectiveness of TRIA, the availability of terrorism risk insurance for various classes of policyholders and the insurance industry's probable terrorism capacity after the federally backed terrorism insurance program ends that year.

TRIA also requires Treasury to compile information on terrorism risk insurance premiums annually. To meet these requirements, the Treasury Department has contracted with Rockville, Md.-based research firm Westat to conduct confidential surveys of risk managers, insurers and reinsurers to get a picture of market conditions.

According to Mr. Warshawsky, policyholders will be chosen at random to get a nationally representative sample of both public and private entities. Questions will involve pricing of coverage, demand for the coverage, other means of financing terrorism-related losses and loss control measures taken to mitigate the risk. Treasury will ask the participants to report the same information over three time periods.

The first survey—which will gather data for 2002 and 2003—is

See **SURVEY**/page 34

PHOTO: KRT

Recent computer viruses and worms have targeted systems that use Microsoft Corp.'s various Windows operating systems.

Computer viruses seen as big threat to many businesses

By JOANNE WOJCIK

Now that so many organizations are using the Internet for external communications and e-commerce, they face an increasing risk of a crippling virus infecting their computer networks, corrupting data and spreading to others in the supply chain.

And because Internet virus and worm attacks occur almost every day and are so pervasive, the chances of experiencing such an event are far greater than those of being hit by a natural catastrophe, such as a hurricane or earthquake, risk management experts warn.

Unfortunately for companies at risk, both first-party property and third-party liability policies now exclude coverage for viruses and most Internet risks. And while additional specialty coverage is available, few risk managers are buying it. They instead are relying on their organizations' information technology departments to build system firewalls and install necessary virus protection software, which

experts say may not be enough to ward off the next major attack.

Virus tracker TruSecure Corp. of Herndon, Va., estimates that 15% of large companies and 30% of small companies worldwide were affected by the Sobig virus, which spread like a pandemic over the Internet in late August. Organizations were forced to shut down their internal networks, external e-mail systems and Internet access until they could install a software patch that would stop the virus.

Estimates of damage from the Sobig virus range anywhere from \$200 million to \$2 billion, depending on what costs are included, such as the additional work hours needed to restore data and install additional security devices, lost productivity and lost online sales.

"With the proliferation of the Internet, the amount of damage that an effective virus can do has just exploded exponentially," said William J. Cook, a former counterespionage and counter-

See **VIRUS**/page 37

28th RIMS Canada Conference

Mold issues growing in Canada

By JOANNE WOJCIK

VICTORIA, British Columbia—Toxic mold litigation is creeping over the United States' northern border and germinating on the "Wet Coast" of Canada, where the climate is conducive to mold growth.

But exclusions added to commercial general liability policies in response to asbestos claims likely will limit defense coverage for property owners, management companies, contractors and others sued in connection with mold in buildings, a coverage expert says.

Some defendants in courts in British Columbia, though, may be able to circumvent the exclusions, because plaintiffs lawyers there are alleging that mold is jeopardizing

the structural integrity of the buildings, according to Eric Dolden, a partner at the insurance defense



firm of Dolden Wallace Folick in Vancouver, British Columbia.

Mr. Dolden spoke during a session titled "Digging for Mold—The New

Age Gold" at the 28th RIMS Canada Conference. The Canadian arm of the Risk & Insurance Management Society Inc. held the event Oct. 19-22 in Victoria, British Columbia.

Strict building codes enacted in response to the energy crisis of the 1970s have precipitated mold claims in the Northwest, Mr. Dolden said. He noted that the national building code introduced in 1985 mandates that there be an airtight vapor barrier in all wood-frame construction. As a result, he explained, when it rains, water runs down the insides of buildings and sits within the vapor barrier, creating a breeding ground for mold.

"Imagine you took a baggie, put water in there, put wood in there, which has cellulose, and then kind

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Inside Business Insurance

Blues plan features customized coverage

A new Blue Cross & Blue Shield of North Carolina health plan aims to promote choice, consumerism. **Page 4**

NAIC panel to examine RRG expansion issue

The NAIC is forming a working group to examine expansion of the Risk Retention Act. **Page 6**

A new kind of drug war

Paul Winston considers the implications of a growing movement to import prescription drugs from Canada. **Page 6**

Lawmakers must protect cash balance plans

Congress should act to ensure that cash balance pension plans can exist and flourish. **Page 8**



Hotel chain recovers losses from SARS

Mandarin Oriental International Ltd. will receive \$16 million from its insurers for business interruption losses related to SARS. **Page 33**

Online

• The **Datebook** calendar lists upcoming industry seminars and meetings and allows you to add info on your own event.

• Searchable **directories** of all the listings of industry vendors found in *BI's* Market Sourcebook.

• New **Opinion Poll** for readers: Will the consolidation of large managed care organizations reduce group health care plan cost increases?

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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS.

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Blues plan features customized coverage

By JERRY GEISEL

CHAPEL HILL, N.C.—An innovative health plan being launched by Blue Cross & Blue Shield of North Carolina will let employees customize their coverage, while also providing them with incentives to use services more carefully.

Under the new preferred provider organization-linked plan, which the Blues plan expects to begin marketing in 2004, employers will fund what the plan calls Freedom Accounts.

Employees will draw on the accounts to purchase coverage. Rather than being limited to one or two designs, though, employees will be able to customize a plan by selecting from a range of predetermined cost-sharing options for de-

ductibles, coinsurance, office visit copayments and prescription drug copayments.

If an employee chooses coverage that costs more than the amount in his or her Freedom Account—such as a plan with low deductibles—the employee can pay for the coverage with pretax dollars through payroll deduction.

But if an employee selects a plan with a high cost-sharing component, funds remaining in the account can be used to pay for out-of-pocket health care expenses. In addition, funds that are not used by the end of the year can be rolled over to pay for succeeding years' expenses, as well as for COBRA health care continuation coverage.

While the Blues' plan shares some features with so-called con-

sumer-driven plans—namely, the ability to use the employer-funded account to pay for uncovered expenses and the rollover component—that is where the similarity ends, Blues executives say.



In a typical consumer-driven plan arrangement, an employer-funded health reimbursement account is linked to a high-deductible health care plan, often a PPO, but employees lack the ability to choose

from a range of cost-sharing designs.

The Blues' plan also will give enrollees online tools to make them better informed and cost-conscious health care consumers. For example, enrollees will be able to compare the expected cost of a medical procedure depending on the setting—hospital, outpatient or ambulatory center—where it is performed. Other online tools, which also will be available to enrollees in other plans BC/BS of North Carolina offers, will allow enrollees to compare the cost of generic drugs vs. brand-name medicines.

A driving force behind the plan, which will be offered to both insured and self-insured employers, is that the coverage needs of employees are diverse and can't be met by a

single design.

"There is no such thing as a one-size-fits-all health plan; every employer and employee has different needs," said John Roos, senior vp of sales and marketing for BC/BS of North Carolina in Chapel Hill.

For example, some employees with significant health care expenses may want a plan with a lower employee cost-sharing burden, despite the higher cost of the coverage.

"You can buy yourself better coverage than the employer might otherwise offer," said Bruce Allen, the Blues plan's director of product innovation.

On the other hand, employees who expect to have little need for health care services can design a

See **BLUES**/page 35



PHOTO: AP PHOTO/MARY ALTAFER

Larry Silverstein, leaseholder of the World Trade Center site, leaves federal court in Manhattan after an Oct. 29 hearing.

Judge sets WTC trial date but suggests mediation

NEW YORK—A federal judge has set February 2004 for the initial phase of a trial of the World Trade Center property insurance dispute pitting Silverstein Properties Inc. against Swiss Reinsurance Co. and numerous other insurers.

At a hearing last Wednesday, U.S. District Judge Michael B. Mukasey also won an agreement by the parties to meet Nov. 6 to discuss a possible mediation of the dispute before retired federal judge John S. Martin Jr. Judge Martin presided over the case before his retirement.

Judge Mukasey ordered that the trial initially determine which policy form was agreed to by each of the insurers participating on the \$3.55 billion WTC property program.

Swiss Re and other insurers contend that they are bound under a

form prepared by Silverstein broker Willis Group Holdings Ltd. that the court has already ruled would treat the Sept. 11, 2001, terrorist attack as a single occurrence. Silverstein argues that the program is governed by a Travelers Property Casualty Corp. form and that the form would treat the loss of each Trade Center tower as a separate occurrence, allowing recovery of two \$3.55 billion limits.

If any insurer is found not to be bound under the Willis form, a second trial phase would be needed to determine whether the attack represented one occurrence or two under the applicable coverage wording, the judge said. A third phase would then be required to set a valuation of the loss if attack were found to represent two occurrences.

—By Douglas McLeod

Errors & omissions

• Due to a reporting error, an Oct. 27 story, "Paternity Leave Offered More Frequently, but Fathers Slow to Use It," misstated the status of

PricewaterhouseCoopers L.L.P.'s lactation-related benefits program. PwC has offered the program to male employees since July 1.



Continued coverage
on page 36

FERMA Risk Management Forum 2003

Information key to coverage

By RODD ZOLKOS

ROME—Faced with a challenging insurance market, insurance buyers need to see how their needs and exposures measure up against what the market is willing to provide, determine how to best make their case to underwriters and when to consider alternatives.

Speaking as part of a panel at the Federation of European Risk Management Assns. Risk Management Forum 2003 last month in Rome, William Malloy, president and chief executive officer of Marsh Inc.'s Europe/Middle East

region in Paris, said the current market poses a variety of challenges.

"It is as difficult an environment as we in the brokerage community on behalf of our clients have seen in some time," Mr. Malloy said.

The market is unpredictable, he said. "It's very, very difficult to figure out what the next play will be."

But while underwriters are deploying capital much more carefully than they have in the past, except for certain problem lines of coverage, adequate capacity is

available, though pricing remains high, Mr. Malloy said.

"The general comment for both property and liability...is that the quality of the information is the key to the broader coverage," he said. In that context, the important issue for insurance buyers is how well they understand their risks, how well they present information to the underwriter and how strong a company's risk management practices are, he said.

Given current market conditions, "we need to look at how

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FERMA Risk Management Forum 2003

Social roles more important

By SARAH VEYSEY

ROME—While the subject of corporate social responsibility is one that some risk managers still see as incidental to their operations, a group of experts at the Federation of European Risk Management Assns. conference told attendees that it was an issue of "critical importance to risk managers."

Bernard Giraud, director of sustainable development and corporate social responsibility for the French-based food producer Groupe Danone, told attendees at a conference session titled "Corporate Social Responsibility: A New Strategic Tool" that intangi-

ble assets make up a substantial share of a company's value.

"More than half the group's

he said. "Although it is not possible to put a figure on the contribution of corporate social responsibility, it is part of the mixture."

Thierry van Santen, group risk manager for Danone and president of FERMA, urged risk managers to take the concept of social responsibility on

'Today there are new expectations of business, and, as risk managers, we have to take account of them.'

Thierry van Santen
Groupe Danone



market capitalization consists of intangible assets such as knowledge, trust, our people and the way we use these resources to optimize our global performance,"

board.

"Today there are new expectations of business, and, as risk managers, we have to take account of them."

See **RESPONSIBILITY**/page 36

NAIC rethinks RRG expansion

By JERRY GEISEL

WASHINGTON—The National Assn. of Insurance Commissioners is setting up a working group to help the NAIC stake out a position on expansion of the Risk Retention Act.

The NAIC put aside a draft resolution that would urge Congress to reject legislation that would allow RRGs to write property risks. Instead, the NAIC is setting up a working group, headed by Nebraska Insurance Commissioner Tim Wagner, to examine the issue.

The draft resolution, which RRG advocates criticized as inaccurate, had not been fully "vetted," Mr. Wagner said, noting that the expansion issue needs further study. Regulators discussed the draft resolution at the NAIC's fall meeting in Chicago in September.

Texas Insurance Commissioner Jose Montemayor, who chairs the NAIC's Property and Casualty Insurance Committee, said he hopes the working group—currently made up of commissioners from California, the District of Columbia, Hawaii,

New York and Washington—would work fairly and quickly.

Risk retention group advocates welcomed the NAIC's decision to put aside the draft resolution in favor of exploring the issue further.

"This is what we asked for. It provides the opportunity to engage in a dialogue," said Robert H. "Skip" Myers, a managing partner with Morris, Manning & Martin L.L.P. in Washington and counsel for the National Risk Retention Assn.

"We are very pleased. This shows they really are interested in understanding the issues. We will try to explain the success of RRGs and the role they fill in the market," said Janice Abraham, president and chief executive officer in Chevy Chase, Md., for Vermont-domiciled United Educators Insurance Risk Retention Group.

The draft resolution drew the ire of risk retention groups, who said it contained a number of errors, including that the failure rate of RRGs has been disproportionate compared to that of admitted insurers. Mr. Myers said the annual failure

rates of RRGs and licensed insurers have been about the same over the last 20 years.

The draft resolution was prompted by lobbying efforts urging lawmakers to expand the federal law that gives the groups their special status.

Under the Risk Retention Act, risk retention groups, which are essentially multiple-owner captives, can write business in any state for policyholder-owners after meeting the licensing requirements of one state. That eliminates the need for the groups to use a fronting carrier to issue policies in states where the groups are not licensed.

The federal law, though, limits RRGs to funding commercial liability risks. Advocates of expansion have asked Congress to broaden the groups' underwriting authority to include property risks. About 130 RRGs are currently operating.

Legislation to expand the law has not been introduced, and no hearings on the issue have been held. In addition, a softening property market dims chances for congressional action.

Paul Winston

Pricing disparity is one bitter pill

I'm not an economist—heck, I'm not even good with numbers—but the battles that appear to be leading to a U.S./Canada drug war don't seem to add up.

For various reasons, prescription drugs are much cheaper in Canada than the exact same medications are in the United States. In recognition of this, of course, savvy entrepreneurs on both sides of the border are engaging in a little medicinal arbitrage. At one time, this probably meant long cross-border road trips for American consumers looking to buy cheaper pills. But with the growth of the Internet, buyers and sellers are brought together in cyberspace and the sale of Canadian

medications has skyrocketed.

Why are prescription drugs more expensive in America, I wonder?

No doubt the purchasing clout of the provincial health care systems and cost caps imposed by these universal health plans are a big factor in lowering Canadian drug costs. Maybe federal red tape is not

as onerous north of the border. Canadians probably sue drug companies less often than Americans, and I bet the courts aren't as generous, either.

Despite those factors, though, the market for prescriptions is much smaller in Canada. The U.S. population is more than nine times larger than that of Canada. Also, consumer choice is not as tightly managed in the U.S. system. That means, among other things, that consumers who see a brand-name drug advertised are free to demand it of their doctors—and do.

Higher volume usually leads to lower costs. So why do drug companies charge so much more—by some estimates, drugs are 50% cheaper in Canada—to consumers in the U.S.? Because they can.

With limited price controls, apart from those under the Medicare and Medicaid programs, drug companies are free to charge whatever they think the market will bear. We knew prescription drugs were expensive, but until we started making comparisons with drugs north of the border, we didn't know how costly they really were.

Now that the secret is out, it will be interesting to see what happens. Either Canadians will start paying a lot more for their prescription drugs, Americans will pay less, or the cross-border arbitrage will continue.

In response to the lower costs in Canada, not only are individual Americans shopping for drugs

there, but state and local government employers also are looking to get in on a deal. Some Massachusetts cities led the way, and soon were followed by other budget-strapped public entities across the country. The governors of Illinois, Minnesota and Wisconsin, to name a few, are seeking federal approval to formally purchase drugs for state employees more cheaply in Canada, while many more states have intimated that they would be interested, too.

New York Mayor Michael Bloomberg, talking out of both sides of his mouth, last week joined other politicians advocating a chance to lower their drug costs the Canadian way, while at the

same time blaming higher prices in America on Canadian price controls.

For its part, the U.S. government is responding to this situation by essentially trying to close the border. The Food and Drug Administration is attempting to shut down U.S. drug importers and has gone so far as to suggest to the public

that Canadian drugs are less safe than the same medications purchased in America. This is not only fear mongering but also is insulting to Canadians.

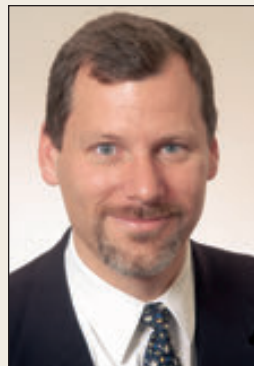
Canadian health officials also have warned that they might seek to shut down Internet pharmacies, for fear of eventually depleting the country's stock of drugs for its own citizens. This, too, sounds like a false claim.

And several drug companies have threatened to stop sending more than the minimum quantity of drugs to Canadian pharmacies, to prevent them from being resold to needy Americans.

What this imbroglio tells me is that drug companies failed to realize that in today's Internet-enabled world, the market in which they operate is a whole lot bigger than national boundaries. As a result, they got caught gouging American consumers, while charging Canadians far more reasonable prices.

While Canadian cost controls probably cut into drug company profit margins, I seriously doubt any drug company could be coerced into selling its product at a loss across an entire nation. As a result, either these cross-border deals will continue or the cost of drugs between the two countries will achieve a little more parity. Until we see what Mexico is paying.

Editor Paul Winston can be reached at pwinston@crain.com.



Paul Winston



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Editorial

Cash balance plans merit good regs

WE WERE DISAPPOINTED when the Treasury Department put out word that it is backing away from promulgating cash balance pension plan regulations.

Judging by word sent out by Treasury officials, the department had been very close to publishing regulations on how employers should value participants' account balances when they terminate employment and take benefits as a lump sum.

In addition, Treasury was thought to be near to revamping regulations it proposed late last year that, among other things, detailed the features cash balance plans must have to avoid age discrimina-

tion charges.

Those developments gave hope that the lack of more than 15 years of definitive regulatory guidance on the plans—a vacuum that has resulted in much litigation—was coming to an end. But that hope now appears to be in vain.

To many, it seems baffling, if not cowardly, for Treasury to duck one of its responsibilities: to interpret pension law and provide regulations.

After all, with perhaps 1,000 or so cash balance plans now operating, covering several million employees, and a slew of conflicting court decisions involving various cash balance plan issues, it was well time for regulatory guidance.

But, on second thought, the best course of action may be for Congress to produce new law.

It could well be there isn't enough law on the books for Treasury to interpret and produce credible regulations. Pension law, in many cases, predates the development of these plans, which combine elements of defined benefit and defined contribution plans, so it is understandable that current law does not address many key issues.

There is risk in congressional involvement. Some members—just a few, we think—have a misguided interest in killing cash balance plans and in not providing an environment in which the plans can

operate.

But once the facts are laid out, most members will appreciate how these plans are vital to the nation's retirement income system.

At a time when defined benefit plans are dwindling, cash balance plans are the only type that is growing. The reason for this is simple: employers believe the plans are better suited to a mobile workforce than traditional plans, whose benefits are skewed in favor of the handful of employees who stay a long time.

We hope Congress recognizes that basic fact and takes the appropriate action to ensure that cash balance plans can exist and flourish.

Answer the TRLA survey

SOME RISK MANAGERS will have a unique opportunity to shape federal policy during the next year or so.

In fact, the opportunity could begin as early as this week, as the U.S. Treasury Department sends out the first of three surveys to selected risk managers, insurers and reinsurers regarding the state of the terrorism risk insurance market. Additional surveys will follow next spring. The Terrorism Risk Insurance Act, which created a federal backstop to help pay for losses caused by future catastrophic terrorist attacks, requires the Treasury Department to

report to Congress on the state of the market no later than June 30, 2005. That will give lawmakers time to consider whether the program, which is slated to end on Dec. 31, 2005, should be extended.

That's a critical public policy question that risk managers can and should help answer. One of the concerns raised about the government program is that it will not last long enough to allow the private insurance market to prepare adequately to meet the demands of a future attack. In fact, some industry leaders had suggested as the idea was initially debated that the pro-

gram be guaranteed for six years.

The surveys, which are being handled for the government by an outside contractor, will give Treasury officials—and Congress—first-hand information about the strengths and weaknesses of the terrorism risk marketplace. The responses will provide guidance to lawmakers who will have the ultimate say in whether the federal backstop continues beyond 2005.

This is a rare opportunity for risk managers to have a direct impact on federal policy, a real place at the table. Those who receive the survey should accept the invitation.

Schillerstrom



How to submit a Perspectives article to Business Insurance

Business Insurance accepts articles from experts in commercial insurance, risk management and employee benefits management for publication in its Perspectives section.

The section is intended to be a forum for readers' opinions and a forum for the discussion of technical topics that do not lend themselves to news stories. Therefore, Perspectives articles should take a point of view, offer advice and/or explain a technical subject. They should not present case studies or promotional information.

To submit an article for the Perspectives section:

- Send us a letter describing the topic you would like to address. Briefly describe what you want to say and accomplish in the article.
- You will receive from us an acceptance or a decline of your article idea.
- If accepted, we will respond with comments and request the full article, which generally should be no more than 800 words in length.
- All articles are to be accompanied by a photograph of the author and a brief biography.
- We will notify you of any questions we have about your article and any substantial editing we think is necessary.

All authors must assign the copyright on the article to *Business Insurance*.

To submit an article query or for more information on Perspectives, please send a note to biweb@crain.com.

Business Insurance welcomes letters to the editor. The section is intended to be a forum for readers' opinions and comments. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Please send your letters to: Letters to the Editor, *Business Insurance*, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; fax: 312-280-3174; e-mail: pwinston@crain.com.



BI's Best of the Web stand out for breadth and ease of access

Business Insurance's third annual Best of the Web feature follows a new format this year to present readers with Internet destinations catering to buyers of commercial insurance that are informative, interesting and innovative.

In the two previous years that *Business Insurance* has published the Best of the Web report, the magazine solicited nominations of Web sites, which were then reviewed and scored by a panel of independent judges.

That approach had several key shortcomings, however, including a small number of high-quality nominations and a majority of nominated sites that provided restricted access to the public.

Under a new approach in 2003, *Business Insurance* editors researched Web sites in 16 categories and identified sites in each category that they regarded as useful, helpful, interesting,

informative and innovative.

Within each category, one or two sites were selected as Best of the Web and are profiled, while the remainder are listed as "Notable Sites." If only a few sites were deemed worthy of recognition within a category, that is reflected in the number of sites listed.

To be eligible for consideration, a Web site must provide relevant information or services to *Business Insurance's* audience of commercial risk and benefits management professionals. The site must also be open to the public and freely accessible on the World Wide Web. A site may have restricted areas, but those features will not be reviewed.

An index of the categories in the 2003 Best of the Web feature and the winning sites appears at right.

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www.osha.gov

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www.workfamily.com

The profiles of the 2003 Best of the Web winners, as well as links to other notable sites within each category, can also be read online at www.businessinsurance.com.

Business Insurance
www.businessinsurance.com



Alternative Dispute Resolution



www.adr.org American Arbitration Assn.

Although the Internet might seem like it would be a popular medium for facilitating dispute resolution, relatively few sites offer such online capabilities. And even fewer provide such tools along with free information resources for public visitors. The American Arbitration Assn.'s Web site offers both and stands out from the rest.

The New York-based, nonprofit AAA promotes arbitration and other alternative dispute resolution techniques. Its site offers a natural complement to its more than three dozen offices nationwide to assist consumers and businesses in resolving a wide variety of conflicts.

The AAA Web site's comprehensive online resources make it worth a visit by risk managers and other business professionals and earn it a spot in *Business Insurance's* Best of the Web for 2003.

The site's many information features include: a broad database of ADR resources organized by industry focus, including insurance; legal assistance and language interpretation providers by state; guides and papers pertaining to international arbitration rules; and a detailed list of Internet links to arbitration ser-

Notable sites

Chartered Institute of Arbitrators
www.arbitrators.org
eNeutral.com/Henning Mediation & Arbitration Service Inc.
www.eneutral.com
eSettle Ltd.
www.esettle.co.uk
ICAN Systems Inc.
www.smartsettle.com
iCourthouse
www.icourthouse.com
International Chamber of Commerce
www.iccwbo.org
JAMS
www.jamsadr.com
Permanent Court of Arbitration at The Hague
www.pca-cpa.org
Resolute Systems Inc.
www.resolutesystems.com
Online Resolution Inc.
www.onlineresolution.com
Mediate.com
www.mediate.com
NovaForum Inc.
www.theelectroniccourthouse.com
Private Judge Inc.
www.privatejudge.com
SettlementOnline.com
www.settlementonline.com
WebMediate Inc.
www.webmediate.com



November 3, 2003

vices worldwide, organized by specialty.

The site's other key element is a robust online case filing system, called AAA Web File. This feature offers the ability to file and track disputes, as well as resolve them entirely online. For new visitors, who must register to access this feature, an online demo explains how to use this tool.

One disappointment is that while the site provides a searchable database of mediators, it does not provide a list of the AAA's many neutrals. Visitors are directed to contact a local office, which disrupts the online experience.

The Web site offers a relatively

easy-to-follow menu system for navigating its resources, as well as modern and clean graphics.

—By Paul Winston



www.cybersettle.com Cybersettle Inc.

The Internet explosion in the late 20th century gave rise to thousands of ventures aimed at making it easier for businesses to conduct a variety of transactions online. The risk management and insurance fields

were no exception to this trend, with dozens of sites emerging in that space. By early 2001, though, the Internet bubble had burst, and today, only a few of these pioneering sites remain.

One that not only survived the dotcom crash but also has thrived is Cybersettle.com. White Plains, N.Y.-based Cybersettle was created in the mid-1990s by a pair of attorneys, but it was not until it migrated to a Web-based platform in 1998 that it gained a much wider audience.

Cybersettle uses a patented online, double-blind bid process for matching each party's settlement offers and demands. If they are

both within an agreed-upon range, the dispute is settled.

As of August, Cybersettle had handled more than 75,000 transactions and more than \$500 million in settlements. As an alternative to litigation and costly, protracted settlements, Cybersettle offers risk managers, insurers and claims professionals a faster way to resolve disputes in an easy-to-use online format.

Cybersettle charges insurers, self-insurers and other claims professionals modest filing and settlement fees, with a different scale for attorneys using the service.

The site is easy to navigate and,

Continued on next page

November 3, 2003

Continued from previous page though there are plenty of features, it does not overwhelm the casual browser.

More in-depth users will appreciate the various how-to features, with topics from managing a body of settlement cases to notifying an opposing attorney of a desire to settle at Cybersettle.

While www.cybersettle.com does not provide as much information as some other Web sites, it offers something most do not: A thriving business model that is actively being used to settle a wide variety of commercial disputes online quickly and inexpensively.

—By Paul Winston



Civil Justice Reform



www.atra.org American Tort Reform Assn.

There are a lot of good Web sites devoted to tort reform, but the Ameri-

can Tort Reform Assn.'s site stands out from the rest.

ATRA's site is worthy of a Best of the Web award for both its ease of use and its completeness.

One of the features that illustrates both attributes is a graphic of a map of the United States that generates information on state-by-state reforms by clicking on a particular state. While this approach is by no means unique to ATRA, it works well in this context.

The state information includes the nature of the reform, date of enactment and its place in the state statute books. The State Reforms section also provides a history and status of constitutional challenges

to individual reforms in each state.

ATRA's Tort Reform Record—one of a number of "key documents" available at the site—is also of value. The record, which is updated twice yearly, spells out exactly what has happened in a given state. While it would be nice if it were updated more often, the record's very existence should be of interest to risk managers and anyone else following tort reform developments. In addition, on its Web site ATRA notes significant state civil justice developments that occur between compilations of the Tort Reform Record in its ATRA News section.

The site has its lighter side as well, in the form of Loony Lawsuits

as submitted by visitors to the ATRA site. One improvement would be to include original source citations to avoid inadvertently repeating urban legends.

Last but certainly not least, the ATRA site includes a list of numerous links to other tort-reform-oriented Web sites, giving the visitor access to just about all the information he or she could care to peruse.

—By Mark A. Hofmann

Overlawyered.com

www.overlawyered.com The Overlawyered Group

Walter Olson, a senior fellow at the Manhattan Institute and the author of some of the best-known books about abuse of the legal system, provides a valuable public service by acting as editor of www.overlawyered.com.

The site functions in many ways as a Web log, with Mr. Olson and other contributors posting the most current developments in civil justice they can find. As a result, information on the site can change several times a day.

The basic content consists of news stories and updates of previously posted news items. In addition, each entry is fully documented, with information on source and date. Stories posted range from routine tales of abusive lawsuits to the offbeat. For example, one recent entry noted the passing of famous jockey Bill Shoemaker, then spelled out his role in a medical liability lawsuit that he later regretted.

The site also contains an impressive cache of archival material dating back to 1999. This consists not only of stories but also of letters to the editor, including some from irate plaintiffs attorneys, to which Mr. Olson replies.

Like most worthwhile Web sites, Overlawyered.com features an impressive list of links, including some to Mr. Olson's provocative writings on a variety of subjects. Overlawyered.com is truly a treasure

Continued on next page

Notable sites

Center for Legal Policy
www.manhattan-institute.org/html/clp.htm
Common Good
www.ourcommongood.org
Health Coalition on Liability and Access
www.hcla.org
Institute for Civil Justice
www.rand.org/icj
Institute for Legal Reform
www.legalreformnow.com
Junkscience.com
www.junkscience.com
National Assn. of Manufacturers
www.nam.org
Washington Legal Foundation
www.wlf.org

MetLife eBenefits. Think of it as a career move.

All MetLife benefits come with an extra benefit: online solutions that can make benefits more valuable for you and your employees. Since information is easier to access, you can spend less time on the small stuff—and more time helping your company be a better company. To find out how MetLife eBenefits can help your company, log on to www.metlifeeasier.com/eBenefits.

For online solutions that let you focus on the big stuff, MetLife is easier.

1. Auto and Home Insurance underwritten by Metropolitan Property and Casualty Insurance Company and Affiliates, Warwick, RI. 2. Group Legal Service Plans are offered by Hyatt Legal Plans, Inc., Cleveland, OH. In certain states provided through insurance coverage underwritten by Metropolitan Property and Casualty Insurance Company and Affiliates, Warwick, RI. 3. Variable Products are available through Metropolitan Life Insurance Company group annuity contracts. Mutual funds are offered by MetLife Securities, Inc., NY, NY. ©2003 Metropolitan Life Insurance Company, New York, NY. PEANUTS © United Feature Syndicate, Inc. L0308D9B(exp0804)MLIC-LD

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Continued from previous page

trove, so be sure you've allotted plenty of time when you visit this site—it merits more than a quick perusal.

One last note: Visitor donations help support the site. There are certainly worse ways to spend in money in the ongoing battle for tort reform.

—By Mark A. Hofmann



Claims Management



www.claimrep.com
ClaimRep.com Inc.

If you're looking for a Web site that will provide sophisticated claims management functions over the Internet or one that describes the latest software for handling claims, they're out there. In the end, though, you'll need to sign up and pay a subscription fee to use most claims management sites.

Claimrep.com, on the other hand, isn't a flashy site that let's users set up a complex claims man-

agement system. It is, however, a place to tap into a wealth of free resources that could come in handy when adjusting, investigating, litigating or otherwise handling a claim.

"The thought was, since we had insurance adjusting expertise and business management expertise," to use the Internet to get useful claims-related information to people who wanted it, said Keith Turner, president and one of the founders of Ventura, Calif.-based ClaimRep.com.

The site, www.claimrep.com, is receiving about 30,000 visitors per month, Mr. Turner said.

There are so many resources and

links at the site, it takes a while to learn how it all works. In a small box on the left of the screen, users can click for help on handling automobile, liability, property, workers compensation and bond claims. Information within those categories includes basic definitions of such claims, dictionaries of coverage terms, a litigation management section and case law from the U.S. Supreme Court and U.S. circuit courts.

Users can click on "claims sources" and choose from more than 300 categories that provide contact information for independent adjusters, attorneys, police agencies, insurance departments

and many others. Site visitors also will find calculators for figuring building losses, business interruption losses and analyzing insurance coverages. There's even a blood-alcohol calculator.

It isn't the prettiest site on the Internet, but ClaimRep.com is a tool that provides lots of useful claims-related information. And the site's 30,000 visitors a month can't all be wrong.

—By Michael Bradford

Notable sites

CareMC

www.caremc.com

ERISA Claim Exchange Inc.

www.theecx.com

Intracorp

www.intracorp.com

Marsh Inc.

www.starsinfo.com

RMG Consulting

www.insuranceaudits.com

Valley Oak Systems Inc.

www.valleyoak.com

Within the health care industry, you have genuinely different insurance needs. Which is why it only makes sense to rely on an insurance provider that can offer genuinely different solutions.

ERC Healthcare, a division of GE Commercial Insurance, is that provider. For 25 years, we have been continuously dedicated to the health care industry. Our seasoned team of underwriters and claims specialists has 250 years of combined experience in health care risk financing. Because of that commitment and the expertise of our forward-thinking leaders, we have been able to create innovative insurance and risk management products in areas such as Professional Liability for health care facilities, Clinical Risk Management, Employer Stop Loss and HMO Reinsurance.

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Just because other insurance providers call their products what we call ours doesn't mean they're the same. They are vastly different. And, so are we. Discover the difference we can make for you.

GE Commercial Insurance
ERC Healthcare
gecommercialinsurance.com

imagination at work



**All things called insurance
aren't the same either.**



Crisis Management

BENFIELD

**Hazard
Research
Centre**

www.benfieldhrc.org
**Benfield Hazard
Research Centre**

Sponsored by Benfield Greig and the Department of Earth Sciences at the University of London, this Web site is one of the few that deals with natural phenomena and crisis management in any depth.

The Benfield Hazard Research Centre Web site has information on windstorm and seasonal forecasting, flood, landslide and earthquake studies. A major bonus to the site is that it has a terrific listing of experts, their areas of expertise and contact information.

In fact, the contact details are probably the most important aspect of the site, mainly because most of the documents listed in the site's library do not seem to be available online.

While the Web site is one of the few to look at weather-related risks and their effects on business continuity, it does not specifically refer to how risk managers should apply the information at their fingertips to their risk registers and business continuity plans.

Another drawback: not all parts of the site appear to be updated as frequently as one would like.

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However, the links located on the Web site prove to be useful.

For example, the Worldwide Earthquake Locator has up-to-the-minute information on seismic risks. In addition, there are other links that direct viewers to weekly updates of volcanic activity around the world.

In truth, the Web site is far from perfect. However, the Benfield Hazard Research Center site is the best of a bad bunch for those risk managers who want to learn more about weather- and geological-related disasters and their potential impact on business processes.

—By Neil Hodge



www.continuitycentral.com
Continuity Central

Crisis management seems to be too broad a topic for all the pertinent information for risk managers to fit onto one Web site, but the Continuity Central Web site is a good starting point for information on the subject.

Easy to navigate, the site lets risk managers obtain information on crisis management issues by topic,

by geographic region and by industry sector. This means that the site has a more international focus on risk management than do many other Web sites on the topic.

The site's search engine is also very helpful and has the distinct advantage of listing articles in chronological order, starting with the most recent. The site's database of articles is updated daily.

More often than not, a search of the site's resources results in a list of at least 10 articles that may cover anything from the risks to a company's information technology systems through business interruption to guidance on how to devise checklists for terrorism security

plans.

An added plus is that these articles are provided either by corporations or government agencies and therefore give risk managers insights into how other organizations approach crisis management.

The site also allows risk managers to sign up for a number of free e-mail alerts and news bulletins on issues of interest.

One drawback of the site—and of crisis management Web sites in general—is that it tends to focus more on the problems that occur due to risk management failures within the business itself rather than examining natural or external risks, such as flood or storm dam-

age. Given that weather-related incidents have resulted in the biggest causes of business interruption and insurance payouts in Europe over the past couple of years, the omission is a significant one.

—By Neil Hodge

Notable sites

The Business Continuity Institute
www.thebci.org

Joint site of the U.K. Treasury Department, the U.K. Financial Services Authority and the Bank of England
www.financialsector-continuity.gov.uk

London Prepared
www.londonprepared.gov.uk

Survive
www.survive.com

Swiss Reinsurance Co.
www.swissre.com

U.K. Civil Contingencies Secretariat
www.ukresilience.info



Education



www.aicpcu.org
American Institute for CPCU/Insurance Institute of America

Thanks to the Web site of the American Institute for CPCU/Insurance Institute of America, risk managers can use the Internet to ARM themselves with the knowledge that will help them to succeed in their career path.

The Associate in Risk Management is just one of numerous professional designations conferred by the Malvern, Pa.-based AICPCU/IIA, and the institutes' Web site, www.aicpcu.org, provides a convenient, easy-to-use point of entry into their broad range of educational offerings. And the site goes well beyond providing just a virtual campus tour, serving also as admissions/registration office, library, bookstore and classroom.

Clicking on the Get Started link takes new students to a page that offers access to the institutes' online educational counseling service, designed to help users determine the coursework best suited to their educational and professional needs. New students must register and obtain a login to take advantage of online counseling, though the service also is available by phone. In addition, the page has links to the student handbook, a list of the institutes' offerings—for both professional designation programs and continuing education—and, for

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*Reactions, May 2003, worldwide survey of insurance-industry buyers of legal services.



Continued from page 16
those considering online learning, a helpful demonstration of an online class.

The site, whose design is simple and straightforward, also offers online discussion forums that are organized by program. Only registered students can post messages in the forums, though visitors can read postings without logging in. In addition, students can identify exam locations, register for exams and purchase course materials.

Short on cumbersome graphics and long on information and useful services, the AICPCU/IIA's Web site is at the head of its class.

—By Matt Scroggins



www.ifebp.org International Foundation of Employee Benefit Plans

The Web site of the International Foundation of Employee Benefit Plans brings together information on the organization's educational offerings and a variety of tools that serve to inform and educate on employee benefits-related issues.

The design of the site, www.ifebp.org, is eye-catching yet simple, with the main page offering a menu of the site's principal sections, information on recent developments in employee benefits and new IFEBP offerings, and news items of interest to benefits professionals.

One of the site's main education-related features is an application that allows users to identify upcoming conferences and events by date and by area of specialty. In addition to detailing the various events held across the country, the listings provide dates and times for the IFEBP's Teleweb seminars, which are distance-learning sessions that are conducted by phone and over the Internet.

In addition, the site provides information on courses—including online offerings—and materials related to the Certified Employee Benefit Specialist designation, a program that is co-sponsored by the IFEBP and the Wharton School of the University of Pennsylvania. An online demo is available for those considering online coursework in the CEBS program.

The site also offers various re-

Notable sites

- Katie School of Insurance
www.cobilstu.edu/katie/
- Lorman Education Services
www.lorman.com
- National Alliance for Insurance
Education & Research
www.scic.com/CRM/CRMmain.htm
- Risk & Insurance Management
Society Inc.
www.rims.org
- World at Work
www.worldatwork.org



Health Care Resources



www.healthgrades.com Health Grades Inc.

For many benefit managers, the big trend in health care cost control is "consumerism," which involves converting health care users into

knowledgeable health care consumers.

But if this goal is to be achieved, patients must be able to evaluate health care providers based on their cost and quality. And that is where HealthGrades helps.

The Lakewood, Colo.-based organization's site, www.healthgrades.com, grades thousands of doctors, hospitals and nursing homes on the quality of the care they provide. The site is simple to use, but the results can be far-reaching.

To find a rating on a hospital, the user selects a region and then a medical procedure. For example, to investigate a total knee replacement in the Hartford, Conn., area, that

information is keyed in and the Web site produces a list of the nine hospitals in the area at which that procedure is performed. The number of knee replacements is listed for each hospital, followed by that hospital's rating based on the frequency of major complications after the surgery.

The best hospitals are given five stars, average facilities receive three stars and those performing below average receive only one star.

In addition, the site indicates whether the hospital has implemented the safety improvement measures advocated by the Washington-based Leapfrog Group.

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Continued from previous page

Armed with this information, patients can knowledgeably choose which hospitals to use for their health care needs. And employers benefit because the higher-quality hospitals have fewer complications and, ultimately, cost less.

The HealthGrades site is not perfect, though. The section for physician and nursing home grades requires purchasing the reports for \$6.95 each.

But the free hospital information is worth the visit and could help launch a stampede of patients away from the one-star hospitals to their five-star competitors.

—By Michael Prince



www.mayoclinic.com Mayo Foundation for Medical Education & Research

If you want health care expertise, visit the Mayo Clinic. If you want expert health care information, visit www.mayoclinic.com.

Because this Web site bursts with information on practically every health care topic, all presented in a friendly and easy-to-use manner, it has won a spot in *Business Insur-*

ance's Best of the Web for 2003.

The site's home page, with its many links and features, gives users a glimpse of the wealth of information available from the site. But looking inside is the real treat.

Two of the most common reasons people visit health care Web sites—and there are thousands of sites offering health care information—are to find information on a particular disease and to learn more about a particular drug. MayoClinic.com handles both of these tasks especially well.

The home page allows a user to search for a disease by name, search alphabetically or scroll through a list of the most common ailments.

For example, if you want information on diabetes, simply scroll through the list and click on "diabetes," or find it in the alphabetical listing squeezed between "dermatophytosis" and "diaper rash."

At the site's Diabetes Center, you will find over a dozen articles written by experts on various aspects of the disease. The articles' clear, straightforward style informs without overwhelming with medical jargon.

Those interested in a particular drug can use the search feature or, with one click, enter the Drug Search section of the site, which features an alphabetical list of drugs. It's three clicks from home page to Prozac.

The site also features a whole section devoted to healthy living, with scores of articles on exercise, nutrition, pregnancy and even topics such as caffeine and kids.

And this tidy package all comes to you without advertisements. Who could ask for anything more?

—By Michael Prince

Notable sites

- AARP Health and Wellness Center
www.aarp.org/health
- Aetna IntelliHealth Inc.
www.intellihealth.com
- Agency for Healthcare Research
and Quality
www.ahrq.gov
- American Heart Assn.
www.amhrt.org
- Aventis Pharmaceuticals Inc.,
Diabetes Watch
www.diabeteswatch.com
- Centers for Disease Control
and Prevention
www.cdc.gov
- Discovery Health Channel
<http://health.discovery.com/>
- HealthAtoZ.com
www.healthatoz.com
- HealthLeaders Inc.
www.healthleaders.com
- The Henry J. Kaiser Family
Foundation
www.kff.org
- MEDLINEplus
www.medlineplus.gov
- National Cancer Institute
www.cancer.gov
- National Center for Complementary
and Alternative Medicine
www.nccam.nih.gov
- The Nemours Foundation,
KidsHealth
www.kidshealth.org
- RxList.com
www.rxlist.com
- RealAge
www.realage.com



Health Insurance Plans



www.benemax.com Benemax

A risk manager or benefit manager looking to test health insurance Web sites will have a hard time finding more than a few that provide anything other than a cursory examination of what the site has to offer.

The sites have plenty to offer the end consumers, though: online drug formularies, information on health care and disease prevention, lists of doctors covered by the plans and lots of useful links. But click on most of the links labeled Employers and if a Username and Password di-

Continued on next page

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Sarah Gillen
Risk Control Consultant

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ologue box doesn't pop up, then an electronic brochure probably will.

Benemax, at www.benemax.com, is different. While the Medfield, Mass.-based benefit plan administrator does not allow complete access to its site to nonclients, it does offer several features that allow employers to custom design a health plan. Click on the Design On Line link and fill out the questionnaire. Within 48 hours, the company will reply with a preliminary design and cost estimates.

Another feature of the site is its eVALUate form. Fill in the information about a health plan, and Benemax will determine how to add consumer-driven health care fea-

tures to that plan.

Also, the Benemax site offers links to various health-related sites and explanations of its other services, such as the Virtual Benefit Manager, which allows clients to manage their accounts.

—By Joe Walker



Insurance Brokerages

MARSH

www.marsh.com
Marsh & McLennan Cos. Inc.

Visitors to the Marsh & McLennan Cos. Inc. Web site will find a host of useful information and interactive tools to pique the interest of risk managers of companies of all sizes.

With all the information on the site, www.marsh.com, Marsh does a great job of making it attractive and easy to navigate.

In addition to standard features—such as up-to-date stock prices, corporate news links and a list of its of-

fices—Marsh's site offers features that make it stand out, including the interactive tools found on the site's opening page. By filling out a brief questionnaire, risk managers, for instance, can compare their liability limits or workers compensation losses to those of industry peers. They also can obtain free analyses of their crisis readiness plans through the site.

A link on the home page enables risk managers to find in-depth reports on timely topics, such as employment practices liability and the use of captives.

Risk managers also can sign up for free customized news briefs on the site, which are delivered via e-

mail twice a month. With RiskLine, risk managers choose the news they want to receive from a list of 10 topics, including corporate governance, pension reform and Internet-related risks.

Another helpful feature is the Choose Your Industry link, where risk managers can find information on 24 different industries, from automotive to transportation.

The technology and telecommunications link, for example, gives risk managers an overview of the industry, a list of products and services Marsh offers and key contacts, several case studies on some of Marsh's solutions for their clients and a link to the Reading Room. In the Reading Room, risk managers will find further information on the technology and telecommunications industry, including a glossary of terms and a report on risk management in telecommunications.

—By Sally Roberts



www.sksins.com
Schiff, Kreidler-Shell Inc.

Although most brokerage sites have a similar look and feel, Cincinnati-based Schiff, Kreidler-Shell Inc.'s Web site stands out in the crowd.

The site offers a host of practical information for risk and benefit managers, and the originality and creativity of its presentation help distinguish the site from those of the brokerage's peers. Instead of a logo or photo of the company's chairman or headquarters with links to product offerings, Schiff, Kreidler-Shell's home page uses animated stick figures to lead users to its personal and business insurance informational offerings. Risk and benefit managers can choose topics by type of insurance, and the related discussions make up the meat of the site, providing useful tips.

By clicking on Property, for example, visitors can learn more about property insurance. **Continued on page 22**



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Aon Corp.
www.aon.com

The CIMA Cos. Inc.
www.cimaworld.com

Dodge, Warren & Peters Insurance Services Inc.
www.dwandp.com

Keenan & Associates
www.keenanassoc.com

Knight Crockett Miller Insurance Group
www.knightinsurance.com

E.J. Phelps & Co.
www.ejphelps.com

AGENT/BROKER TOPICS

A MONTHLY EDITORIAL SECTION SENT EXCLUSIVELY TO AGENTS, BROKERS AND CONSULTANTS

Financial Convergence



Cross-selling expectations meet reality

A good insurance client is not necessarily a good bank client

By MICHAEL BRADFORD

Banks looking to expand by cross-selling through insurance agency acquisitions are finding the reality sometimes doesn't match expectations.

While there are notable successes among banks that have increased the sales of products and services by using agencies as distribution channels, many other financial institutions have either abandoned the idea or are selling only a small percentage of their services through the insurance facility, ex-

perts point out.

A good insurance client is not always a bank's best prospect, and vice versa, as it turns out.

And there are cultural barriers that sometimes prevent banks and agencies from working smoothly together. Territorial issues between the two organizations, for example, have stifled the amount of cross-selling.

"There's a lot less (cross-selling) than anybody assumed there would be," said Chris Burand, president of Burand & Associates L.L.C., a Pueblo, Colo., agency consulting firm. "Expectations were out of

line with reality."

A big barrier to the success of cross-selling is the tendency among both sides to protect their turf, according to Mr. Burand. "Different people within territories are jealous. They don't want to refer people" to the other organization, he said, "because they are scared the other person will screw up the relationship. There's a whole lot of that."

"Bankers are possessive of their clients," said David Holton, president of Wachovia Insurance Services Inc. in Winston-Salem, N.C. "They are reluctant to open their client up to someone they don't know. The trust level

has to be built up," before most bankers will feel comfortable referring someone to another service provider, he said.

Sharing clients also makes for complicated compensation scenarios, Mr. Burand said. It is a "huge bone of contention" as to who should get paid for business that comes out of referrals, he said.

"Banks got into an acquisition mode, and then it was like 'What now?'" said Bill Schoeffler, a partner at Oak & Associates in Glen Ellen, Calif. He noted that banks often find that while they wanted an agency

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with intangibles / 20E**

**Marsh sues
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tax law changes / 20H**

AGENT/BROKER TOPICS

Cross-selling: Sometimes expectations don't match reality

Continued from previous page

for the cross-selling opportunity, customers, in many cases, would rather keep the two services separate.

It's sometimes difficult for banks and agencies to merge their cultures, experts agree.

Mr. Schoeffler pointed out that insurance agencies tend to be more flexible when dealing with clients than are more-stick-to-the-rules banks. "Agents are sellers; banks are service institutions. They approach it from different standpoints," he said.

And the agency philosophy of getting the best deal for its client can conflict with a bank's top priority of protecting its assets, said John Wicher, principal of John Wicher & Associates, a San Francisco-based insurance investment bank. "That's a different model," Mr. Wicher said.

Mr. Holton pointed out that, from an insurance perspective, "most prospects are true prospects," as bank clients that need commercial lines or personal lines coverage. But the reverse doesn't always hold true as an opportunity for banks. "Banks are more selective about who they lend money to," he said, and an agency's clients might not all be attractive risks for banks.

Mr. Burand said the trend of banks buying agencies has some geographic distinctions. It first took off in Michigan, with less-than-stellar results. "The failure rate was pretty high," he said of the acquisitions in that state. "Several of the banks sold them back to the agencies, some for dimes on the dollar," when it became clear that the two were not well suited to market each others' products, he said.

Today, "the Southeast is definitely the hotbed," Mr. Burand said of the acquisition activity. "It's truly amazing" how eager banks are to gobble up agencies in that part of the country, he said.

Despite the troubles some have experienced, there are banks and agencies that say they have found success in cross-selling.

"Because we've been doing it so long, it works," said Randy Screen, chief insurance marketing and sales executive officer at Raleigh, N.C.-based BB&T Insurance Services Inc. "BB&T has been in the insurance business 81 years, and this model was built about 16 years ago," he said of the company's method of matching a "strong insurance agency" with its banks.

As at many other bank/agency operations, the main cross-selling focus at BB&T is on commercial lines. But as BB&T develops a new

"wealth management department," it is looking harder at marketing personal lines, according to Mr. Screen.

Even without the new department, he noted, "we've gotten a

'There's a lot less (cross-selling) than anybody assumed there would be. Expectations were out of line with reality.'

Chris Burand
Burand & Associates

tremendous number of leads from our mortgage department for personal lines."

Cross-selling works at BB&T because the bank has a "very, very strong sales culture," which makes it a fit for the agency way of doing business, Mr. Screen said. For a bank with a long history of insurance experience, "it's a sales culture that meshes," he said.

Acordia Inc., acquired two years ago by Wells Fargo & Co., found its association with the banking company worked well because the bank had a cross-sell culture already in place within its organization, according to Kevin Conboy, president

and chief executive officer at Chicago-based Acordia.

"The Wells organization has always had an interest in cross-sell," he said, by focusing on customer needs and providing multiple bank products to individual clients. "When we put Acordia into the equation," Mr. Conboy added, that focus was not disrupted.

Cross-selling works for Acordia and the bank partly due to a couple of important efforts, Mr. Conboy explained. "We have dedicated business development officers within each region," he said. "Their focus is to facilitate the cross-sell initiative by establishing relationships with business development managers at Wells Fargo."

And cross-selling is helped by a proprietary e-mail system that "focuses on key customers," Mr. Conboy said. The system generates notices that are sent to the bank's "relationship managers" when one of their clients has an insurance coverage that is about to renew.

Mr. Conboy acknowledged that there were challenges to meshing the bank and agency cultures. "There are always cultural challenges any time there's an acquisition," he said. "For the first 12 months, we spent a fair amount of time getting to know one another. There was a learning curve on

the bank's part as to how we operate."

At Wachovia, cross-selling has been in place for a year, Mr. Holton said. Of the new commercial property/casualty and life business written by 12 agencies, 13% was generated from bank referrals, he said, and that amount is expected to increase substantially.

Many banks are learning how to make agency acquisitions work and are not as concerned that cross-selling be as big a factor in the success, according to John Wepler, executive vp of Marsh, Berry & Co. Inc. in Concord, Ohio.

Banks have begun to acquire "higher-quality" agencies, he said, and they realize that "our insurance operation has to be successful in and of itself. Cross-sell is not our biggest priority," Mr. Wepler said.

Cross-selling will work in time, he predicted. "The cross-selling piece is often shrugged off as unsuccessful," Mr. Wepler noted. "But anytime you get a qualified referral, it gets your foot in the door."

Mr. Wepler agreed that "the idea of cross-selling is less of a goal" for many banks and is being treated as a way to "add to the basket of products that they offer" while increasing the number of channels available to reach customers and provide those products.

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AGENT/BROKER TOPICS

Are banks getting the quality they're paying for?

High multiples spent for top agencies put pricing pressure on the market

By SALLY ROBERTS

Banks wanting to enter into the insurance industry via an agency acquisition are willing to pay big bucks to do so and are driving up agency values and expectations along with them.

Because these banks have no existing insurance capabilities, they are looking for the highest-quality firms to be their platform agencies on which to grow and expand. And because many of these high-quality firms are not openly on the market, banks pay substantially more than their agency-buying counterparts as an incentive for the agency to sell, experts say.

In 2002, for example, banks paid multiples, on average, of 8.3 times earnings before interest, taxes, depreciation and amortization—or EBITDA—or 2.5 times revenues for their initial agency acquisition, according to statistics compiled by

Marsh Berry & Co. Inc. This compares to multiples of 6.9 times EBITDA or 1.8 times revenues for agencies sold to public brokers and 5.7 times EBITDA or 1.3 times revenues

'The banks have no core competencies in the insurance business. ... As a result, they place a very high value on the infrastructure that they acquire.'

John Wepler
Marsh Berry & Co. Inc.

for agencies sold to privately held agencies during the same period.

As a result, average agency values continue to rise. In 2002, for example, the average agency value was 6.97 times EBITDA, a 5.8% increase over 2001, and the average agency

value as a multiple of revenue increased 15.2% in 2002 to 1.9, according to Marsh Berry.

Merger and acquisition experts say the higher multiples banks are paying reflect the quality of firms they are buying.

"A lot of people think that banks have overpaid for agencies, and there has been some of that," said John Wepler, a senior vp with Marsh Berry in Concord, Ohio. "But I think it's more driven by the quality of the agencies that have been acquired by banks, which has translated to higher multiples."

"The banks have no core competency in the insurance business," Mr. Wepler said. "As a result, they place a very high value on the infrastructure that they acquire...and they are targeting extremely high-quality agencies."

"What many banks are doing is trying to find a platform agency that they can build on," said Jim

Campbell, senior vp and leader of Reagan Consulting Inc.'s bank consulting practice in Atlanta. "There's a profile for a platform agency, and that is a high-performing, high-achieving, well-organized organization. And those are more-valuable organizations, and they're often the one's not for sale...so they have to be motivated a little bit."

Although banks might pay higher multiples, they are, in most cases, not widely overpaying, Mr. Campbell said.

Banks "know they cannot do deals that are either going to provide an insufficient return on capital or dilute earnings per share," he said.

Nevertheless, some experts maintain banks are simply paying too much.

"I'm a little concerned about it," said Bill Schoeffler, a partner with Oak & Associates in Glen Ellen, Calif. "You figure they'd do a lot of due diligence, but it just baffles me why (banks) pay so much."

The way Mr. Schoeffler sees it, the price is based more on wishful thinking than on good empirical data.

"If you were to use a discounted future earnings valuation approach and you were to show 20% to 30% growth over the next three to four years, you can justify a price of 1.5 to 2 times revenues, but that's not feasible long term to have that kind of growth rate," he said. Banks are paying such multiples because they're "all excited about getting into the business and are willing to look favorably at the numbers," he said.

Timothy J. Cunningham, a principal with OPTIS Partners L.L.C. in Chicago, agrees.

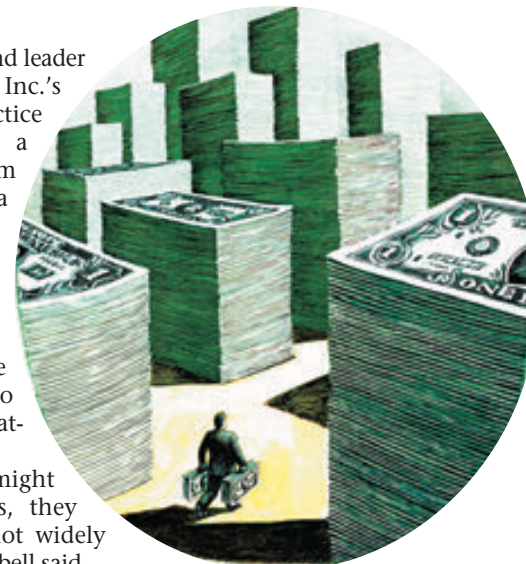
Banks "are buying into margins that, I think, simply are not sustainable," Mr. Cunningham said. The purchases are driven, in part, by the hard market and, in part, by unsound financial practices.

"You can hit big margins in this business if you don't reinvest in people and infrastructure," but that's the "death knell" of a firm, he said.

"The banks that bought agencies two to three years ago now think they did the smartest thing in the world because of all the runup" due to the hard market, Mr. Cunningham said. The real test is going to come when the market softens and they find out just how good a deal they made. "The jury is still out," he said.

In many cases, these high price tags are resulting in lofty expectations among other selling agencies, experts say.

"I think expectations have been set, sometimes inappropriately," said Mr. Campbell of Reagan Consulting. "There's a perception out there that banks are the most aggressive buyers, so if you're an



agency seller, you're saying, 'Let's talk to a bank, because we might get a real sweetheart deal.'" In reality, the offer may look very similar to what another buyer might be willing to pay, he said.

"I think the pricing pressure it has put out there is the expectations by agency owners that maybe don't want to sell to a bank but still think their agency is worth a multiple of eight times," said Rob Lieblein, managing principal with WFG Capital Advisors in Harrisburg, Pa. "Clearly, the public brokers are not paying quite the premium because they already have the infrastructure, they have the systems and they have the expertise, so from a strategic standpoint, they are not paying the premiums that a bank would."

"There is an inflated expectation of value, no doubt about that," Mr. Wepler said.

"I think it's important to note that those agencies getting more than eight times EBITDA are growing organically in excess of 20% and throwing off EBITDA margins in excess of 28% and they have employee productivity that is in the top 10% of the industry," he said. "I think what is frustrating for a lot of agency owners is when they go out to the market and they get an offer of 6.5 times (EBITDA), they feel that they're being taken advantage of, when in reality, it's just a reflection of their quality."

While quality plays a major role in the higher premiums banks pay, one also has to look at the structure of the deal.

Most bank/agency deals contain some kind of an earn out based on future earnings performance. So while a deal's purchase price may appear large initially, the actual price may be lower if predetermined profit levels are not achieved, experts say.

They also note that while banks may pay more than eight times EBITDA for their platform agencies, subsequent agency purchases are more in line with what public brokers pay.

Marsh Berry found, for example, that banks paid, on average, 6.79 times EBITDA or 1.8 times revenue for subsequent agency transactions in 2002.

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AGENT/BROKER TOPICS

Strong skills in valuing intangibles a necessary asset

Estimating brokerage's retention of existing business despite turnover is key

By Philip J. Antoon

What's the worth of a brokerage that sells business insurance?

These days, with business insurance more vital than ever, the answer can be—a lot. But determining just how much a given firm is worth is often very difficult, because mistakes in valuing intangible assets are easy to make and can be costly.



The accounting profession recognized this a few years ago when the Financial Accounting Standards Board issued FAS 141. This financial accounting standard governs all mergers, acquisitions and other business combinations initiated after June 30, 2001.

From the standpoint of insurance brokerages, the most daunting aspect of FAS 141 is its requirement to estimate the fair value and remaining useful life of intangible assets apart from goodwill. To be recognized as an intangible asset apart from goodwill, an asset must either arise from contractual or other legal rights or be separable from the acquired entity such that it may be sold, transferred, licensed, rented or exchanged.

Chief among these assets are the company's trade name and logo, any slogans, nonpiracy agreements with producers and, most importantly, the relationship with existing clients and the ongoing revenue stream, opportunities for cross-selling and other advantages.

Put another way, when a brokerage is sold, what is the expected retention of existing business in the face of normal turnover among producers, technical specialists and senior managers?

Trying to answer this question presents the most problems in valuing an insurance brokerage. Time and again, valuations fail to fully reflect three basic facts of the business.

First, key employees will leave even the most generous employers.

Second, some producers are much more productive than others, so their departure has a much greater impact on the firm's net worth.

Third, antipiracy agreements have value that can be both substantial and difficult to determine.

Here is a hypothetical example of how failing to properly apply FAS 141 could result in a seriously

flawed valuation. Brokerage A wants to acquire Brokerage B, a long-established and well-managed competitor. The asking price is \$200 million, based on discounted future cash flow. A third party is engaged by Brokerage A to determine how the assets should be allocated under FAS 141 and, by implication, the value of those assets.

"What kind of turnover do you have?" Brokerage B is asked. "Oh, very low," is the response. "Less

Perspective

than 10% last year, all youngsters in their first or second year." Well, few young producers in their first or second year with a firm have built up a book of loyal customers, so turnover will have an immaterial effect on the valuation, right?

Of course not. To be accurate,

the valuation must take into account the actual historical turnover that Brokerage B has experienced over a period of three to five years. It is not uncommon for brokerages to lose an average of 15% of its producers annually, and some of those producers will be heavy hitters. An experienced eye would see that last year's low turnover was the exception, not the rule, and that the defection rate can be expected to return to historical averages in the

immediate future. What's more, big producers are likely to be among the defectors, resulting in a disproportionate loss of premium income over the next few years.

The bottom line is that fully 25% of existing customers can be expected to leave Company B within two years of its acquisition by Company A. In this particular instance, the departing revenues would also be roughly 25%. So, before taking into account the

See **PERSPECTIVE**/next page



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AGENT/BROKER TOPICS

Perspective: Valuing intangibles

Continued from previous page
possible addition of new customers, what had been a \$200 million brokerage is now worth \$150 million.

There are two keys to determining fair value. First, it is necessary to determine how much of a firm's revenues are attributable to individual producers and how much are attributable to the firm itself. Typically, a firm's management tends to have a pretty realistic idea of what percentage of customers will stay with the firm even if the individuals serving those accounts leave. In contrast, producers tend to overestimate their customers' loyalty to them as individuals; nearly all big accounts require the services of a team of people, not just the producer who brought in the business.

In our hypothetical example, a due diligence review could determine that fully 75% of its existing cash flows come from customers that are loyal to the firm, not to any given producer. The remaining 25% would be attributed to producers and key employees.

The next step is to evaluate the effect of nonpiracy agreements with these producers and key employees. Although the work force itself—from a part-time receptionist to the chief executive officer—is not separately identifiable as a nontangible asset, nonpiracy agreements are, because they can prevent a departing employee from soliciting accounts from his or her former employer. The cash flow derived from the relationships of a producer is protected by the nonpiracy

agreements, making them potentially valuable assets pursuant to FAS 141.

In determining the value of these agreements, many factors concerning producers come into play, including age, because producers and executives nearing retirement are less likely to leave; health, because those with chronic illnesses may not want to give up their existing medical insurance; and even family relationships, because the son or daughter of an owner who sells out may well seek opportunities elsewhere.

But, in any event, there is no way to prevent the customers of any given producer from taking their business elsewhere, especially as policies come up for renewal. So an analysis must take into account the almost inevitable loss of business that will occur over time despite nonpiracy agreements.

Look at it this way. If a brokerage's customer relationships are valued at \$100 million, and this amount is amortized over 10 years, that's \$10 million. But suppose that in the first or second year a couple of producers leave with 25% of the business. That's a 25% hit to intangible assets that must be written down immediately. This, needless to say, is something that any publicly held brokerage would not want to do because it scares investors. Likewise, unexpected writedowns hurt privately held brokerages, too, because they create doubts in the minds of would-be acquirers, who may ask, "Will there be more surprise writedowns?"

The solution is to more accurately value companies before they merge or are acquired, and to use shorter periods to amortize intangible assets. Accurately valuing a company such as an insurance brokerage requires a variety of well-honed skills.

Philip J. Antoon is a managing director at the New York office of Duff & Phelps L.L.C., a national investment banking firm.

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Staff additions fuel Palmer & Cay growth

Broker's expansion plans trigger legal action by Marsh

Savannah, Ga.-based brokerage Palmer & Cay Inc. is pushing into Detroit as part of its Midwest expansion plan and is making waves in the process.

Since May, the broker has hired 22 Detroit-area insurance professionals away from competing brokerages, including 17 from New York-based Marsh & McLennan Cos. Inc. and Chicago-based Aon Corp.

Those defections have prompted Marsh to sue Palmer & Cay.

But with the new hires, Palmer & Cay has established Detroit as the headquarters for three of its national practice areas: marine, aviation and group captives.

"We've already been very successful at attracting companies with our best-in-class talent," said Kevin Youngs, executive vp and branch manager in charge of Palmer & Cay's new offices in Detroit and Grand Rapids, Mich.

Palmer & Cay of Michigan's Detroit office has already won the aviation insurance business of two former Marsh clients, Cleveland-based Park Corp. and the city of Marion, Ohio.

Marsh filed suit against Palmer & Cay Holdings Inc., Palmer & Cay of Michigan and its new hires in an attempt to hold them to nonsolicitation agreements that ban them from soliciting Marsh employees and business for two years. The suit was filed in August in Wayne County Circuit Court.

Those hires include Mr. Youngs, James Purchase, William Penn and James Branchick.

Mr. Penn is executive vp in charge of the national marine and aviation practices. Mr. Branchick is senior consultant and vp in the health and welfare group, and Mr. Purchase is a vp.

Marsh is seeking a temporary restraining order and injunctive relief from what it calls systematic and predatory tactics.

"(Palmer & Cay) with the help of the individual defendants, (has) embarked on a pattern and practice from Chicago to Louisville, Charlotte to Cleveland and now in

Palmer & Cay says it is seeing growth in new business. 'We've already been very successful at attracting companies with our best-in-class talent.'

*Kevin Youngs
Palmer & Cay Inc.*

Detroit to induce key Marsh employees to resign their employment with Marsh...with the goal of having those former Marsh employees violate their nonsolicitation agreements in order to entice clients and other employees of Marsh to join (Palmer & Cay)," Marsh argued in court documents.

Marsh claims that Palmer & Cay has hired 75 Marsh employees nationwide since January,

See PALMER & CAY/page 20H

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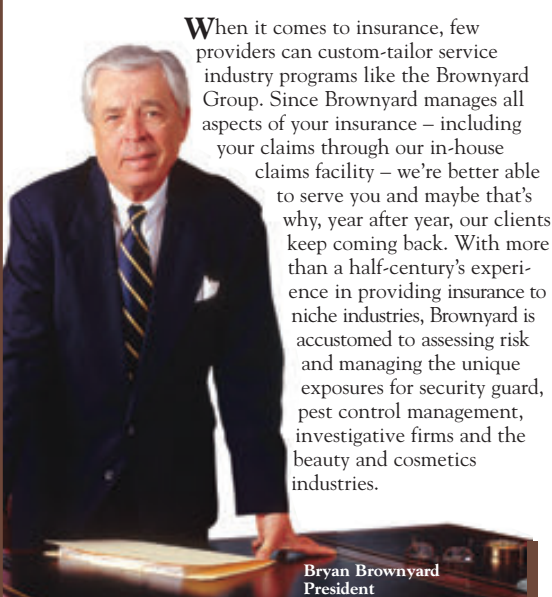
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AGENT/BROKER TOPICS

Palmer & Cay: Broker expanding

Continued from page 20F

including 45 in the Midwest and 17 in Detroit.

So far this year, Palmer & Cay has hired 130 associates in the Midwest for offices in Detroit and Grand Rapids; Cincinnati, Cleveland and Columbus, Ohio; Louisville, Ky.; Chicago; and Milwaukee, Mr. Youngs said.

Previously, Palmer & Cay—the 17th largest insurance broker of U.S. business, based on 2002 brokerage revenues of \$124.5 million—focused mainly on the South and the Northeast.

In February, Palmer & Cay hired Marsh's former Midwest region operations chief, James Meathe, to be its president and chief operating officer. Palmer & Cay also hired Marsh's head of international operations and its head of North American operations, according to the lawsuit.

In Mr. Meathe's case, Palmer & Cay sued Marsh in federal court in Savannah to void noncompete agreements its president signed before leaving Marsh earlier this year. Marsh has since countersued Palmer & Cay. That case is pending (BI, June 2).

Marsh's Detroit managing director, Gregory Stanbury, said he had no comment on Palmer & Cay or any of the litigation.

Marsh's attorney, James Wilson, of Plunkett & Cooney P.C. in Ann Arbor, said last week it is the policy of Marsh and Plunkett & Cooney not to comment on litigation.

But in the lawsuit, Marsh calls Palmer & Cay a significant competitor that threatens its business by continuing to recruit Marsh employees and soliciting its clients using knowledge it says Palmer & Cay employees gained

while at Marsh.

Mr. Youngs said he and the other defendants couldn't comment on any pending litigation.

Palmer & Cay's attorney, Robert Cleary, a partner at Timmis & Inman L.L.P. in Detroit, said he's evaluated the pleadings and is in the process of responding to Marsh's complaints.

"We do not believe the case has merit. And we intend to defend it

'People make a decision to depart based on their own circumstances....We take all of our competition seriously and are expanding in every market we can.'

*Greg Rhodes
Aon Corp.*

vigorously," Mr. Cleary said.

Courts historically have ruled that insurance brokerages' noncompete agreements are not legally enforceable or have refused to issue injunctions barring former brokerage employees from soliciting accounts.

While the firms debate the enforcement of the Michigan nonsolicitation agreements, though, the insurance brokerages continue to fight for staff and business.

According to the lawsuit, Palmer & Cay has been beating the bushes to recruit more Marsh employees and win over such Marsh clients such as Ann Arbor-based Busch's Valu Land, Hastings-based grocer Felpaush Inc., Western Michigan University in Kalamazoo, the Michigan Auto Dealers Self-Insurance Fund and Detroit-based

General Motors Corp.'s marine business.

Palmer & Cay is going after experienced professionals who have built strong client followings, Mr. Youngs explained. It's something the 135-year-old privately held brokerage is doing throughout the Midwest and Northeast.

And the plan is to keep growing by hiring the competition's seasoned executives who have thick books of business, Mr. Youngs said.

Executives at the new Palmer & Cay office in Detroit are working out of a 7,000-square-foot temporary office in River Place in Detroit. They plan to move to an adjacent 11,500-square-foot office by the end of the year. And because they plan to continue growing rapidly, they'll keep an option on the 7,000-square-foot space, Mr. Youngs said.

"We're planning to provide a fun place to work with a rich culture," Mr. Youngs said. He is also confident in Palmer & Cay's future success because many of its associates are coming from large, publicly held agencies, such as Marsh, Aon and Willis Group Holdings Ltd.

Several of Palmer & Cay's new Detroit associates said they were lured to Palmer & Cay because it is a private company that should allow them to concentrate on their clients instead of their stockholders, while still having the resources of a large insurance brokerage.

Palmer & Cay has about 832 employees in 31 U.S. offices.

Aon Senior Vp Greg Rhodes said he was unconcerned with Aon's staff losses to Palmer & Cay.

"People make a decision to depart based on their own circumstances," Mr. Rhodes said. "I know quite a bit about Palmer & Cay. I don't have much to say about it....We take all of our competition seriously and are expanding in every market we can."

Katie Merx is a reporter for Crain's Detroit Business, a sister publication of Business Insurance.

Treasury easing qualification rules for tax exemption

By RODD ZOLKOS

U.S. brokers and U.K. insurers and reinsurers are welcoming streamlined procedures from the U.S. Treasury Department aimed at foreign insurers and reinsurers looking to establish their exemption from the federal excise tax on insurance policies covering U.S. risks.

The release of the new procedures this month was driven by the fact that a new U.S.-U.K. tax treaty is set to take effect Jan. 1, and hopes that U.K. insurers could qualify for the FET exemption under the new rules prior to the treaty taking effect.

'Brokers don't mind being the tax collector. What they didn't want to see happening was brokers becoming the policemen.'

*Joel Wood
Council of Insurance
Agents & Brokers*

While driven by the impending effective date of the new U.S.-U.K. tax treaty, the new procedures set out Oct. 10 by the Internal Revenue Service will apply to future qualification for excise tax exemptions under all U.S. tax treaties.

The new procedures are expected to make it easier for brokers to identify insurers that are in compliance with requirements for the exemption. By making it easier to qualify for the exemption, the changes also could help insurers avoid passing on tax costs to buyers.

Among other things, the new rules address the issue of insurers in treaty countries being used as a "conduit" to obtain tax-free treatment of premiums by passing risks through a treaty country insurer to a reinsurer in a nontreaty jurisdiction such as Bermuda. The anti-conduit restriction is a primary difference between the new U.S.-U.K. tax treaty and the one it replaces.

But, under the new Treasury procedures, the FET exemption is at risk for a transaction only if the buyer or broker directs the insurer to pass a significant portion of the risk to a reinsurer in a nontreaty jurisdiction to avoid taxes. The FET exemption would not be jeopardized, though, if the insurer decides independently for its own business purposes to reinsure

the risk into a nontreaty jurisdiction.

"That whole conduit thing is a real concern to the London market," said Joel Wood, senior vp of government affairs at the Council of Insurance Agents & Brokers in Washington. "And it's understandable that Treasury wants to make sure that no one is trying to get away with anything through a conduit relationship."

Because of the anti-conduit restriction, U.S. and U.K. tax authorities were unwilling to simply develop a list of treaty-eligible insurers, as was the case under the old treaty. Instead, under the new pact, U.K. insurers seeking FET-exempt status will have to enter into so-called "closing agreements" with the IRS.

Under those closing agreements, the insurer will assume full liability for any FET obligations, will agree to maintain books and records for an appropriate amount of time and will provide a letter of credit to guarantee payment of any FET due on transactions that may not qualify for the exemption.

The Treasury Department has indicated that if insurers move promptly to submit the paperwork, they should be able to have closing agreements in place before the new U.S.-U.K. tax treaty takes effect Jan. 1.

Under the new procedures, the IRS has committed to making publicly available periodically updated lists of insurers and reinsurers that have entered into closing agreements, as well as providing information on insurers and reinsurers that have terminated such agreements.

Mr. Wood said he has heard from the Council's broker members and from British insurers that they are very satisfied with the outcome of the new revenue procedures. "In fact, it's probably better than we've ever had it before," he said. And, with the publication of a list of exempt companies, "we're probably going to see better compliance," he said.

"Brokers don't mind being the tax collector," Mr. Wood said. "What they didn't want to see happening was brokers becoming the policemen."

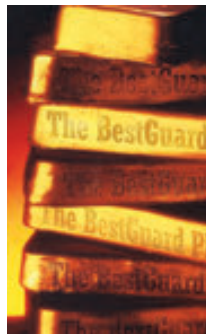
While the previous arrangement has been "a somewhat troubling area for all our broker members to know who's exempt and who's not," the new procedures are "going to create ease associated with the transaction," he said.

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Agent/Broker Topics

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ample, site visitors will find links to information such as fire extinguisher usage and 10 steps to help prevent employee theft. Other topics include determining the appropriate deductible size and how to survive a major loss. These links all surround an animation sequence parodying the popular MasterCard "priceless" television commercials—another great creative touch.

The Employee Benefits link also is helpful. Here, risk and benefit managers can find information about COBRA and HIPAA privacy regulations as well as links to tips on whether to self-insure and on offering a Section 125 plan. In addition, the site includes information about wellness programs and offers a sample wellness plan design.

Other links provide access to useful information on workers compensation, surety and liability.

Although the Web site's content may not appeal to the most sophisticated risk and benefit managers, Schiff, Kreidler-Shell, an independent agency with \$15.0 million in 2002 brokerage revenues, does a great job in offering practical and useful information in a playful and colorful manner to those browsing the site.

—By Sally Roberts



International Resources

BAKER & MCKENZIE

www.bakernet.com
Baker & McKenzie

Want to find out about changes to employment law in the Netherlands? Need to know the latest on Japanese labor union disputes? Interested in a survey on workplace sexual harassment in Ghana? Baker

Notable sites

- Assn. of Insurance & Risk Managers
www.airmic.com
- CMS Cameron McKenna,
online information service
www.law-now.com
- The European Union Online
www.europa.eu.int
- Federation of European Risk
Management Assns.
www.ferma-asso.org
- Hewitt Associates Inc.
www.hewitt.com
- Mercer Human Resource Consulting
www.mercer.com
- Standards Australia
www.riskmanagement.com.au
- Swiss Reinsurance Co.
www.swissre.com
- Watson Wyatt Worldwide
www.watsonwyatt.com

& McKenzie's site is a good place to start.

Benefit managers shouldn't be put off by the rather busy front page of www.bakernet.com, the Web site of the international law firm. Those who take some time to explore the site will find a variety of useful resources for multinational companies that are doing—or are planning to do—business around the world and want updates on employee benefit law, trends and developments.

Site visitors should head to the Resources section in the bottom right-hand corner of the site's opening page. Here, you can read the company's employment law

newsletter online or sign up for e-mail alerts on employment law, U.K. pensions or corporate governance, among other topics. In addition, the site provides access to a host of publications on legal issues worldwide.

Another section of the site, Events, provides dates, locations and registration information for conferences and seminars hosted by the law firm.

For summaries of the latest developments in employment law around the world—and expert contacts within Baker & McKenzie, should you need them—this site is the place to visit.

—By Sarah Veysey



Legislative and Regulatory Affairs



www.ncsl.org
National Conference of State Legislatures

Keeping tabs on legislative issues

in the 50 states is made a whole lot easier by the National Conference of State Legislatures' Web site. With a search engine for tracking bills making their way through state legislatures and news on legislative issues, the site, www.ncsl.org, is a useful resource for those looking to keep up to date on the state law-making process.

And links to external news sources, updated daily, make the site a handy portal for other resources.

But the internal NCSL resources on the site are also excellent for obtaining informative

Continued on next page

Continued from previous page
summaries of legislative issues throughout the nation.

One particularly useful feature is the Policy Issues section, where topical subjects are given a comprehensive review.

By clicking on Medical Malpractice, for example, users can call up the latest news stories on the issue and a state-by-state review of recent legislation, among many other things. And under Health Care Finance Issues, users will find more news, summaries of federal legislation and how it applies to states, and numerous links to other resources.

For its internal and external legislative information, the NCSL site is among the best of its kind.

—By Gavin Souter



http://thomas.loc.gov
The Library of Congress

If you are trying to track the progress of federal legislation, it is hard to beat the Library of Congress' official site for legisla-

tive information as a search aid.

The main feature of the site, <http://thomas.loc.gov>, is a comprehensive search engine that allows users to search by bill number or by words and phrases contained in the legislation and pull up the entire wordings of bills to view.

The site also enables users to track the course of a bill as it wends its way through the legislative process.

While other industry- or group-specific legislative sites may give more information on specific issues and offer commentary or analysis of legislation, few have the depth and

breadth of the official congressional site.

In addition to providing a search engine, the site also contains information on how the legislative process works and includes links to other congressional sites, such as the individual Web sites of Senate and House of Representatives committees.

In addition, part of the FAQ—or frequently asked questions—section of the site dispels certain legislative "urban legends," such as rumors about the existence of pending legislation to impose a tax or long-distance telephone charge on Internet access.

—By Gavin Souter

Notable sites

- Alliance of American Insurers
www.allianceai.org
- American Assn. of Health Plans
www.aahp.org
- Insurance Information Institute
www.iii.org
- Risk & Insurance Management Society Inc.
www.rims.org



Property/Casualty Insurance



ZURICH

Zurich North America
www.zurichna.com

Zurich North America's Web site stands out from the pack when it comes to insurer sites that provide visitors with news and information about commercial risks.

The insurer's Web site is aimed at large, medium and small businesses, risk managers and producers. It also contains a feature that allows users to customize the site for their own needs.

Unlike many other insurance company sites, which have moved away from providing general information to focus on their own corporate news and products, www.zurichna.com provides a wealth of news and information on a variety of topics.

By clicking on Risk Manager under the Insurance Professionals heading, users can access general news on different industrial and commercial sectors compiled from

Continued on next page

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Gary Bridgeford, Director-Corporate Risk Management
Johnson Controls, Inc.

In a just-in-time world, "downtime" can mean "time's up."

And no one knows this better than Johnson Controls. In the fast-paced, high-pressure automotive industry, time is a valued commodity, and any disruption to the production process is as risky as driving on empty. That's why Johnson Controls looks to FM Global's engineering knowledge to help keep its operations running smoothly—lost time on their end can create a serious supply chain effect. And, for a global market leader like Johnson Controls, letting their customers down simply isn't an option. "We keep our customers operating by keeping our business operating," explains Gary Bridgeford.

When others depend on you for product delivery, there's no time for excuses, and inability to deliver can lead to loss of assets, market share and reputation. At FM Global, we help companies like Johnson Controls understand, identify and mitigate those hazards that most threaten their ability to remain operational. For more than 167 years, we've been working with commercial and industrial clients to better understand their business processes to help them reduce their exposure to loss—from fire, explosion, equipment breakdown, and even natural disasters. And, in addition to providing the necessary capacity for risk transfer, if, despite the best prevention efforts, a loss does occur, our claims adjusters are focused on getting you up and running—as quickly as possible.

The time to take steps to avoid disaster, and the interruption to business that follows, is now, not later. To find out more, visit www.fmglobal.com.



**Continued from previous page**

newswires, newspapers and trade publications to more focused risk management and insurance articles.

The Risk & Insurance Management Society Inc.'s RIMS Riskwire, for which Zurich is a sponsor, is available on the insurer's site, and Industry Insights and Spotlight reports provide in-house articles on a wide range of risk management and insurance topics.

Information on the coverages and services provided by Zurich North America is easy to find, clear and succinct, and each page includes a word-search function and a feature that lets risk managers

find the appropriate local Zurich North America specialist in their area.

Other interesting features on the site include a Hurricane Center, providing up-to-date information on hurricanes around the world and risk management advice on preparing for such storms. Also included on the site is a business interruption coverage calculator.

The site features a pleasing muted color scheme and lack of graphics and animation.

However, the site might benefit from improved graphics to make it look less like a subscriber-only site.

—By Carolyn Aldred

Notable sites

Allianz A.G. Holding
www.allianz.com

American International Group Inc.
www.aig.com

AXA S.A.
www.axaonline.com

Chubb Corp.
www.chubb.com

Factory Mutual Insurance Co.
www.fmgglobal.com

Liberty Mutual Insurance Co.
www.libertymutual.com

The St. Paul Cos. Inc.
www.stpaul.com

Travelers Property Casualty Corp.
www.travelers.com



Reinsurance

BENFIELD



www.benfieldgroup.com
Benfield Group Ltd.

The initially spare-looking Web site of intermediary Benfield Group Ltd.

opens into a rich source of information about the company and the reinsurance industry.

Easily navigated using drop-down menus, the site offers basic financial, senior management and other information about Benfield. A nicely designed global map leads visitors to office locations, providing names, phone and fax numbers and e-mail addresses of Benfield personnel worldwide. Once opened, most pages provide quick links to related pages.

Additional menus outline the company's capabilities—including reinsurance brokerage and various consulting services—with contact information for each reinsurance line or consulting service listed.

The site also offers a wealth of free research material to visitors, ranging from quarterly reviews of Bermuda reinsurers' results to catastrophe updates, terrorism risk analyses and market overviews by line of coverage or geographic area. Benfield offers a couple of links to outside research organizations but could expand this to provide a wider selection of industry Web resources.

The site does provide links, though, to separate and similarly well-designed sites of Benfield affiliates, including Orbit Benefits, a U.K. provider of online employee benefits management services; Paragon Strategic Solutions Inc., a provider of reinsurance administration and recovery services for ceding insurers; and Wildnet Group, an e-commerce service provider.

Overall, the site is cleanly laid out and easy to use.

—By Douglas McLeod



www.genre.com
General Re Corp.

Reinsurance may be complicated, but General Re Corp.'s Web site is easy to understand, offering an array of practical tools and useful information in an easy-to-use and visually pleasing format.

Gen Re's site covers the basics beautifully, providing detailed corporate information—including audited annual financial statements, despite Gen Re's status as a Berkshire Hathaway Inc. subsidiary—and one of the most extensive office and staff listings around. You can find Gen Re personnel by name, office location or underwriting specialty, with both phone numbers and e-mail addresses provided. You'll also find links to separate sites maintained by Berkshire and other Gen Re affiliates.

There's a lot more, though. The site offers pages on each of nearly three dozen reinsurance lines ranging from accident/health to workers compensation, with many of the pages providing summaries of market conditions and current trends in the line as well as information

Continued on page 26



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GE ERC

100% CONFIDENCE

Continued from page 24
about Gen Re products and con-
tacts.

The pages often provide links to
related topics elsewhere on the site
and to relevant Gen Re publica-
tions.

The site also links to FacWorld,
another Gen Re site that allows reg-
istered users to submit, negotiate
and bind facultative property/casu-
alty, life/health and marine risks
online.

Gen Re also offers a helping
hand with research. The site's
"toolkit" provides a basic—but ex-
tensive—glossary of reinsurance
terms, as well as a directory with
links to scores of insurance industry
Web sites, organized alphabetically
and in categories. Visitors can also
tap into a free library of Gen Re
publications covering market con-
ditions, legal trends and other top-
ics in a variety of coverage lines
worldwide. The library includes
publications in German, French,
Italian, Japanese, Korean and Span-
ish.

—By Douglas McLeod

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November 3, 2003

Notable sites

American Re-Insurance Co.
www.amre.com
AXIS Capital Holdings Ltd.
www.axis.bm
Guy Carpenter & Co. Inc.
www.guycarp.com
Hannover Re Group
www.hannover-re.com
Reinsurance Group of America Inc.
www.rgare.com
RenaissanceRe Holdings Ltd.
www.renre.com
Willis Re
www.willisre.com

Retirement Benefits

the American Assn. of Retired Persons.
This attractive and easy-to-navigate site, www.aarp.org, features everything from retirement calculators to determine if a person is currently saving enough, to tips on obtaining health insurance if one is planning to retire before becoming Medicare-eligible, to advice on mid-

www.aarp.org
AARP

One doesn't have to be retired or over the age of 50 to appreciate the wealth of retirement information and resources available on the Web site for AARP, formerly

dle-aged dating.

A neat feature of the site is that a visitor who uses the retirement calculator once can return at a later date and the calculator will remember the visitor, having stored the information that he or she input previously.

Because AARP is a lobbying organization, the site also contains the latest news on federal and state legislation affecting two of the most relevant issues for those planning their retirement or those who are already enjoying the good life: money and health care. Currently, for example, it is following congressional debates over Medicare reform

Continued on next page

November 3, 2003

Continued from previous page

while also providing insight into proposals to privatize Social Security.

AARP's site also offers guides to state-run and private pharmacy assistance programs, including such information as who qualifies and how to apply, long-term care insurance programs and state-by-state lists of health maintenance organization report cards and nursing home performance data, among other things.

Regardless of age or membership status, all visitors to AARP's Web site can access message boards and an online debate forum, called Face Off, which recently featured two ex-

perts dueling over whether 401(k) plans or traditional pensions are the better vehicles for workers' retirement funds.

And for those who are members, AARP's Web site gives details about its negotiated discounts and other services such as health care options, technology training and travel assistance.

Rounding out this holistic site, AARP provides links to other quality online resources that offer information on virtually every topic relevant to retirement, from managing stress and losing weight to selecting a lawyer to draw up wills and trusts.

—By Joanne Wojcik

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www.retireplan.about.com
About Inc.

Unlike many Web sites that provide information on retirement planning, www.retireplan.about.com does not try to sell anything.

While most retirement planning sites usually are created and hosted

by retirement plan vendors hoping to entice you into investing in their products, this site was created by a former steelworker who took early retirement at age 42.

Now a partner in a small service business, H.W. McKinney Jr. is researching the tax structure in each state, along with elder care laws, to determine the best states for retirees to live.

This information will eventually be used in a book he and his wife are preparing to write on retirement planning. In the meantime, Mr. McKinney is sharing some of his sage advice with anyone who can click a mouse.

"I plan to use my experience

in retirement planning to help others plan for and enjoy their retirement," Mr. McKinney writes on his Web site. "I will write articles describing what I have learned about retirement planning and develop tutorials for others to learn how to successfully plan for the type of retirement they want and deserve. My site will be updated regularly, so visitors will want to check back often for the latest developments and information on retirement planning and strategies. This site will have information for all persons of working age as well as retirees."

Indeed, Mr. McKinney's site is all that he has promised, and more. It is hosted by About Inc., which screens and trains the professional "guides" the company selects to build a comprehensive environment around various topics. As such, www.retireplan.about.com has access to a retirement planning glossary that includes definitions of defined benefit vs. defined contribution plans; calculators to help determine whether you're saving enough for retirement; information about estate planning, insurance, tax laws, wills and trusts; and even links to Web sites offering advice to unmarried couples retiring together, among other things.

It's truly a one-stop shop for researching retirement planning and related topics.

—By Joanne Wojcik

Notable sites

CNN Money
<http://money.cnn.com/retirement>
Choose to Save
www.choosetosave.org
FMR Corp.
www.401k.com
Federal Medicare program
www.medicare.gov
FinanCenter
www.financenter.com
freeERISA.com L.L.C.
www.freerisa.com
Growing Wealthy
www.growingwealthy.com
mPower Cafe
www.mpowercafe.com
MSN Money
www.moneycentral.msn.com/retire/home.asp
The Motley Fool
www.fool.com/retirement
MyAccountingPortal.com
www.myaccountingportal.com
MyPrimeTime
www.myprimetime.com/money/retirementcenter/
Quicken Retirement Planner
www.quicken.com/retirement/planner/
SmartMoney Magazine
www.smartmoney.com/retirement
Social Security Administration
www.ssa.gov
ThirdAge Inc.
www.thirdage.com

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Risk Management Information

Nonprofit Risk Management Center

www.nonprofitrisk.org
Nonprofit Risk Management Center

While the Nonprofit Risk Management Center's Web site aims to advance nonprofit organizations' understanding and response to risks that could threaten their ability to achieve their missions, it also provides a wealth of information that could be useful to risk managers in any organization.

Attractive and easily navigable, www.nonprofitrisk.org includes such features as articles on various risk

management topics, online risk assessment tools, a publications catalog, an ask-a-question feature, information about the center's educational institutes and risk management marketplace information.

Through its site, the center provides information on such risk management topics as employment practices, vehicle fleet and transportation risks, business continuity planning, insurance purchasing, internal controls and preventing child abuse.

In addition to information on upcoming conferences and seminars, the site's training feature includes free online tutorials on accident response, basic risk management and volunteer risk management, as well as free fact sheets on crisis management.

A search feature allows visitors to peruse the site for information on specific topics. Also, in conjunction with the Public Entity Risk Institute, the site has a feature offering online advice on a variety of risk management subjects.

And the NRMC even manages to bring a touch of humor to the serious topic of risk management with a "Top 10 Signs Your Nonprofit Needs to Start Doing Something About Risk Management" feature. The lighthearted Top 10 list is followed immediately by a list of 10 very real suggestions organizations can immediately act upon to identify or begin to control exposures.

—By Rodd Zolkos



www.riskinstitute.org
Public Entity Risk Institute

The Public Entity Risk Institute was formed to serve public, private and nonprofit organizations as a resource for the enhancement of risk management and a resource center and clearinghouse for information on all areas of risk management.

The institute's Web site, www.riskinstitute.org, certainly serves to promote that mission. The site is easily navigable, its various functions are clearly identified and its information is well organized by subject area. Among other things, the site includes summary descriptions and reports on PERI-funded projects, papers presented at

PERI seminars on a variety of risk management topics and a bookstore.

The PERI newsletter, *Periscope*, is available online, and the site's Clearinghouse feature provides links by topic to hundreds of organizations providing information on risk management, disaster management, environmental management, human resources and employment practices, workers compensation, education, safety and international issues and various other subjects.

A Library function provides information on a host of topics related to the risk management concerns of local governments, nonprofit organizations and small businesses, many of which are available for downloading in PDF format. And a search tool makes it easy to gather information from across the site on specific topics.

The www.riskinstitute.org site also serves as a vehicle for PERI's free online "virtual symposiums," such as a seminar scheduled for December on containing workers compensation costs and managing outcomes.

—By Rodd Zolkos

Notable sites

AIR Worldwide Corp.
www.air-worldwide.com

Austin & Stanovich Risk Managers L.L.C.
www.austinstanovich.com

Captive.com L.L.C.
www.captive.com

ERisk
www.erisk.com

Insurance Information Institute
www.iii.org

International Risk Management Institute
www.irmi.com

Munich Reinsurance Co.
www.munichre.com

Occupational Safety and Health Administration
www.osha.gov

Risk Management Resource Center
www.eriskcenter.org

Risk Management Solutions Inc.
www.rms.com

Swiss Reinsurance Co.
www.swissre.com

University of Colorado, Boulder
www.colorado.edu/hazards

Wharton School of the University of Pennsylvania
<http://grace.wharton.upenn.edu/risk/index.html>

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Safety and Loss Control Services

www.cdc.gov/niosh
National Institute for Occupational Safety and Health

A safe bet for risk management pro-



professionals looking for valuable information on safety and loss control is the home page of the National Institute for Occupational Safety and Health.

NIOSH is the federal agency responsible for conducting research and making recommendations for the prevention of work-related injury and illness.

While the agency was established in 1970 by the same federal legislation that created the Occupational Safety and Health Administration, it is part of the U.S. Department of Health and Human Services' Centers for Disease Control and Prevention.

The NIOSH homepage loads quickly and is designed primarily for function rather than form. Expanding its reach, the safety agency's Web site also provides information in Spanish.

Risk managers and other employer representatives will find valuable technical information about a vast array of safety and loss control topics using NIOSH's alphabetical or keyword search option. Of special interest is online access to NIOSH's general research, such as its finding of the questionable efficacy of back belts, as well as more specific research on topics such as chemical hazards.

NIOSH information is generally considered reliable because part of its mission is to conduct a focused program of research to reduce injuries and illnesses among workers

in high-priority areas and high-risk industry sectors, including mining, agriculture, construction as well as health care.

The Web site also contains links that reflect the national safety institute's efforts to encourage prevention activities through health hazard evaluations of workplaces—which can be requested by employers or workers—as well as training to prevent accidents and illnesses. NIOSH also provides links to useful databases.

Employers seeking helpful materials, such as a "Pocket Guide to Chemical Hazards," should click on NIOSH's hyperlink to Publications & Products. Many safety-oriented publications can be downloaded or ordered there.

—By Meg Fletcher



www.osha.gov
Occupational Safety and Health Administration

The Occupational Safety and Health Administration's Web site reflects and furthers the agency's mission of helping to ensure safe and healthful workplaces throughout the United States.

Since it was created legislatively in 1970, OSHA has sought to publi-

cize its role in providing safety and loss control information as well as both mandatory and voluntary programs to help employers and workers.

The OSHA Web site provides not only a discussion of employers' and workers' rights but also a vast amount of information, which loads quickly. Its minimalist approach to design—which uses deep gold and various shades of blue banners as well as a lighter blue screen down the right margin—helps separate numerous categories of information without making the page difficult to read.

Employers will want to seek out the site primarily for detailed information on OSHA programs and issues related to workplace safety, as well as for Web links to copies of laws and guidelines. In addition, an alphabetical site index and a keyword search function help users to navigate an impressive amount of information about specific industry issues.

Employers also may be interested in background information on key safety and health topics, such as construction and ergonomics. Also, employers may seek out the latest information on various hazards, as well as statistical information, including inspection data.

In addition, employers interested in learning about specific safety topics and conveying that information to workers should not overlook the site's link to "Publications/Posters."

OSHA's Web site also offers compliance assistance information, including consultation and training.

—By Meg Fletcher

November 3, 2003

Notable sites

CambridgeSoft Corp.
www.chemfinder.com

Ergoweb Inc.
www.ergoweb.com

IBM Corp.
www.pc.ibm.com/ww/healthy-computing/

Injury Control Resource Information Network, University of Pittsburgh
www.injurycontrol.com

International Safety Equipment Assn.
www.safetyequipment.org

National Fire Protection Assn.
www.nfpa.org

National Highway Transportation Safety Administration
www.nhtsa.dot.gov

National Safety Council
www.nsc.org

Professional Development Unit
www.uksafety.net

Public Entity Risk Institute
www.riskinstitute.org

The Royal Society for the Prevention of Accidents
www.rosa.com

U.K. Health and Safety Executive
www.hse.gov.uk

U.S. Centers for Disease Control and Prevention
www.cdc.gov

U.S. Department of Justice, Americans with Disabilities Act
www.usdoj.gov/crt/ada

Vermont Safety Information Resources Inc.
www.hazard.com

WorkCare
www.osh.net

Workers Compensation Research Institute
www.wcrinet.org

Business Insurance
www.businessinsurance.com

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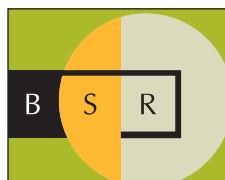
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November 3, 2003



Work/Life Benefits



www.bsr.org
Business for Social Responsibility

Perhaps the neatest thing about www.bsr.org is that the Web site suggests that your employer has a moral obligation to make your life easier.

Actually, what Business for Social Responsibility says on its Web site is that a company, to compete successfully, "needs to develop responsible business policies and practices and make them an integral part of its mission, values, strategy and operations," and it numbers among those responsible business practices supporting "the growing need of employees to balance their professional and personal lives."

Since 1992, San Francisco-based BSR has been providing its member companies with information, tools, training and services to design and

Notable sites

AARP
www.aarp.org
Adoption-Friendly Workplace Program
www.adoptionfriendlyworkplace.org

Best Domestic Employment Services Inc.
www.e-dependentcare.net

Boston College Center for Work & Family
www.bc.edu/centers/cwf

Bright Horizons Family Solutions
www.brighthorizons.com

Family Caregiver Alliance
www.caregiver.org

Labor Project for Working Families
www.laborproject.org

National Council on the Aging
www.ncoa.org

National Partnership for Women & Families
www.nationalpartnership.org

One Small Step
www.onesmallstep.org

Parents at Work
www.parentsatwork.org.uk

U.S. Department of Health and Human Services Administration for Children and Families
www.acf.dhhs.gov

U.S. Department of Health and Human Services Administration on Aging
www.aoa.gov



implement successful socially responsible business policies, practices and processes. BSR's Web site also has some useful information that is accessible to all, earning it a spot in *Business Insurance's* Best of the Web for 2003.

Benefit managers considering implementing work/life benefit programs can click on the site's Resources tab, then on Issue Briefs and the Workplace topic. Among the Workplace topic issue briefs are an overview on work/life benefit considerations and reports on dependent care and flexible scheduling; they are comprehensive, coming in at 23, 31 and 22 pages, respectively.

Each of the three issue briefs follows the same format. One section cites studies and surveys that link various work/life benefit programs and bottom-line performance measures such as productivity, turnover, recruitment and retention. Such research may help convince management of the advantages of work/life programs, though many of the studies cited date from the late 1990s and could use updating.

Other useful sections list implementation steps and provide examples of innovative practices inaugurated by cutting-edge companies. The white papers also quote sample policy statements related to

work/life benefit programs and list awards that recognize companies for their work/life initiatives.

—By Mary B. Nick



www.workfamily.com
Work & Family Connection

Like many human resource executives, work/life professionals are

working in an environment of reduced budgets and smaller staffs. Rather than lament, though, they should go surfing—on the Internet.

In cyberspace, a number of Web sites offer valuable ideas and tools to help an employer put together a work/life program or keep an existing one on the cutting edge. Of those sites, though, one offered by Minnetonka, Minn.-based Work & Family Connection stands out.

For its timely information and depth of insight, www.workfamily.com receives a spot as one of *Business Insurance's* Best of the Web.

For an example of what is offered, click on FAQs about Employment, work/life professionals are

Continued on next page

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Commentary

When job requests are fishy business

Forget about complaints, motions to dismiss and amicus briefs; one of the more intriguing legal documents around these days is the sushi memo.

In case it hasn't reached you during its 10 or 11 minutes of fame, this is a three-page, citation- and exhibit-laden interoffice memo prepared last summer by a paralegal for a New York partner of the law firm Paul, Weiss, Rifkind, Wharton & Garrison. It has nothing to do with a case; instead, it meticulously surveys the preferred choices for sushi take-out in midtown Manhattan.

"Haru has come highly recommended to me, specifically in terms of their sashimi. Most praise their huge portions and 'exalted' sushi," the memo reports—with a footnote citing a restaurant review—before moving on to several other copiously footnoted alternatives. "I have also attached each of the immediately preceding restaurant menus as Exhibit 2."

"I would hope you find the attached helpful in choosing the restaurant from which your dinner will be ordered on a going-forward basis," the writer sums up, impressing you both with her doggedness and her boss's evident lack of leisure time.

It would be easy to read the sushi memo as a parody, except that a Paul, Weiss spokeswoman took the trouble to insist in a news report that none of the firm's clients was billed for the paralegal's time, typically a \$100-per-hour proposition.

On the one hand, this can be viewed as good news for the economy. You have to feel heartened that productivity has increased to the point where a law firm can spare a highly paid professional for restaurant research without slowing its relentless output of contracts and court filings.

On the other hand, you'd hate to see it set a precedent.

How would it be if more bosses felt free to dragoon subordinates into handling personal—or only marginally work-related—tasks? What's next for paralegals whose bosses' time is too valuable for trifling concerns like finding lunch? They could be asked to analyze the best local options for dry cleaning or custom shirt making. They could help partners compare the benefits of buying vs. leasing a Mercedes. They could write movie reviews.

How about an extremely busy accounting firm partner who can't make it home in the evening telling

the kids to fax their math homework to a junior associate?

Imagine if it spread to the risk management field:

To: Lewis Louis IV, CFO
From: Phil Fingerling, director of risk management
Re: Briarglen Conference

Lewis: You asked my department to prepare this memo in advance of your trip to the Briarglen Conference. Herewith are the potential hazards/issues we've identified:

1. Your approach to the seventh green will be the trickiest, involving a sharp dogleg and both sand and water traps. Please see the attached exhibit for recommended steps.

2. Sources advise us that the ninth fairway has been taken over by geese. Apart from slick turf conditions, we estimate a one- to three-stroke risk associated with hitting a goose in flight. We're also told that the club has imported border collies, which are

brought in periodically to chase the geese away. There is a lower frequency/higher severity risk associated with hitting a border collie, involving the potential for personal injury and/or a lost ball penalty.

3. Your suspicion is correct that irons thrown in a water hazard may be treated as a deductible business expense.

4. If you hit into the woods to the right of the 13th tee, be aware of the nearby skeet shooting range.

5. A note of caution: the club dress code forbids bright green or blue slacks with little whales or golfers on them. A second offense can lead to expulsion from the clubhouse.

6. We have reviewed the attached attendance list and highlighted the names of potential partners who should be encouraged not to drive a golf cart. An exception may be made for the Congressman if he is accompanied by a staff member.

7. We're looking into EAP availability for golf-induced conditions, if necessary.

Please feel free to contact me if you have any questions.

Phil

Well, you can see what it would be like. It would smell like week-old sushi.

Senior Editor Douglas McLeod can be reached at dmcLeod@crain.com.



Doug McLeod

Continued from previous page

er-sponsored Childcare along the left side of the home page to read an in-depth discussion of the topic.

In addition, the site features a new guest column from a leading work/life professional each month. Also, each month has a new tip from a work/life leader about improving a work/life program.

Work & Family Connections also offers surveys, an open forum for

the exchange of ideas with others in the field and a calendar of upcoming events and conferences.

The site also contains an extensive listing of child care providers, resource and referral organizations, work/life consultants and elder care providers.

Of course, nothing is perfect. Most of the organization's newsletters are not free. Numerous newsletters and reports are for sale, often

for between \$20 and \$25. Also, a one-year subscription to Work & Family Connection's full suite of periodicals and services costs \$295. And once you leave the home page, other areas of the site have an out-of-date look and feel.

On balance, though, the positives dramatically outweigh the site's negatives, making it worthy of a bookmark and a place to visit often.

—By Michael Prince

Comings & Goings



Mr. Poland



Mr. Medini



Mr. Blee

Brokers

Kevin Murphy has been named national health care practice leader for New York-based Marsh Inc. Before his promotion, Mr. Murphy was the West region operations leader. He will be based in Los Angeles.

Keenan & Associates, based in Torrance, Calif., has appointed **Mike Poland** as senior vp. Before joining Keenan, Mr. Poland was co-chairman of brokerage Oland International.

Excess/surplus lines

W.R. Berkley Corp., based in Greenwich, Conn., has made several appointments at its newly formed Berkley Risk Solutions Inc., an underwriting management company. The company will write business on behalf of several Berkley Corp. subsidiaries.

Robert W. Mathis, Gregory A. Cuzzi and **Sally B. Gilmore** have each been named senior vp. Mr. Mathis, who is chief marketing officer, most recently was senior vp of marketing and treasurer at Cologne Re Managers. Mr. Cuzzi is

the company's chief actuarial officer. Previously, he was senior vp and chief actuary at Cologne Re Managers. Ms. Gilmore is the chief administrative officer. Before joining Berkley, she was assistant vp at GE Employers Reinsurance Corp.

Insurers

Hamilton, Bermuda-based ACE Ltd. has appointed **Paul Medini** as chief accounting officer. He replaces **Robert Blee**, who assumed the newly created position of chief compliance officer. Mr. Medini previously was a partner in the property/casualty insurance practice of PricewaterhouseCoopers L.L.P.

Robert W. Gosselink has been named senior vp-insurance risk management at Greenwich, Conn.-based W.R. Berkley Corp. Most recently, Mr. Gosselink was senior vp and manager-ceded reinsurance and portfolio management for XL Global Services.

Zurich North America, based in Schaumburg, Ill., has appointed **Denise DePrimo** as senior vp and profit center manager for Zurich North America Railroads. Before her

promotion, Ms. DePrimo was vp of the same unit.

James Hom is the new chief financial officer for Combined Insurance Co. of Glenview, Ill. Before joining the Aon Corp. unit, Mr. Hom was senior vp of strategic growth and development for CIGNA Corp.

The Doctors Co. has named **Richard Anderson** as its new chief executive officer. Dr. Anderson will continue in his role as chairman of the Napa, Calif.-based medical malpractice insurance company.

Hamilton, Bermuda-based Catlin Insurance Co. Ltd. has named **Glenn Campbell** as chief financial officer. Before joining CIGL, Mr. Campbell was CFO of GE Frankona Reinsurance (UK).

Reinsurance

New York-based Folksamerica Reinsurance Co. has made two senior level appointments:

• **Brian Flanagan** has been named senior vp and branch manager for the Chicago office. Previously, Mr. Flanagan was senior vp at CNA Reinsurance Co. Ltd.

• **John Beckman** has been named senior vp in the Chicago office. Before joining Folksamerica, Mr. Beckman was senior vp at CNA Re.

Business Insurance would like to report on senior-level changes at commercial insurance companies and service providers. Please send news of recently promoted, hired or appointed senior-level executives to: Joe Walker, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; jwalker@crain.com. Photos should be sent to: Kathy Barnes, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; kbarnes@crain.com.

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November 3, 2003

International

33

No-fault system or self-insurance could stem rising rates in the U.K.

Employers liability reform views vary

By SARAH VEYSEY

LONDON—In response to widespread concern about the rising cost of employers liability cover, risk managers, lawyers and labor representatives voiced various opinions on how the U.K. system should be changed, at a seminar in London earlier this month.

The U.K. government is reviewing the current system whereby employers liability cover is compulsory (*BI*, June 9).

A fall in the number of U.K. insurers offering employers liability coverage—which is mandatory to cover employee injuries and illnesses in the United Kingdom—has left risk managers with fewer providers to choose from and facing rising premiums, according to Peter

Berring, group risk manager at Basingstoke, England-based De La Rue P.L.C. Mr. Berring also is chairman of the London-based Assn. of Insurance & Risk Managers' environment and liability special-interest group.

The need for insurers to pay for past losses has also pushed up employers liability premiums, Mr. Berring told attendees at the seminar, which was sponsored by the London law firm of Davies Arnold Cooper.

"Most of us (risk managers) have seen an increase in employers liability premiums that has been significant," Mr. Berring said.

But a labor leader argued that employers still pay too little for employers liability coverage and that there is overcompetition in the in-

surance marketplace.

Owen Tudor, head of the European Union and International Relations Department at the London-based labor union the Trades Union Congress, said the fact that employers liability insurance is a legal requirement in the United Kingdom actually brings the cost of premiums down "because those who are never going to claim subsidize others."

If the cost of employers liability insurance were higher, Mr. Tudor suggested, then that would allow premiums to be more "risk-sensitive," and employers with good health and safety risk management would therefore pay proportionately lower premiums than those with bad records.

The issue of rising employers lia-

bility premiums affects large companies as well as small to medium-size enterprises, said Mr. Berring.

While premiums vary depending on the number of employees and the employer's perceived level of exposure, the minimum amount of coverage employers must purchase is £5 million (\$8.5 million).

Even if a large company can afford to pay its own employers liability premiums, it likely outsources some parts of its business to smaller subcontractors, which may in turn have difficulty affording their employers liability premiums, he said. If those subcontractors are not buying employers liability coverage and are therefore breaking U.K. law, this presents corporate governance problems for the larger company,

See **LIABILITY**/next page

World Updates

Converium sees big gain in profits

Converium Holding Ltd. has posted net income of \$128.9 million for the first nine months of 2003, up from \$26.0 million for the comparable period last year. Holding down profits last year was a \$59.6 million reserve increase in the third quarter. This year's third quarter also saw a reserve boost, with Converium increasing by \$14.3 million its reserves for guaranteed minimum death benefit business. The Zug, Switzerland-based reinsurer's gross written premiums were up 27.8%, to \$3.22 billion, for the first nine months of 2003. Net investment income at Converium, the former Zurich Re, dropped 7.7%, to \$177.2 million.

U.K. employers to stamp out bias

U.K. employers are taking steps to address age bias as the country prepares to adopt E.U. rules on workplace discrimination, according to the U.K. Department of Work and Pensions. The report found 67% of surveyed employers are aware that the government will introduce legislation outlawing age discrimination in the workplace by October 2006, and 57% confirmed that they avoid using age limits and age-related terms in job advertisements. In addition, 55% of respondents said they do not use age as a basis for layoffs. Nearly 1,200 companies of all sizes responded to the survey by the Bedfordshire, England-based Cranfield School of Management.

Munich Re opens doors in Chinese market

Munich Reinsurance Co. has officially opened an office in Beijing from which it will write Chinese reinsurance business. In June, Munich Re became the first foreign reinsurer to be granted a countrywide composite license to do business in China. Munich Re has had a representative office in Beijing and one in Shanghai since 1997.

If P&C spinning off marine, energy book

Stockholm, Sweden-based If P&C Insurance A.B. is selling its marine and energy business to a newly created company jointly owned by If P&C and Norwegian insurer Assuranceforeningen Gard for about \$30 million. If P&C will hold a 42% stake in the new company—Oslo, Norway-based Gard Marine & Energy—but will reduce this stake over time, the company said in a statement. If P&C's marine and energy business recorded gross written premiums of 2.5 billion Swedish kronor (\$324.7 million) for 2002.



The SARS respiratory illness outbreak in Asia caused losses for many businesses, and a large Hong Kong-based hotel chain recently reached a settlement of its claims with insurers.

Hotel chain to get payout for SARS-related losses

By GAVIN SOUTER

HONG KONG—Mandarin Oriental International Ltd. will receive \$16 million from its insurers to pay for business interruption losses suffered by the group's hotels in Asia as a result of the severe acute respiratory syndrome outbreak.

Mandarin Oriental hotels in Hong Kong, Malaysia, Singapore and Thailand all lost business due to cancellations and reduced local food and beverage sales stemming from the SARS outbreak, a Mandarin Oriental spokeswoman in London said.

The Hong Kong-based hotel group has received a \$2.5 million interim payment from its insurers, led by AIG Europe Ltd., a London-based unit of American International Group Inc. The company will receive an additional \$13.5 million from its insurers.

The spokeswoman would not disclose the amount of the claim Mandarin Oriental submitted but said that the hotel group was "very satisfied" with the settlement.

Although infectious diseases were covered in the company's business interruption policy last year, "it was not possible to maintain the same scope of cover when the insurance policies were renewed on July 1, 2003," John Witt, chief financial officer, said in a statement.

The SARS outbreak began in China late last year. The pneumonia-like virus spread rapidly in Asia, killing hundreds, reducing travel to several cities and causing the cancellation or relocation of several large events. Among the affected events was the Women's World Cup soccer tournament, which was scheduled to be played in China but was moved to the United States.

Insurers in the U.K. facing higher capital requirement FSA to implement E.U. directives

By NEIL HODGE

LONDON—Insurers in the United Kingdom may have to raise up to £4 billion (\$6.78 billion) to comply with two European Union directives that come into effect in 2005, according to the country's financial services regulator.

The Financial Services Authority and rating agencies say the directives and the capital increases should help strengthen the insurance market in the United Kingdom, but some insurers fear that the capital-raising requirements will be too onerous.

Last month, the FSA published a consultation paper outlining how it proposes to fully implement the European Union's Financial Groups Directive, which was published in December 2002. The directive is intended to ensure that financial groups, including insurers, hold sufficient capital on a groupwide basis to support the risks they are underwriting.

The measure sets out minimum group capital levels and aims to eliminate "double-counting" of capital in subsidiaries, whereby the capital of a subsidiary is included in the subsidiary's accounts as well as the group's accounts.

According to the FSA, the directive should help ensure that subsidiaries of a group will be less exposed to problems with other units within the group, as the group itself will be adequately capitalized. The measure will also help protect the reputation of individual group companies if affiliated companies suffer problems, the FSA says.

The FSA also made clear that through its implementation of another directive, the Insurance Groups Directive, insurers that are

not part of larger financial groups will have to meet similar capital requirements as those insurers that are part of more diverse financial groups.

According to the FSA, the 90 U.K. insurers affected by the directives will collectively have to raise about £4 billion to meet the new capital requirements. The annual cost of maintaining the additional capital will be an estimated £134.3 million (\$227.7 million) a year, the FSA said.

A spokesman for the FSA said that the directive "should mean that there is more transparency about the reporting process and that we are more easily able to analyze the information reported in a more efficient and effective way, and that comparison and manipulation of the standardized results will be relatively straightforward."

David Laxton, director at Standard & Poor's Corp. in London, said, "In general, all ratings agencies will welcome this move to better financial transparency."

"The only real way that you can give a fair rating of a subsidiary is to look at the financials of the group as a whole, so any initiative that follows that direction is to be welcomed," Mr. Laxton said.

But the industry is wary of being forced to raise capital for compliance issues.

The proposals could impose a massive cost on many insurers, particularly the larger ones, "when the industry is just beginning to recover from a slow market," said an executive at an insurer who did not want to be named.

A spokeswoman for the Assn. of British Insurers said, "From the consultation paper, we think that the

See **FSA**/next page

Liability: Cost debated FSA: Capital needed

Continued from previous page
he explained.

Another pitfall of the current U.K. system of compensating injured or sick employees is that the majority of legal costs go to lawyers rather than the employees, according to Mr. Berring.

"That says to me that the tort system isn't the best way to compensate injured employees," Mr. Berring said.

David McIntosh, senior partner at Davies Arnold Cooper in London, agreed that the proportion of legal costs that goes to lawyers is too great. "It makes us lawyers look like vultures," he said, "but we have to work with the tort system we have; we didn't choose to be adversarial litigators."

One solution to the problems being experienced in the United Kingdom's employers liability market would be to switch from a tort-based system to a no-fault system of compensation, Mr. Berring proposed.

Such a system would be similar to the U.S. workers compensation system, though speakers stressed that they would try to avoid some of the problems of the U.S. model, including high costs.

This would ease the situation for underwriters, he argued, because there would be defined levels of compensation, making the risk far more identifiable. Currently, awards are set by courts and can vary greatly, he pointed out.

Switching to a no-fault system would cut back on the time currently spent working out who should compensate the employee and by how much, he said, meaning that employees would get compensated more quickly than under the present system.

The current tort system creates an adversarial situation between employer and employee, Mr. Berring said. Injured or ill employees may

be encouraged by their legal advisers not to talk to their employer during the legal process. This makes it more difficult for risk managers to assess the causes of the employee's injury or illness and also makes rehabilitation more difficult, he said.

A system in which there is no apportionment of blame, such as a workers compensation-style arrangement, provides a better starting point for employers and employees to work out a rehabilitation program, he said. "The enemy is the accident because it is a no-fault system," he added.

Mr. Tudor, on the other hand, said he did not believe that a "no-fault" system would solve the perceived problems in the employers liability market.

"I think it is not a no-fault system that we need but a system whereby we don't discuss fault," he said. Instead, employers and employees involved in a dispute should begin talking earlier to sort out appropriate medical costs, he said.

The United Kingdom needs more and better rehabilitation for injured or sick employees and faster, lower-cost litigation, he said.

At the end of its review of the employers liability market, the government will likely stick to its "polluter pays" principle and will not step in to provide some form of government relief for employers, according to Davies Arnold Cooper's Mr. McIntosh.

"I think self-help is the answer," he said. "As insurance becomes unaffordable, there will be an increase in captives; we think that is going to be a growth industry."

Mr. McIntosh said that if companies are able to afford to set up a captive, or have an existing captive arrangement, then self-insuring employers liability coverage could enable them to avoid the high costs and perceived lack of competition in the insurance market.

Continued from previous page

FSA's figures are based on a lot of assumptions which may not be realistic. Our members are certainly concerned about an annual compliance figure of £134 million per year on

top of other regulatory and operating costs."

The FSA spokesman said that the combined figure of around £4 billion was "not so large when seen in the context of how much firms can

raise." He pointed out that several insurers have recently raised new capital to help bolster their balance sheets and fund expansion. Royal & SunAlliance Group P.L.C. raised £960 million (\$1.63 billion) in a rights issue last month, and Aviva P.L.C. raised £1.6 billion (\$2.71 billion) from a subordinated debt issue in September.

Survey: Terrorism market poll

Continued from page 3

slated to begin this week and last through Feb. 15, 2004. Subsequent surveys are planned for April through June 2004 and January through March 2005.

"The actual number that will go out is not known," said Mr. Warshawsky. He said Treasury has set a response target that he can't reveal.

He said participants will receive a letter that announces the survey, then a follow-up with a paper copy of the survey itself. He added that there's a possibility that participants will be able to answer the questions at a Web site.

Mr. Warshawsky stressed that all information will be kept confidential. It is "extremely important" that all identifying information be scrubbed. Some companies will view the information requested as "extremely sensitive," he said.

"We will see the results that we need to see in terms of the overall condition of the market," he said.

"It's ideal for the study to be as representative as possible," Mr. Warshawsky said. Treasury wants companies to respond even if they are not purchasing terror risk insurance. "We want to know why they're not doing it," he said.

Risk managers, insurers and reinsurers all welcomed the survey.

"Obviously, it's important to us because the window of time is getting narrow" in regard to whether TRIA will continue, said RIMS' Mr. Ewing, who is executive director-

risk management for Park Place Entertainment Inc. in Las Vegas. "The input of risk management professionals will be critical as to how this risk will be evaluated, insured or financed. RIMS also wants to make sure that we have a seat at the table and not just carriers," he said.

As the surveys arrive, RIMS will be sure that any member who receives one realizes that he or she is becoming "a bellwether in regard to the future of this coverage," he said.

"Our hope is that the final product is something that is useful in analyzing availability in the private terrorism insurance market and in the context of TRIA," said J. Stephen Zielezienski, vp and associate general counsel of the American Insurance Assn. in Washington. "Hopefully, that will help the government and the industry decide the level of federal involvement that's necessary to insure that terrorism risk is adequately managed."

"Clearly, everybody will benefit from clearly understanding the insurance marketplace in the real world, so the survey would appear to provide Treasury and the rest of us with insights about what's going on out there in the terrorism marketplace," said Franklin W. Nutter, president of the Reinsurance Assn. of America in Washington. "My hope, like others, is that this will be part of an effort by Treasury to truly evaluate the program."

"We all—I mean government, public policymakers, the industry

and buyers—are going to be faced with the question of whether TRIA should be continued or modified or sunset. Therefore, a baseline study and a continuing survey" should be very influential, Mr. Nutter said.

He noted that though producers are not included in the survey, the Washington-based Council of Insurance Agents & Brokers has been asking members about the terrorism market as it conducts its commercial insurance market surveys.

"We've been working closely with Westat to make sure that the survey asks the right questions and hits the right people," said Coletta Kemper, the CIAB's vp-industry affairs. "We think it's a very valuable study. We think it's important because we already do a study of the brokers. It's important that the companies and buyers be surveyed because it's important to find out what they're thinking. The brokers are an important part of that, and the Council has surveyed them on that issue over the past year."

"It's possible there will be survey of brokers in the future," she said, adding that not surveying brokers in this effort does not mean there will be a "hole in the information."

Mr. Warshawsky said that Treasury expects to receive the first round of results next spring. That "doesn't necessarily mean that those will be made public" immediately, though, because the second round will be carried out so soon after the first round, he said.

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28th RIMS Canada Conference

Frequency, severity of claims hike D&O pricing

By JOANNE WOJCIK

VICTORIA, British Columbia—Officers of publicly traded companies must prove they are living up to the spirit and not just the letter of new corporate governance laws to avoid being sued and to get good terms on their directors and officers liability insurance, an underwriter says.

Legislation such as the Sarbanes-Oxley Act in the United States and a similar bill in Ontario, where the Toronto Stock Exchange is based, may eventually help. But, in the near term, such legislation still has not reduced the frequency of litigation or the size of settlements, which doesn't bode well for the future, said Hano Pak, Canadian regional manager, major corporations, in the management liability division of American International Cos. in Toronto.

"Good governance is not just adopting key elements of the law...or having implemented the governance practices being required, such as establishing conflict-of-interest policies, expensing stock options or separating the functions of the chairman and CEO positions and having an independent board," he said.

"Independence is certainly important. Directors need to be more than simply independent, however. They need to ask questions. They need to challenge management when something does not seem right," Mr. Pak told risk managers. He spoke at a session titled "Life After Enron: Effective Risk Management Under the New Corporate Governance Standards," held during the 28th RIMS Canada Conference. The Canadian arm of the Risk & Insurance Management Society Inc. sponsored the conference, held Oct. 19-21 in Victoria, British Columbia.

"You can be, by all definitions, independent as a director, but what tends to happen is, there's a lot of

personal relationships with management that develop. This can blur the independent director's judgment," Mr. Pak said.

Furthermore, all the focus on corporate governance today is actually creating a distraction from the day-to-day operations of companies, which could ultimately prove to be detrimental, he warned.

"What's a shame is that a lot of these companies are now viewing it as merely an expense" and are passing on those costs to their customers, Mr. Pak said.

But companies that cannot afford the expenses are likely to "significantly minimize them in order to protect the firm's bottom line, and this is actually going to happen to a lot of smaller companies that don't have the resources," he said.

As a D&O underwriter, Mr. Pak said he is concerned that too many companies will be lulled into thinking they have good corporate governance simply because they've followed the letter of the law. But if they also aren't living up to its spirit, "this is likely going to result in futurizing loss costs for the D&O industry," he said.

"The D&O industry cannot just rely on external corporate governance rating agencies to assist us," he said. "Though we applaud the efforts to enhance the standards, the risk of corporate governance that is being passed on to the D&O industry is the risk of execution."

"Although companies may subscribe to all the best governance processes, history has repeatedly demonstrated that these processes can be easily circumvented," Mr. Pak said. "Ultimately, as an individual, if you want to commit fraud, you're always going to commit it."

In fact, "even with Sarbanes-Oxley put in place, it hasn't changed the frequency, it hasn't changed the severity, of the claims that we're currently facing in the D&O mar-

ket," he said.

And if the impact of Sarbanes-Oxley is anything like that of the Private Securities Litigation Reform Act of 1995, which was expected to set a higher standard for shareholders to meet in bringing suits against corporate directors and officers, it could potentially increase filings, he said.

After that law was implemented, securities litigation dropped briefly in 1996, but in 1997 "we started seeing dramatic increases in securities litigation once again," he said. In fact, shareholder class actions increased 120% from 1996 to 2002, he added.

"We had 127 shareholder class actions in 1996, and in the first six months of 2003, we've already had 110," he said.

At the same time, Mr. Pak noted, settlements also have skyrocketed, growing from an average in 1996 of \$6.9 million to \$27 million in late June 2003.

If any one of three factors—accounting issues, accounting irregularities, or restatements—is present, the average settlement value increases by about 20%, he said, adding that the risk of restatement has increased 194% over the past six years. Today, nearly 15% of all publicly traded companies restate their earnings, he said.

And while larger companies have been the predominant target of securities litigation in recent years, the trend is beginning to change, according to Mr. Pak, and midsize and smaller companies are now on the radar screen of the plaintiffs bar.

"What's going to happen is some of these smaller firms are going to have greater difficulty meeting Sarbanes-Oxley with the costs being incurred, so, therefore, there's going to be weakness in the defense at a lot of these smaller companies for not having implemented everything with regard to corporate gov-

ernance," he said.

All of these trends translate into a 640% increase in loss costs to the D&O insurance industry, from \$759 million 1996 to \$5.6 billion in 2001, he said. And industry loss costs in 2002, estimated at \$10 billion, are more than five times the 2001 premium. In addition, the combined ratio for the industry of 150% in 2001 is expected to deteriorate even further in 2002, Mr. Pak said.

Until the frequency and severity of these claims fall, pricing of D&O liability insurance will continue to rise as insurers attempt to recoup their losses, he forecast.

"If we're not making a dollar on this product line, there's going to be

no D&O product," he warned. "The reality is we won't be around much longer if this continues."

Other speakers at the corporate governance session included Catherine Richmond, vp and Western region executive risk practice leader at Marsh Canada Ltd. in Vancouver; Maura McCourt, manager, insurance risk at TransCanada PipeLines Ltd. in Calgary, Alberta; Michael Zuckerman, vp of Aon Risk Services in Philadelphia; and Kim Hogrefe, worldwide specialty claims manager at Chubb Corp. in Warren, N.J.

Charles E. Parker, risk and insurance specialist at Aliant Inc. in St. John's, Newfoundland, moderated the session.

28th RIMS Canada Conference

Rain proves educational

VICTORIA, British Columbia—Despite inclement weather, more than 1,000 risk managers and insurance industry exhibitors attended the 28th RIMS Canada Conference. The Canadian arm of the Risk & Insurance Management Society Inc. sponsored the conference, held Oct. 19-22 in Victoria, British Columbia.

The attention of attendees in seminars addressing risk management issues often drifted as torrential rains pounded the roof of the convention center at the Fairmont Empress Hotel. In some sessions, it became part of the presentation, with risk man-

agers discussing that and other natural catastrophes.

Rainfall during the meeting was described as the heaviest in 100 years, with 5.3 inches falling on the British Columbia capital city on one day of the conference. Elsewhere in the province, flooding destroyed roads, bridges and displaced hundreds of people and caused at least two deaths.

Next year's meeting is scheduled for Oct. 2-6 in Winnipeg, Manitoba. For more information, contact Rick Lee, conference coordinator, by telephone at 800-667-9220 or by e-mail at RIMS2003@sinfonia.com.

Blues: Plan features customized cover

Continued from page 4

plan with a greater cost-sharing component, which will cost less than other designs. Such employees can then accumulate funds in their accounts to pay for uncovered expenses, such as a medical emergency.

Another factor behind the plan was the desire to make employees more aware of the cost of health care and how much their employers spend to provide the coverage. With the Freedom Account, employees know exactly what their employers are contributing, as well as how plan design affects costs.

"Employees see the value of the plan" and are more aware of costs, Mr. Allen said, adding that most employees now do not know how much their health care plan costs.

Benefit experts agree that choice is important in health care offerings.

"One plan is not going to satisfy everyone. Some employees are risk-adverse and others are not," said Ed Kaplan, a senior vp in New York with The Segal Co.

"I think choice is good. You pur-

chase something that fits your needs," said Tom Billet, a consultant with Watson Wyatt Worldwide in Stamford, Conn.

Others welcome the plan as a hybrid, combining elements of the consumer-driven model with conventional cost-sharing arrangements with which employees may be more comfortable.

"I give them credit for innovation. They are creating some new models for the health care community to look at," said Will Sneden, a consultant in the Charlotte, N.C., office of Hewitt Associates Inc.

A key to whether the plan is successful will be the accuracy with which the Blues set premiums, experts say. With a range of options offered, the likelihood of adverse selection increases, with potentially the least healthy employees opting for the richest coverage, said Joe Lineberry, a senior vp in the Winston-Salem, N.C., office of Aon Consulting.

"You have to be very careful in pricing plans," Segal's Mr. Kaplan said.

Mold: More problems up north

Continued from page 3

of close it off and come back five years later. The wood is going to have mold," he said.

But it is not just vapor barriers that allow mold to grow, said David Beal, risk manager of the Ontario School Boards Insurance Exchange in Guelph, Ontario.

"Every structure that we manufacture or build is a target for mold to grow. And once you introduce humidity or moisture into the equation...then the growth cycle is enabled to begin," Mr. Beal said.

The insurance exchange was among the defendants in a \$2 billion class-action lawsuit that made it all the way to Canada's Supreme Court. The case was dismissed in November 2000 when the court said plaintiffs lawyers failed to meet the requirements to establish a class.

Five years ago, Mr. Dolden said, he did not have a single case involving mold.

"We have opened since Jan. 1 of this year 21 files where the claim concerns totally mold, but, in a wider perspective we've got institutional buildings where the substance of the claim is mold or there are coverage issues relating to mold," he said.

In addition, Mr. Dolden said, "in the last four years, we have seen in British Columbia 675 condominium buildings who complain of water ingress, 275 of which have been retired at mediations, only one of which has gone to trial in part."

Previously, policyholders could be compensated for losses if mold prevented them from using a building or lowered its value. But now, Mr. Dolden said, some mold losses are excluded from policies under asbestos exclusions that have been included in policies over the past several years.

"If someone says they have mold in their building and it's not actual-

ly rotting the wood timbers, causing bodily injury, you're probably not going to get a defense if the trigger is physical injury to tangible property," he said.

Despite the exclusions, though, policyholders may have insurance coverage for mold claims, Mr. Dolden said. In many of the lawsuits in British Columbia, plaintiffs lawyers are arguing "that the mold is jeopardizing the physical integrity of the wood frame members, or they will say that the mold is causing bodily injury," he said.

As a result, Mr. Dolden said, property owners, managers, contractors and others sued in connection with mold contamination may still find some coverage in CGL policies that limit coverage to "physical injury to tangible property."

Lesley Cohen, risk manager of the Coachella Valley Water District in Coachella, Calif., moderated the session.

FERMA Risk Management Forum 2003

Market spurs increased interest in captive insurers

By RODD ZOLKOS

ROME—Captive insurance companies are increasingly becoming the backbone of corporate risk financing programs, one risk manager says.

Matthew McEwan, group risk manager for Novar P.L.C. in London, made that observation in moderating a panel on captive developments last month at the Federation of European Risk Management Assns.' Risk Management Forum 2003 in Rome.

"The thing we've noticed since Sept. 11 is the renewed interest in captives," said Frederick Gabriel, senior vp at Marsh Management Services in Luxembourg. In many cases, companies are using their captives as a vehicle for assuming the larger retentions in their property insurance programs, Mr. Gabriel said.

"Basically, it's difficult to find insurance, it's difficult to find capacity and I guess that's the reason captives are seeing interest today," he said.

Mr. Gabriel said he also is seeing an increase in the use of European captives to cover workers compensation and employers liability risks. In addition, accident and health is a natural area for captives, he said. Other areas where Mr. Gabriel sees potential for captives are financing losses from corporate fraud, weather risk, terrorism, product contamination, future price of raw materials and residual value.

He said he's also seeing increased interest in industry pooling captives, such as the Bermuda-based mutual company announced in May by a group of seven European and U.S. pharmaceutical companies.

Geoff Taylor, director of risk management for the European, Middle East and Africa region for Nike in Hilversum, Netherlands, noted that his company, based in Beaverton,

'The thing we've noticed since Sept. 11 is the renewed interest in captives....Basically, it's difficult to find insurance, it's difficult to find capacity and I guess that's the reason captives are seeing interest today.'

*Frederick Gabriel
Marsh Management Services*

Ore., formed a captive in Hawaii in 2000 and is studying the feasibility of a European captive.

"Direct writing is a key issue," Mr. Taylor said. The European captive also would provide an internal risk financing vehicle. "The captive would enable us to smooth premiums on the working level," he said.

A European Nike captive conceivably could be used for international property and casualty coverage, to cover credit risks and to cover specialty exposures such as bonuses for athletes signed to endorsement contracts, Mr. Taylor said.

Alain Lagesse, director of insurance and loss prevention at Pechiney Group in Paris, said his company has a reinsurance captive in Luxembourg that has at various times underwritten property, casualty and transportation exposures, as well as employee benefits.

The company also has a Vermont captive "which we're in the process of looking to re-activate," he said. The Vermont captive would be used to finance U.S. workers compensation programs.

The company would like to craft a property deductible buy down program through its captives, but because of premium taxes in France, frictional costs associated with doing so would be close to 50%, Mr. Lagesse said. "So we're a little bit stuck on the property deductible at the moment," he said. "We're looking at some inspiration on how to deal with that."

Praveen Sharma, senior consultant at Aon Corp. risk financing consulting unit IRMG in London, said the International Accounting Standards Board has moved forward "a huge amount" toward standardizing accounting regulations for European Union captives and insurers, though full implementation of new

regulations is years off.

But companies will have to prepare themselves to deal with the changes, Mr. Sharma said. To do so, they will need technical expertise and training, sound risk management and appropriate information technology systems.

"On the accounting side, you have to look at the insurance contracts that you're entering into in January 2004," Mr. Sharma said. Companies must ensure those contracts provide adequate risk transfer and that any financial deposit elements are sufficiently minimized if the contracts are to be treated as insurance.

Also, to meet E.U. requirements that companies with global insurance programs pay allocated premium taxes in countries where they have operations, "You need a robust allocation methodology to ensure that you're calculating premium taxes correctly," he said. "I'm confident not a lot of you are paying the right amount of premium tax in the right jurisdiction," Mr. Sharma said.

The accounting and tax issues won't invalidate captives as a risk financing option, Mr. Sharma said, just make it more necessary that risk managers and their companies determine properly how they meet insurance needs and fit into insurance programs.

And, he added, "You should not be considering or not considering a captive just because of regulatory, accounting or tax reasons."

Information: Drives market

Continued from page 4

the market is and how we look against that market," said Peter Berring, group risk manager at De La Rue P.L.C. in Basingstoke, England.

"We need to look at where we fall outside of the parameters of the standard market," Mr. Berring said. "It's important to recognize where the limits are, what they are and how they fit within the needs of your company."

Risk managers must understand their companies' loss profiles and what the real catastrophic impacts on their companies are, the risk manager said. They also must identify where their risks really are. "The fact that you don't have an operation in a country doesn't mean you don't have a risk there," Mr. Berring said.

Mr. Berring called the area of determining the company's risk appetite "an exciting one, and not one where you will agree with your finance director straight away." He suggested risk managers think in terms of how their boards would react to hearing, "We have no insurance."

"What areas would they say, 'That's fine; we can continue doing business as we always have,' and which areas would they say, 'I want to see every single thing you do before you make a decision'?" Mr. Berring asked. Such an approach, he said, will help a risk manager identify areas that are critical to the company's survival.

And while a hard market may make it a tough time to be a risk manager, the current market may also provide some of the best opportunities risk managers have faced for developing forward-thinking programs, Mr. Berring said.

There's no question that the current market

is driving more and more insurance buyers to move to alternative approaches such as captives, Mr. Malloy said. But, in doing so, it's critical to make an appropriate determination of "how much to retain and how much to insure," he said. And, he cautioned risk managers, "if you're putting a captive in place, it's pretty important that you understand whom you're reinsuring it to."

Thomas Holzheu, senior economist at Swiss Reinsurance Co.'s economic research and consulting unit in New York, said the biggest problem for most insurance companies is that their insurance business isn't profitable. With

investment returns down, everyone is looking for underwriting gains, he said.

Despite talk of "the end of the hard market," Mr. Holzheu said, "in most lines, rate levels are still going up." At the same time, exposures also

are increasing, he said. "We see an increase in frequency and severity," Mr. Holzheu said, citing such areas as catastrophe, directors and officers liability, errors and omissions, asbestos, medical malpractice, product liability and tobacco.

"The industry has achieved a fast turnaround of underwriting profitability, but investment returns are still low and exposures continue to grow with rising litigation costs and problem losses," the Swiss Re economist said.

Mr. Malloy said that though he's beginning to see classic signs of a softening market, "2004, I think, will be not all that different from 2003 because I don't think the industry can afford to make a sea change at this point."

Daniel Zimmermann, head of corporate risk management at Unaxis Group in Pfäfers, Switzerland, moderated the session.

'The fact that you don't have an operation in a country doesn't mean you don't have a risk there.'

*Peter Berring
De La Rue P.L.C.*

Responsibility: Companies paying more attention

Continued from page 4

count of them," Mr. van Santen said. "We need to anticipate where these may create problems and how they can be managed, but risk management also means more than this. It means working with our enterprises, with our suppliers and other stakeholders who share our views to add value."

Investors are increasingly looking at companies' ethical and socially responsible records when making decisions, according to Nicole Notat, founder and chief executive officer of VIGEO, a French rating agency that analyzes the corporate social responsibility of businesses.

And the actions of nongovernmental groups and pressure groups as well as the views of shareholders, clients and employees are having an effect on companies' decision making, she said.

New risks such as social reputational factors are driving more companies to consider the value of CSR, said Ms. Notat.

VIGEO will analyze about 600 European companies' socially responsible performance in 2004, she said.

The ratings awarded by VIGEO are useful for companies that practice a program of CSR and want to prove the worth of that program, become more transparent, use CSR in their communication strategies and ascertain the real level of social responsibility they have within their organization, explained Ms. Notat.

It is also useful for investors who, increasingly, choose their portfolios taking into account factors such as CSR, she added.

When assigning a rating, VIGEO looks at factors including human rights at work, such as anti-discrimination policies; human resources functions and the degree to which these take on the needs of employees; the way the company's supply chain is organized and

the relationships a company has with its suppliers; the corporate governance of the company; and the company's involvement with its local society and the local environment, among other things, Ms. Notat said.

Mr. Giraud told attendees that, in 2001, Danone faced an image crisis in France when it made the decision to close a number of cookie-producing factories after its acquisition of the baking company LU.

After the LU acquisition, Danone management considered that the company had too many factories in Europe and decided to close five of them, he said.

But this decision met with opposition among some sections of the French population, and a boycott of the company's products was led by a trade union, the Confederation Generale du Travail.

Danone was also the target of demonstration by anti-globalization groups, Mr. Giraud said.

But by instituting its CSR program and communicating with investors and the public, Danone was able to recover its brand reputation, he said.

The company has a worldwide policy known as "The Danone Way," he explained. This program encourages management in Danone's offices across the world to make business decisions that take into account the society in which they operate, he said.

While some risk managers are still not involved in CSR programs, they should begin looking at it in a proactive way rather than a reactive one, Mr. van Santen told delegates.

He likened the need for companies to address CSR to the trend among them regarding corporate governance that has been seen of late. A few years ago, he said, some risk managers had a "who-cares" attitude toward corporate governance, but now they all want to be "champions of corporate governance."

Fires: Insured losses could top \$1 billion

Continued from page 1

costliest wildfire catastrophe insured loss event for the property/casualty industry," according to Chicago-based Fitch Ratings. Fitch estimated that insured losses from the fires could range from \$500 million to \$1.25 billion.

The 1991 Oakland Hills wildfire is the most expensive fire in California history, not counting the fires that followed the San Francisco earthquake of 1906. In October 1991, the Oakland blaze destroyed 2,900 homes and caused about \$1.7 billion in insured losses, according to the Los Angeles-based Insurance Information Network of California.

Several commercial lines insurers said homeowners and personal auto insurers would see the bulk of claims. Large personal lines insurers in Southern California typically reinsure their exposure for earthquake losses but retain much of the risk for fire losses.

"It's going to be a loss borne by the primary carriers," said David Priebe, managing director for Guy Carpenter & Co. Inc.'s specialty practice group in New York.

The Los Angeles-based Insurance Information Network of California on Friday confirmed that 5,135 claims had been filed so far for home, auto and commercial losses.

The fires have burned for nearly

two weeks, and have caused at least 20 deaths while forcing the evacuation of about 100,000 residents. An estimated 750,000 acres—an area about the size of Rhode Island—have burned.

President Bush declared a disaster area in four California counties—Los Angeles, San Bernardino, San Diego and Ventura counties.

For the most part, the fires have moved through rural canyon and mountain areas, engulfing homes away from major population, manufacturing and business centers, noted Paul Budde, manager of a catastrophe modeling team for reinsurance intermediary Benfield Inc. in Minneapolis.

As of last Thursday, Mr. Budde estimated that about 2,600 homes had burned, but he expects that number to climb as the fires continue.

Along with homes, the fires also have destroyed a number of small businesses, including the office of a San Bernardino County insurance agent representing Bloomington, Ill.-based State Farm Mutual Auto Insurance Co., according to the insurer.

San Diego-based Cubic Corp. expects to file property damage and business interruption claims after the air quality in its facilities deteriorated, forcing it to shut down for

more than a day, said Dominic Zullo, director of insurance and risk management for the defense contractor and manufacturing company. Cubic's air conditioning system sucked in soot and ash from the Cedar fire, which at one point covered a 100-mile-long area.

Last week, the Property Claim Services unit of Jersey City, N.J.-based Insurance Services Office Inc. declared the Cedar fire a catastrophic loss, indicating that insured losses would exceed \$25 million and had affected a significant number of policyholders. PCS last week also declared the Old fire burning in San Bernardino County a catastrophic loss.

The Cedar fire burned part of Cubic's property, located alongside a canyon that was ablaze. It destroyed a wooden tower used to test equipment and blackened part of a building housing "very expensive" electronic equipment, Mr. Zullo said.

Firefighters saved the building, but while the damage was "minor" it was "enough to trigger coverage under the property policy," he said.

Mr. Zullo said that most of the risk managers he knows in the San Diego area had been spared damage as of last week.

By midweek, few California clients of Marsh Inc. had reported

substantial commercial property damage, said Paul McVey, property claims practice leader for Marsh in New York.

However, he said that clients were weighing whether conditions associated with the wildfires might trigger business interruption claims under policy provisions for service interruptions, civil authority and ingress/egress issues.

The closure of several freeways disrupted their business operations, Mr. McVey explained.

Northeast of Los Angeles, one fire temporarily stopped freight trains running along a major rail line that carries cargo from the Port of Los Angeles to other states.

About 80 Burlington Northern Santa Fe Railroad trains backed up, a spokeswoman for the Fort Worth, Texas-based company said. Meanwhile, the railroad deployed water trucks to fight the fires and protect its property. The railroad also called in employees who normally work in other areas to fill in for workers living near the fire.

"We do have contingency plans, but I don't think any of us have ever seen it this bad in relation to a fire," she said.

In the San Diego area, many business shut down after Mayor Dick Murphy asked residents to stay home.

San Diego-based Qualcomm Inc. remained open but gave employees the option of staying home to handle emergencies, said Lyn Hall, Qualcomm's environmental health and safety manager. "Just judging by the traffic, it appears lots and lots of places closed because we were asked to do so by the mayor," Ms. Hall said.

The fire also caused the San Diego Chargers to move a "Monday Night Football" game against the Miami Dolphins to Tempe, Ariz. The team handed out free tickets in Arizona and asked for donations for a relief fund.

The team said it would give refunds to ticketholders in San Diego. A Charger spokesman could not say whether the team has insurance for ticket refunds or lost revenues from concessions and parking.

Commercial lines broker Sullivan Curtis Monroe had received only a few claims as of last week, said Sam Boyer, vp of claims in Pasadena, Calif.

A golf course, for example, suffered property damage and business interruption after firefighters used its parking lot for a staging area, he said. Helicopters landed on its fairways to take on water used to douse flames.

"Even if the golfers had wanted to play, they wouldn't have been able to," he said.

Another client, an insured avocado orchard, also reported damage, Mr. Boyer said.

Virus: A big threat to many businesses

Continued from page 3

terrorist coordinator for the U.S. Department of Justice who now heads the business continuity and security practice at the law firm of Wildman, Harrold, Allen & Dixon in Chicago.

Whereas the Morris worm, one the earliest Internet viruses, affected roughly 6,000 computers in 1988, "now when computers are hit with a virus, it turns out to be hundreds of thousands of systems that are affected, and the ability of those systems to communicate with other systems as well. So the stakes are dramatically different," Mr. Cook said. "E-commerce is now a critical part of the U.S. economy."

Unlike natural disasters that occur rarely, "this is real, and this is happening every day," warned Jeff Grange, senior vp at Chubb Specialty Insurance in Warren, N.J. "If one employee opens that JPG file on an e-mail attachment, you're shut down. Think about that."

Unfortunately, "most risk managers haven't applied the traditional risk management model to their IT risks," Mr. Grange said. But "this is going to be the risk management problem all of us are going to have to confront in the next 20 years," he said. "This is the future of risk."

While most risk managers acknowledge that viruses pose risks to their organizations, most of them turn mainly to IT departments for protection.

For example, Walnut Creek, Calif.-based Westaff Inc., has a secure backup data storage facility

that is 90 miles away from its headquarters with a firewall comparable to "the inner wall of a castle in medieval times," according to Jeff Pettegrew, vp of risk management and insurance at the temporary staffing firm.

"It's as big a risk as a contaminant in one's product, especially if it impacts the customers of the company," Mr. Pettegrew said. "In our case, that would be our temp employees who are paid via the Westnet intranet network. If we don't pay them, in a matter of a day or two, we could be literally out of business."

But even the strongest of firewalls may not prevent system failures, technology experts warn, because the time between when a virus is announced and when Internet users become aware of it and can take action is becoming shorter with each release.

"The challenge with viruses and worms right now is the time between the announcement of the exploit and the release of an actual attack is compressing very dramatically," said William Boni, vp and chief information security officer at Motorola Inc. in Chicago. "It was over 300 days between Code Red and Nimble vulnerability until actual exploit, and with RPC Blaster, it was roughly 25 to 30 days."

Code Red and Nimble were announced the week after the terrorist attacks of Sept. 11, 2001, while news of RPC Blaster came in September 2003.

The near-universal adoption of a

single software platform—Microsoft Windows—makes Internet users more susceptible to sabotage, technology experts warn, because the vast majority of viruses and worms have been directed at that particular operating system.

In fact, after the Sobig attack, the Redmond, Wash.-based software was hit with a lawsuit in California accusing it of failing to provide consumers with adequate warning and protection from attacks by computer viruses. Microsoft is denying culpability, asserting in a statement that it is "very committed to security."

It's not prudent for risk managers to rely on the judgment of their IT department managers, because they're not always objective, warned Mr. Cook.

"The risk manager's trying to make an overall assessment and see just how bad things may be, whereas the IT people are frequently motivated from the position that 'everything is just fine. We've exercised all the due diligence we're supposed to exercise. We've purchased all the right kinds of software. Trust us; this is our area of specialization.'"

Instead, Mr. Cook advises risk managers to seek an outside assessment from a network security firm.

That's what Rebecca Adair, risk manager at Iowa State University in Ames, is doing.

"I have been working to bring in an outside individual to help me and our IT staff look at our situation. This is the way I will learn,

and the department and I can then take the information they assist us in identifying and partner, where applicable, for risk management to provide assistance," she said.

And no matter how well companies protect themselves from infection internally, they also need to take precautions to ensure they do not inadvertently transmit viruses to others, thereby opening themselves to downstream, or so-called "conduit," liability, legal experts warn.

"There could be an argument that a third party is polluting my property when it transmits a virus into my system," said Rob Hammesfahr, a member of the law firm of Cozen O'Connor in Chicago.

Unfortunately, if a company faces such litigation, it won't be covered by traditional commercial general liability insurance, which now excludes computer risks, especially viruses. Likewise, first-party property policies don't cover business income lost due to software corruption because it doesn't meet the traditional definition of damage to tangible property.

"Generally, because primary carriers have said that data is not a tangible asset, any damage to that data is not a covered event," explained Tracey Vispoli, vp at Chubb Specialty Insurance.

In response to this gap in insurance protection, many insurers have introduced specialty products tailored to Internet-related risks.

American International Group

Inc. is the market leader in that area, underwriting nearly 75% of all cyber insurance policies issued to date, sources note. Other insurers include Chubb, ACE USA, Zurich American Insurance Co., Starr Excess Liability Insurance International Ltd. and the Beazley P.L.C. syndicate at Lloyd's of London.

But while there may be a market for cyber insurance, few risk managers are buying the coverage, industry observers say.

Mr. Boni of Motorola, for example, says he's looked at what's available in the market today and hasn't yet found a policy that would provide the scope of coverage needed for a Fortune 500 company.

"At least once a year, I'm talking to our risk manager and our brokers to understand what's available and whether it's to the point where we'd see the value for a company of our size," he said. "We have not found the current offerings to be attractive, because, given our loss experience so far, we'd prefer to spend our premium dollars on risk mitigation."

Others find the cost of cyber insurance prohibitive at a time when they're being forced by the hard market to pay so much more for their other coverage, according to Don Harris, broker of technology risk and financial services at Swett & Crawford Group in Irvine, Calif.

"You deal with budgetary constraints," he said. "A lot of times, they look at this as a discretionary buy. If they never bought it before, they see no reason to buy it now."

HMOs: Anthem, WellPoint to combine

Continued from page 1

Wisconsin, in addition to other operations.

For the 12-month period ended Sept. 30, the two companies had combined revenues of \$35.9 billion and a combined net income of \$1.6 billion.

Under terms of the merger, which is expected to close by mid-2004, WellPoint shareholders will receive \$23.80 in cash and one share of Anthem common stock for each WellPoint share. The new company will be called WellPoint Inc. and its headquarters will be in Indianapolis. Leonard Schaeffer, WellPoint chairman and chief executive officer, will serve as board chairman of the combined company, while Anthem Chairman, President and CEO Larry Glasscock will be the new company's president and CEO.

Anthem and WellPoint said they anticipate pretax synergies of at least \$50 million in 2004 as a result of the deal, about \$175 million in 2005 and annual pretax synergies of at least \$250 million to be fully realized on an annual basis by 2006.

Observers said they were surprised by the announcement, because both companies had been on the acquisition trail. But they noted both have been frustrated in efforts to acquire other privately held Blues plans.

WellPoint was unsuccessful in its \$1.3 billion offer to acquire Owings Mills, Md.-based CareFirst Blue Cross & Blue Shield because then-Maryland Insurance Administrator Steve Larsen rejected CareFirst's ap-

plication to convert to a for-profit insurer. Similarly, the Kansas Supreme Court blocked Anthem's proposed acquisition of Blue Cross & Blue Shield of Kansas.

Anthem and WellPoint could "leverage their size and technology and product and management teams, and ultimately they could potentially provide better products and services to employers and customers," said Diana Lee, health care analyst with Moody's Investors Service in New York.

"It's obviously a very good geographical fit," said Phyllis Yale, Boston-based vp with consulting firm Bain & Co.

The merger could make it easier for large employers with multistate operations.

"If they can piece together contiguous states, it provides some enhanced opportunity to go after multistate employers that are more of a regional nature," said Douglas L. Meyer, senior director at Chicago-based Fitch Ratings.

Observers say that while the Blue Cross & Blue Shield Assn. offers multistate employers nationwide coverage through its BlueCard program, this process would be more streamlined in states affected by the merger.

The merger "would provide another close-to-national solution" for large employers, who want options besides Aetna Inc., CIGNA Corp. and UnitedHealth Group Inc., said Dean Hatfield, regional practice leader for Mellon's Human Resources & Investor Solutions in New York. "They want a more seamless

solution, and this is getting closer and closer to that," he said.

The deal will make the combined entity a "real powerhouse," said John Fitzgibbon, Hartford, Conn.-based national insurance director-managed care for KPMG L.L.P. The combined company will be among the top two or three plans in all 13 states in which it operates "so they'll have significant market share in a significant part of the country," which will "make them more appealing to national account-type business," he said.

"You create a new, more national player, so as an employer, I would take this as pretty good news," said Bain's Ms. Yale. Anthem and WellPoint "are also among the best in terms of execution, good service and innovative products," which makes it an attractive proposition for employers, she said. "If I were an insurer, I'd be pretty worried about this. I think these guys are formidable," she said. "They're going to be more competitive."

Dave Morgan, managing director at the Richmond, Va., office of insurance brokerage Palmer & Cay, said Anthem's 2002 acquisition of Richmond-based Trigon Health Care Inc. "turned out to be good for our clients. There certainly were some economies realized in that merger, and no doubt there'll be some economies realized in this one in the states that these people cover. I think you're going to have pretty sophisticated programs with a lot of the resources to do a good job."

Lisa Gish, executive director of

the Evansville, Ind.-based Tri-State Business Group on Health, an employer group, was more cautious. "We would like to hold out some hope that a move like this would bring some financial benefits to us from a premium perspective, but...this is a for-profit deal, so we just don't know that will be delivered."

"It doesn't impact employers much. It doesn't impact providers much," said Brian R. Klepper, executive director of the Jacksonville, Fla.-based Center for Practical Health Care Reform. "There should be, theoretically, some streamlining that's available administratively, but even if there are savings associated with those, chances are those are not going to be returned to the

purchasers. These are for-profit organizations. They're in business to make money. They're going to return it to the stockholders."

Many observers say the integration is likely to go smoothly. Moody's Ms. Lee said: "Both companies have demonstrated their ability to integrate regional plans in the past. Obviously, this is of significant magnitude relative to the regionals they've been accustomed to integrate" but Moody's does not expect "any major hiccups in the integration," she said.

However, Richard Sinni, a managing director at PricewaterhouseCoopers HR Services in New York, said, "I think that it's going to be a challenge to pull it off successfully, and pull it off to the point they can integrate the organizations, develop the cost efficiencies that are necessary and have the organization function as one large entity."

UnitedHealth to expand with Mid Atlantic purchase

By JERRY GEISEL

MINNEAPOLIS—UnitedHealth Group Inc.'s proposed \$2.7 billion acquisition of Mid Atlantic Medical Services Inc. will give a boost to one of the nation's biggest managed health care plans in a part of the country where it has trailed other national and regional plans.

Benefit experts say Rockville, Md.-based Mid Atlantic, better known as MAMSI, is a logical fit for UnitedHealth.

MAMSI operates in Delaware, the District of Columbia, Maryland, Virginia, West Virginia and parts of North Carolina and Pennsylvania and with its strong provider network, especially in the Baltimore-Washington metropolitan area, it will bolster the appeal of UnitedHealth to big multistate employers, they say.

"MAMSI fills in the gaps for national customers of UnitedHealth that United has not been able to fill in the past," said Chris Mathews, health care practice leader in the Washington office of The Segal Co.

"MAMSI has a large presence in the Baltimore-Washington area, and United was looking for that. This helps United gain market share in an area where they were not the dominant player," added Cara Jareb, a consultant with Watson Wyatt Worldwide in Washington.

While UnitedHealth—with about 18 million enrollees—is currently the nation's largest health plan, it has trailed other national and regional plans in the mid-Atlantic states, benefit experts say. The acquisition of MAMSI, which has about 2 million enrollees in its HMO and PPO plans, makes UnitedHealth, which has about 1.5 million enrollees in the mid-Atlantic states, a more formidable competitor.

For national employers, "it injects more competition in the market," said Mike Bucci, a consultant with Mercer Human Resource Consulting in Washington.

Some say the transaction—result-

ing in a bigger, stronger UnitedHealth—could help restrain health care costs because United now will have more leverage in negotiating with medical providers.

"To the extent health plans have more power to drive the market, we are all better off. Right now, we are at the mercy of providers," said Helen Darling, president of the Washington Business Group on Health.

On the other hand, the MAMSI acquisition means there will be one fewer health plans for employers in the mid-Atlantic region to choose from. Even so, the remaining plans—including Aetna Inc., Anthem Inc., CIGNA HealthCare and CAREFIRST Blue Cross & Blue Shield—will ensure a healthy level of competition for employer business, she said.

"We still have a string of big players," Ms. Darling said.

Employers wary of HMO deals

By JUDY GREENWALD

Managed care companies' consolidation makes employers nervous. They fear the reduced competition that could result from mergers and acquisitions.

But they also acknowledge that larger companies can exercise more clout with providers.

The issue has received heightened attention in light of the planned merger of Indianapolis-based Anthem Inc. and Thousand Oaks, Calif.-based WellPoint Inc., which was announced the same day that Minneapolis-based UnitedHealth Group Inc. said it would acquire Rockville, Md.-based Mid Atlantic Medical Services Inc.

Most observers say the two announcements do not signal the start of a major wave of M&A activity, at least in part because few candidates remain.

It is coincidental that the deals were announced at the same time, said Shellie Stoddard, an analyst with Standard & Poor's Corp. in New York. "I think that mergers and acquisitions going forward will continue to be more opportunistic than really going for scale the way they really were in the '90s," she said.

Some employers are wary about

the acquisitions. The WellPoint-Anthem deal "would make one a little nervous about the lack of competition and how that is going to affect the price of services for the industry in the future," said Roxanne Sheppard, chief administrative officer of Richmond, Va.-based VBA Benefits Corp. VBA is a subsidiary of the Virginia Bankers Assn. that provides employee benefits to member banks.

"I'm looking at it with cautious eyes," said Becky Cherney, president and chief executive officer of the Orlando-based Central Florida Health Care Coalition and board chairman of the Washington-based National Business Coalition on Health.

"If the industry gets too consolidated, we'll suffer from a lack of competition," she said.

Lisa Gish, executive director of the Evansville, Ind.-based Tri-State Business Group on Health, an employer group, said, "The larger the plans, potentially the greater the leverage in the marketplace, but to date I don't know that we've necessarily seen the payoff on the employers' side from the mergers and acquisitions that have happened. We're still waiting."

Pointing to both the WellPoint-

Anthem and United-Mid Atlantic deals, Lynn Zehnder, Hoffman Estates, Ill.-based director of benefits strategy at Sears, Roebuck & Co., said: "The elimination of some competition in the marketplace certainly would be of concern, but on the other hand, if consolidation and mergers make for a better, stronger plan, then that could be a good thing as well. So I think we'll just want to take a little bit of time to see how it shakes out, gauge the impact, and go from there."

Each market should have at least two or three strong health plans, said Helen Darling, president of the Washington Business Group on Health. "We want them each, alone and together, to be strong enough" to deal with providers, she said.

"I do think the ultimate model is one where you have two or three plans with significant market share competition in every region," said Tom Beauregard, Norwalk, Conn.-based national practice leader for Hewitt Associates Inc. "And I think that's where we're headed, and that's a healthy, competitive model that presents the right leveraging opportunity with the provider community."

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Late News

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home exercise equipment if it is used to treat a physician-diagnosed illness



could make it possible for health flexible spending accounts to begin reimbursing participants for such expenses. Employers have the option of whether to allow such deductions, though, because they dictate plan rules, noted Helen Darling, president of the Washington Business Group on Health. Still, Ms. Darling said she was encouraged by the ruling because it targets obesity. Until this year, the IRS did not recognize obesity as a disease.

HSBC enters venture with Chinese companies

London-based HSBC Insurance Brokers Ltd. has entered into a joint venture with local companies in China to provide brokering and risk management advice to domestic and international clients in mainland China. HSBC will have a 24.9% stake in the new company, Beijing HSBC Insurance Brokers Ltd., which will focus on large commercial risks, reinsurance, international marine, aviation, transportation and health care business.

CIGNA posts nine-month profit

CIGNA Corp. reported profits of \$330 million for the first nine months of 2003, compared with a \$441 million loss in the same period

last year. The Philadelphia-based managed care company reported revenues fell 1.2%, to \$11.62 billion, for the first three quarters of 2003. Earlier this year, CIGNA warned it would post lower-than-expected profits for 2003 due to slower-than-expected progress in its efforts to improve its health care business. The warning came after CIGNA reported a \$398 million loss for 2002, largely due to charges related to life reinsurance contracts that are now in runoff.

Lloyd's places Goshawk syndicate in runoff

Lloyd's of London has put Goshawk Syndicate Management Ltd.'s multiline syndicate 102 into runoff. After discussions with Lloyd's, Goshawk agreed runoff was the best option, the company said. Earlier this year, Goshawk warned that the May 2003 failure of U.K.-based personal injury claims company The Accident Group would likely have an effect on the syndicate's legal expenses account. Goshawk acted as an insurer for some Accident Group customers. In addition, the syndicate's cargo account had also deteriorated.

Property rates drop in third quarter: Marsh

Commercial property rates declined by between 5% and 15%, on average, in the third quarter, according to an analysis by Marsh Inc. Prices are dropping because property insurers are looking to expand their market share and recent catastrophe losses have had little impact on rates or capacity, according to Marsh's "Insurance Market Report" for the third quarter.

Other lines continued to see rate increases, though, according to Marsh's analysis.

Aetna sees turnaround in nine-month results

Aetna Inc. reported profits of \$684.3 million for the first nine months of 2003, compared with a \$2.62 billion loss in the same period last year. The 2002 net loss at the health insurer stemmed in large part from a \$2.97 billion charge related to a change in goodwill accounting rules. Aetna reported nine-month revenues of \$13.4 billion, down from \$15.2 billion in the year-earlier period. This reduction reflects a 6.5% decline in commercial membership, to 12.8 million.

St. Paul net income rebounds in 2003

The St. Paul Cos. Inc. reported net income of \$609 million for the first nine months of this year, up from a \$26 million net loss during the comparable period in 2002. St. Paul's 2002 results included \$306.8 million in aftertax losses resulting from the company's asbestos claim settlement with Western MacArthur Co. The insurer reported total net written premiums of \$5.72 billion so far this year, down slightly from \$5.78 billion during the first nine months of 2002. The drop reflects lines of business the company has exited.

XL's nine-month profits more than triple

XL Capital Ltd. posted profits of \$716.7 million for the first nine months of the year, up from \$184.2 million in the prior-year period. The 2003 results included a \$184 million

pretax charge for adverse development on reinsurance business written from 1997 to 2000. In 2002, XL's nine-month results were hit by \$200 million in claims related to the Sept. 11, 2001, terrorist attacks and \$239.1 million in investment losses. Gross premiums for the nine months grew by 6.9% to \$7.47 billion.

Briefly noted

The U.S. Senate has unanimously approved legislation that would extend the **National Flood Insurance Program** through the end of 2004. The House of Representatives has yet to take up the NFIP reauthorization....The **Pension Benefit Guaranty Corp.** will take over and terminate two underfunded pension plans sponsored by failed household textile manufacturer Pillowtex Corp. of Kannapolis, N.C., which is liquidating. The two plans are underfunded by \$189 million, of which the PBGC will be liable for about \$176 million....The U.S. Treasury Department ruled Tuesday that people with claims under the **September 11th Victim Compensation Fund** have the option of receiving tax-free periodic payments—rather than a tax-free lump sum—as long as the claimant chooses that option before his or her claim is “substantially complete.”

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Online Poll

[10/27-10/31]

Do you support expanding the Family and Medical Leave Act to allow employees to take leave related to the absence of a family member serving in the military?



Yes	28.2%
No	61.0%
No Opinion	10.0%

BI Stock Index

[10/27 - 10/31]

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

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

BI Stock Index 
2050.43 1.24

Dow Jones 
9801.12 2.28

S&P 500 
1028.91 2.12

Largest gains

Seibels Bruce Group Inc.	25.00%
Gainsco Inc.	22.73%
CIGNA Corp.	22.01%
Unitrin	15.26%
SAFECO Corp.	11.71%

Largest losses

Aetna Inc.	-9.32%
Oxford Health Plans	-8.89%
United HealthGroup	-6.21%
WellChoice Inc.	-5.93%
Marsh & McLennan	-5.13%

Weekly change by market segment

Brokers	0.91%
Insurers/Reinsurers	3.45%
Managed Care Organizations	0.43%

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

Pensions: Funding relief near?

Continued from page 1

according to the Pension Benefit Guaranty Corp.

The committee action follows enactment of a similar bill earlier this month by the House of Representatives, which also calls for using long-term corporate bond indexes, but for only two years instead of the three under the HELP Committee bill.

Both measures are considered stopgap, intended to give legislators time to come up with permanent legislation that does a better job than the current law at ensuring adequate pension funding without making contribution requirements so stiff as to discourage employers from offering pension plans. Indeed, the HELP Committee bill would establish a federal blue-ribbon commission to make such recommendations by the end of 2005.

With the full House and the HELP Committee in basic agreement on the need for temporary funding relief, the odds that Congress will agree on a final bill before the end of the year have improved greatly from a few months ago.

“The committee action augers well for an agreement. We are getting a sense that Congress is intent

on fixing this problem in some fashion,” said Kyle Brown, an attorney with Watson Wyatt Worldwide in Washington.

“We’re optimistic that a temporary relief bill will be approved,” said Jan Jacobson, director of retirement policy for the American Benefits Council in Washington.

There is reason for that optimism, benefit experts say. In a congressional session known for its partisanship, the pension funding relief legislation has stood out as a rare example of bipartisan cooperation. The HELP Committee bill, for example, was put together by Sen. Gregg, a conservative Republican, and Sen. Kennedy, a liberal Democrat.

Similarly, the House passed its stopgap bill by a landslide 397-2 margin.

Still, obstacles to enactment remain. The Senate Finance Committee has passed a very different bill, one that calls for both short-term and long-term changes. The long-term changes, sharply opposed by business groups, would base interest rate assumptions on when pension benefit obligations come due rather than using a uniform interest rate.

The Finance Committee bill also contains a provision, denounced by

the Bush administration and the PBGC as detrimental to pension plan security, that would exempt employers over the next three years from accelerating contributions to their plans, as current law requires, if their plans become significantly underfunded.

PBGC officials have warned that if the currently required deficit reduction contribution is waived, pension plans that the PBGC takes over would be even more underfunded, which would exacerbate the agency's deficit (*BI*, Sept. 22).

Given the opposition the Finance Committee bill has generated, benefit experts say the most likely action Congress will take is to pass a noncontroversial bipartisan bill along the lines of the measures passed by the HELP Committee and the House of Representatives.

“The HELP Committee action increases the chances of a stand-alone bill being enacted,” Watson Wyatt's Mr. Brown said.

Fast action, business groups say, is critical. Nearly two years ago, Congress also passed temporary funding relief, but that measure will expire at the end of the year.

Without a change, the pre-2003 interest rate methodology will kick in. Pension plan liabilities would

be valued under a formula of 105% of the four-year weighted average of the yield on the 30-year Treasury bond. Under the soon-to-expire law, the formula is 120% of the four-year weighted average of the 30-year bond's yield.

Business groups say the yield on the long-term Treasury bonds is artificially low, in part due to the decision of the Treasury Department in 2001 to stop issuing it, drying up supply. That low yield has driven up pension liabilities and threatens to saddle employers with unnecessary and costly contributions to their pension plans, business groups say.

Faced with that threat, some employers have frozen their pension plans, meaning that plan participants are not accruing new benefits—a means of reducing liabilities and contributions that also hurts participants.

In fact, Aon Consulting, in a review of more than 1,000 pension plans, found that 13% have frozen benefits since January 2001, with another 6% actively considering a plan freeze. Nearly half of the respondents cited the amount of contributions as one of the reasons for freezing the plans.

“A change to funding requirements is absolutely necessary to avoid unnecessary funding freezes,” said Aon Chief Actuary Chris Bone in Somerset, N.J.