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TAX RISKS PROMPT SOME U.K. INSURANCE COMPANIES TO UPROOT / PAGE 3



AIG CEO BENMOSCHE GETS CASH-AND-STOCK PAY PACKAGE / PAGE 3

WINTER WEATHER BRINGS SPECIAL SET OF RISKS FOR PROPERTIES / PAGE 3

In Brief

AIG, Greenberg agree to settle all disputes

American International Group Inc. and former AIG executives Maurice R. Greenberg and Howard I. Smith have agreed to settle all pending legal disputes. AIG said the agreement resolves all disputes between the company and Mr. Greenberg—who was the insurer's longtime chairman and chief executive officer—and Mr. Smith, who served as chief financial officer. The agreement also encompasses claims from and against C.V. Starr & Co. Inc. and Starr International Inc., two former AIG affiliates now controlled by Mr. Greenberg. Under terms of the settlement, the parties agreed to release each other from all claims, including any made by Messrs. Greenberg and Smith for indemnification of future legal

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BENEFITS MANAGEMENT

BENEFIT MANAGER OF THE YEAR

Fran Ruderman, senior director of benefits and compensation for Leviton Manufacturing Co. Inc., is recognized for her accomplishments. **PAGE 9**

HEALTH CARE BENEFITS

COBRA uncertainty complicates admin

Subsidy extension likely, but firms face choices

By **JERRY GEISEL**

WASHINGTON—Congress appears likely to extend a February law that subsidizes COBRA health care premiums for laid-off employees, allowing hundreds of thousands of beneficiaries to retain affordable coverage but creating new administrative headaches for employers.

Under that subsidy, embedded in the American Recovery and Reinvestment Act of 2009, the federal government pays 65% of COBRA premiums for COBRA-eligible employees who are involuntarily terminated between Sept. 1, 2008, and Dec. 31, 2009. The subsidy is available for nine months or until an enrollee is eligible for new group health insurance coverage.



Extension bills in both House, Senate. **PAGE 20**

At the time the COBRA subsidy legislation was passed, the Joint Committee on Taxation estimated that the subsidy would cost the federal government about \$25 billion and benefit about 7 million jobless individuals and their families.

Statistics are not available on how many people have received the subsidy so far, though it clearly has had a significant effect on the COBRA opt-in rate: According to one survey, the percentage of laid-off employees opting for COBRA has doubled compared with the months immediately prior to enactment of the subsidy.

See **COBRA** page 20

WORKERS COMPENSATION

Some comp cost increases blamed on Medicare rules

By **ROBERTO CENICEROS**

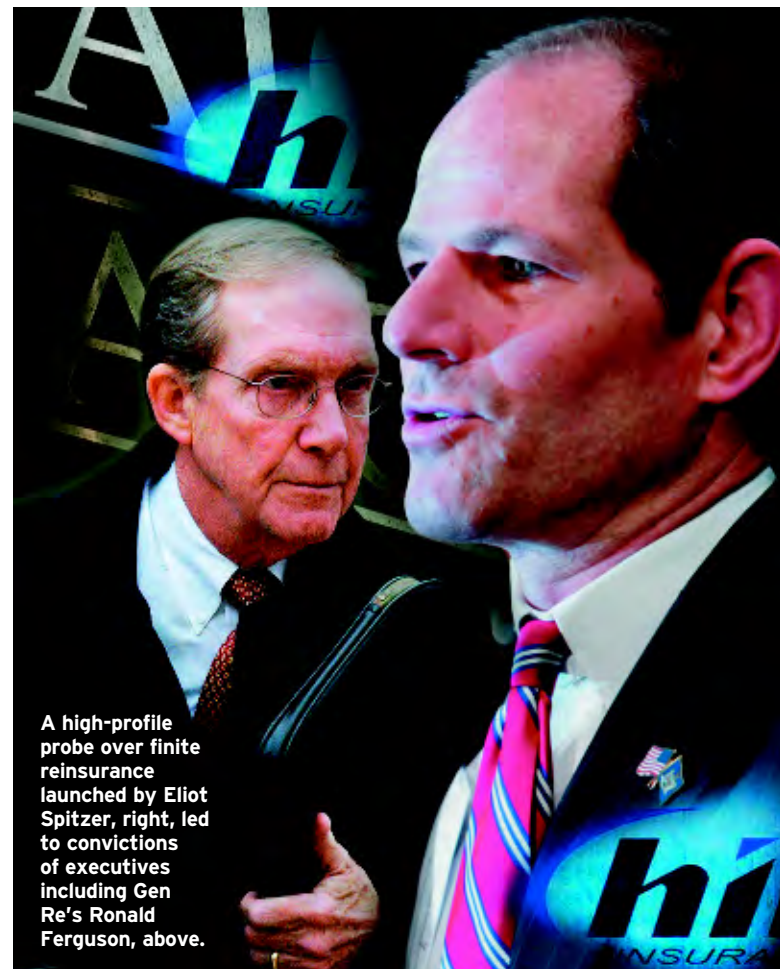
Inflated rulings on how much employers must set aside to ensure Medicare does not pay for workers compensation medical claims are resulting in needless cost increases, risk managers and claims experts contend.

Claim settlement delays and government practices for evaluating

workers comp claims requiring a Medicare set-aside are boosting costs for those claims by as much as 20%, several employers and claims experts estimate.

At issue are Medicare secondary-payer laws, which preclude Medicare from being the primary payer for future medical expenses arising

See **MEDICARE** page 20



A high-profile probe over finite reinsurance launched by Eliot Spitzer, right, led to convictions of executives including Gen Re's Ronald Ferguson, above.

REINSURANCE

Accounting scandals change face of finite

By **JUDY GREENWALD**

Roughly five years after finite reinsurance was tarnished by high-profile scandals, coverage by that name is no longer being written, though similar products continue to exist.

Finite or financial reinsurance is a form of financial leverage that often was used to smooth losses over a number of years, although it has fallen out of favor in recent years chiefly because of increased regulatory scrutiny.

The key difference in today's products, which often carry the label "structured," is they incorporate substantial amounts of risk, observers say. A lack of genuine risk transfer in certain finite deals is what proved to be particularly treacherous for many in the industry in recent years (see box, page 19).

Finite reinsurance in some ways took off with the 1988 founding of Bermuda-based Centre Reinsurance Holdings

Ltd., which specialized in the business and introduced more complex financial transactions.

But while finite reinsurance proved useful in managing loss volatility, there developed growing concerns it was being structured less like insurance and more like loans, becoming in effect a financial engineering tool that was abusively used to hide insurers' true financial situation.

In 1993, the Financial Accounting Standards Board stepped in and said there must be a reasonable chance of a significant loss for a transaction to be accounted for as insurance. Absent the risk transfer, such contracts were supposed to be booked as deposits.

But ambiguity remained as to how much risk must be transferred. Although it was never officially codified by any accounting, insurance or regulatory authority, the market developed the

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WOMEN TO WATCH

Annual *BI* feature honors leading women

Business Insurance will profile the 2009 Women to Watch in its Dec. 7 edition. *BI* also will host a luncheon for the honorees Dec. 8 at the Four Seasons Chicago. Register to attend by contacting Event Manager Rebecca Briggs at 212-210-0132 or rbriggs@BusinessInsurance.com. To see a list of honorees, go to www.BusinessInsurance.com/women2009.

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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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INTERNATIONAL

U.K. insurers moving in search of certainty

Redomestications up as companies strive for tax advantages

By MICHAEL BRADFORD

LONDON—Brit Insurance Holdings P.L.C.'s plans to relocate its holding company to the Netherlands later this year is the latest move by an insurer to a more tax-friendly jurisdiction, but it likely won't spark a migration away from the London market, experts say.

A more likely catalyst to trigger a reshuffling of insurers among jurisdictions will be Solvency II, experts say, as companies consider which regulatory regime is best-suited to

MAKING MOVES

Several London-based insurers have formed holding units in other domiciles

COMPANY	DOMICILE	YEAR
Hiscox	Bermuda	2006
Beazley	Ireland via Jersey	2009
Brit	the Netherlands	2009

their operating structures under the risk-capital framework planned for 2012.

Brit said earlier this month that it

plans to form Netherlands-based Brit Insurance Holdings N.V. to lower its taxes and give it greater access to capital.

"Many of the group's principal competitors already enjoy substantial tax benefits arising from their domicile; benefits not currently available to Brit," the company said in a statement. Brit said it believes that "establishing a presence in continental Europe will enhance the group's ability to attract a broader spread of capital in support of its specialist underwriting operations."

Leaving the U.K. means Brit can leave behind some taxes, said Catherine Thomas, managing senior financial analyst with A.M. Best Co. Inc. in London. British law imposes taxes on some profits

earned outside the U.K., a cost generally not required by tax authorities in the Netherlands, she pointed out.

"A lot of insurance companies have thought about leaving the U.K. and some have because of the rules on controlled foreign corporations, which mean some can find themselves paying taxes on profits earned overseas," said Stuart Secker, tax partner at KPMG L.L.P. in London.

The Netherlands is an attractive choice not only because of its favorable tax rates, but also because tax regulatory authorities there are highly regarded as professional and fair, sources said.

See **REDOMESTICATION** page 7

P/C INSURERS

AIG board OKs deal to retain Benmosche

CEO wins approval of compensation package, says he'll stay

By COLLEEN MCCARTHY

NEW YORK—American International Group Inc. last week moved ahead with its previously announced multimillion-dollar compensation package for Chief Executive Officer Robert H. Benmosche, after he affirmed his com-

mitment to the insurer. Some observers said the agreement likely would keep Mr. Benmosche, 65, in the role for the next five years.



AIG CEO Robert Benmosche's compensation package has been approved by the board.

him from working at AIG's competitors when he eventually leaves the company, an AIG spokesman said. The compensation package for Mr. Benmosche was approved in August by Kenneth Feinberg, the U.S. Treasury Department's special master on executive pay. However, Mr. Benmosche was required to enter into the noncompete arrangement in order to be eligible for common stock. AIG declined to comment further on the noncompete agreement.

The move comes after concerns that Mr. Benmosche was considering stepping down from the insurer after only a few months in the job. Newspaper reports earlier this month said he wanted to quit because he believed pay caps imposed on executives by the U.S. government would hamper AIG's ability to keep key employees. Later, Mr. Benmosche told employees he planned to stay.

After a board meeting last week, AIG Chairman Harvey Golub said Mr. Benmosche plans to lead the company until the job is done and the board is convinced of his commitment, according to a Wall Street Journal article.

Observers say the noncompete agreement is a key indicator that Mr. Benmosche intends to stay at the government-controlled insurer. However, the equity component of the compensation package also is an important feature of the agreement, they say.

"There is incentive to use the stock to build a durable future, not one based on resurrection," said Bill

See **AIG** page 17



RISK MANAGEMENT

Budget freezes hamper winter loss-control efforts

By MARK A. HOFMANN

Protecting property in the face of winter's icy blasts always has been challenging, but the recession may make doing so even more challenging, say some loss-control experts.

Risk managers may be asked to do more with less, and the nature of the recession could cause some financial institutions and others facing loss-control challenges of which they were not aware.

Yet the perils remain the same in good times and bad. In addition to common-sense steps such as icing sidewalks and warning of falling ice, roofs must be cleared of snow, boilers and pipes have to be protected, and vehicle fleets and drivers must be prepared for wintry conditions.

"In a downturn, people have less resources, so the planning aspect of a winter program becomes critical, as well as prioritizing what needs to be done and what actions you need to take because it helps you get better use of your resources," said Helene Browning, director-general liability line of business at Zurich Services Corp. in Schaumburg, Ill.

"It's a 360-degree approach. I think you need to look at this from a building aspect, a people aspect and a driving aspect."

Clients are finding themselves responsible for performing loss-prevention tasks with reduced workforces, said Jeff Beauman, vp and all-risk underwriting manager for Johnston, R.I.-based Factory Mutual Insurance Co., which does business as FM Global.

He noted that previous plans might have been written for a certain level of staffing that since has been cut, and that situation can be exacerbated by the possibility that employees might be out of work because of illness. As a result, lists of personnel assigned to winter maintenance tasks should be reviewed and may need to be adjusted, Mr. Beauman said.

Companies may also want to have contractors lined up in advance to perform tasks like removing snow from roofs, he said.

The nature of winter peril, of course, varies from region to region.

See **WINTER** page 21

LIABILITY & LITIGATION

Research finds link between Chinese drywall, corrosion

CPSC still exploring health, safety effects, remediation steps

By **JEFF CASALE**

A study of homes built with Chinese drywall has found a link between the drywall and corrosion of metals in those homes, according to a report from U.S. Consumer Product Safety Commission.

The CPSC, which is part of the Interagency Drywall Task Force, said in its report that defining the link between Chinese drywall and metal corrosion allows it to move

500 million
About 500 million pounds of drywall was imported to the United States between 2004 and 2007, when the housing market peaked and the Southeast was rebuilding after Hurricane Katrina.

ahead with developing protocols that will help identify homes with the corrosive drywall and determine remediation methods.

The study was contracted by the CPSC and was conducted by Need-

ham, Mass.-based Environmental Health & Engineering Inc., an environmental testing firm.

"We now have science that enables the task force to move ahead to the next phase to develop both a screening process and effective remediation methods," said Inez Tenenbaum, chairman of the CPSC, in a statement. "Ongoing studies will examine health and safety effects, but we are now ready to get to work fixing this problem."

EH&E compared 41 "complaint" homes in five states selected from the CPSC consumer incident report database with 10 "noncomplaint" homes built around the same time and same area as the complaint

homes. The environmental firm discovered that hydrogen sulfide gas found in Chinese drywall is the essential component that causes copper and silver sulfide corrosion in the complaint homes.

The CPSC said it still is trying to determine how hydrogen sulfide gas is being created in homes built with Chinese drywall, adding that previous studies found large amounts of elemental sulfur in the Chinese drywall.

While drywall-related corrosion is evident, the CPSC said long-term safety effects still are under investigation. To date, the CPSC has received more than 2,000 reports from 32 states, the District of

Columbia and Puerto Rico from consumers and homeowners concerned about Chinese drywall in their homes.

The drywall task force is working with U.S. Customs and Border Protection to monitor imports of possible Chinese drywall. The CPSC said no Chinese drywall has entered the United States in 2009.

About 500 million pounds of drywall was imported to the United States between 2004 and 2007, when the housing market peaked and the Southeast was rebuilding after Hurricane Katrina. The drywall was traced to Chinese subsidiaries of German manufacturer Knauf Plasterboard Tianjin Co. Ltd.

HEALTH CARE BENEFITS

Workplace stress not addressed: Survey

Health, productivity programs help to lower employer costs

By **JOANNE WOJCIK**

Companies that maintain health and productivity management programs despite the recession are experiencing lower health care and disability costs and less absenteeism than their counterparts that cut back, according to a joint survey by Watson Wyatt Worldwide and the National Business Group on Health.

But most employers are doing little or nothing to relieve the stress many employees experience due to long hours at work, a lack of work/life balance, and fear they may lose their jobs, the 2009/2010 Staying@Work report found.

"Investments in health and pro-

ductivity management paid off for employers that stayed the course despite the recession, while employers that cut back on these programs saw the return on that investment shrink," observed Shelly Wolff, Stamford, Conn.-based national leader of health and productivity consulting at Arlington, Va.-based Watson Wyatt Worldwide.

In particular, companies with the most effective health and productivity management programs had medical cost trends averaging 1.2 percentage points lower than employers that dropped or cut back their programs.

In addition, companies with the most effective health and productivity management programs had average lost days due to unplanned absence of 3.0 days per employee, compared with 4.8 days for companies with less effective programs. Companies with effective health

and productivity management programs also reported losing one day less per employee due to disabilities compared with firms with less effective programs.

Finally, organizations with the most effective health and productivity programs had average returns to shareholders during the past five years of 14.8% vs. a decline in average shareholder return of 10.1% for companies with less effective programs.

The survey also found that although excessive work hours, lack of work/life balance, and fears about job loss are beginning to take their toll on the American work force in terms of higher utilization of health care and disability benefits and employee assistance programs, most employers are not directly addressing these stress factors,

See **SURVEY** page 19

PROFESSIONAL LIABILITY

Companies urged to review executive pay practices

By **ZACK PHILLIPS**

CHICAGO—Corporations should reassess the way they handle executive compensation to make sure they restrict their exposure to potential shareholder lawsuits, a panel of experts said.

And firms that don't revamp their pay structure may be forced to by regulators and courts, the experts said.

Panel members, speaking at the Professional Liability Underwriting Society's 2009 international conference, held in Chicago Nov. 11-13, differed on the extent to which they believe executive compensation packages fueled the financial crisis.

But most seemed to agree that potential regulatory changes and the specter of litigation related to exorbitant pay packages means many corporations should re-evaluate and possibly alter how they pay their executive leaders.

Ric Marshall, chief analyst at the Portland, Maine-based Corporate Library, an independent research and rating firm, said he's heard the argument from corporate executives and their compensation consultants that they need large pay packages to attract the best leaders but he doesn't "buy it."

"If a board has a CEO that comes to them and says, 'I can't manage if this is all you're going to pay



The Professional Liability Underwriting Society's 2009 international conference was held in Chicago on Nov. 11-13.

me,...show them the door," he said. "And if you are asked to underwrite a board that says 'yes' to that kind of CEO, I don't believe there's any rate high enough to justify the

See **PLUS** page 18



NTI/LANDOV

Rescue workers help local residents deal with flash floods that caused at least two deaths in Britain in November.

CATASTROPHES

Insurers expect U.K. flood claims

By **MICHAEL BRADFORD**

COCKERMOUTH, England—Flooding in Britain, which caused at least two deaths, is expected to cost insurers as much as £100 million (\$165.1 million).

Heavy rains during the past week have been particularly devastating in the Cumbria region in northwestern England, where several bridges collapsed as rivers rose. A police officer was killed in a bridge collapse near Cockermouth and reports said a canoeist died in a river accident in Devon in southwestern England. Parts of Scotland and Wales also have experienced heavy damage from flooding.

The flooding in Cumbria and southern Scotland is likely to cost insurers about £100 million, according to the Assn. of British Insurers in London. The cost could climb as more complex claims, such as those for business interruption losses, are filed, the ABI said.

"Once flood waters have receded and the damage to homes and businesses is assessed, the hard work begins," said Nick Starling, the ABI's director of general insurance and health, in a statement. "Properties will take a long time to dry out fully and it could be many months before houses and businesses are restored to the condition they were in before the flooding," he said.

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Much work awaits new PBGC chief

Washington insider's nomination pending Senate confirmation

By DOUG HALONEN

WASHINGTON—Joshua Gotbaum, President Obama's nominee to lead the Pension Benefit Guaranty Corp., will have a long to-do list at the agency.

For starters, he'll have a deficit of \$22 billion to deal with, according to the agency's management report for fiscal 2009, which ended Sept. 30. That's up 96% from the deficit of \$11.2 billion a year previously.

The agency did not include any recommendations for dealing with its soaring deficit in the annual management report assessing its financial performance, which was released Nov. 13.

"The PBGC's long-term deficit is a policy issue that would have to be addressed by Congress," a PBGC spokesman said.

But that's not all.

A new investment policy will be among his top priorities. The PBGC board in May suspended the investment policy adopted in February 2008, after the former PBGC director, Charles E.F. Millard, was accused by the agency's inspector general of making inappropriate contacts with managers before they were hired.

Mr. Gotbaum is an operating partner at private equity firm Blue Wolf Capital Management L.L.C. in

New York, and he previously spent more than a decade as an investment banker with Lazard Freres & Co. L.L.C. But his resume doesn't necessarily give any hints as to what Mr. Gotbaum has in mind for PBGC policy.

"It is always difficult to predict where investment policy will go," said James Keightley, a partner with Keightley & Ashner L.L.P. in Washington and a former PBGC general counsel. "Democratic appointees have invested aggressively, and Republican appointees have invested conservatively," Mr. Keightley added. A White House spokeswoman declined to comment.

Under the investment policy suspended by the PBGC board, 45% of the \$48 billion in PBGC assets available for investment were to be in equities, 45% in fixed income and 10% in alternatives. Previously, 75% to 85% of the PBGC's assets were in a liability-driven strategy, with the balance invested in stocks.

Mr. Gotbaum, reached by telephone, declined to comment for this story. His Blue Wolf partners also declined interviews pending Mr. Gotbaum's Senate confirmation, said a Blue Wolf spokeswoman.

As an investment banker at Lazard Freres from 1981 to 1994, Mr. Gotbaum "advised businesses, unions and governments on a diverse range of mergers, acquisitions and restructurings, in steel, transportation and many other industries," a White House statement said.

Mr. Gotbaum has had a long run as a Washington insider, most recently as a leader of the Obama presidential campaign's transition team for the Department of Treasury.

He also served in the Clinton administration as executive associate director and controller in the White House Office of Management and Budget and assistant secretary in Treasury for economic policy, and in the Defense Department for economic security, according to the White House statement and government documents.

Mr. Gotbaum also served as associate director for economics on President Carter's White House staff, according to another government document.

Pending Senate confirmation, Mr. Gotbaum will take the agency reins from Vince Snowbarger, PBGC deputy director of operations, who has been acting director since Mr. Millard stepped down in January.

Under a legislative provision in the Pension Protection Act of 2006, Mr. Gotbaum's nomination must be approved the Senate Finance and the Health, Education, Labor and Pensions committees before a confirmation vote on the Senate floor.

Mr. Gotbaum also was the trustee in Chapter 11 bankruptcy reorganization of Honolulu-based Hawaiian Airlines Inc. from 2003 to 2005, the White House statement said.

Doug Halonen is a reporter for *Pensions & Investments*, a sister publication of *Business Insurance*.

Commentary

ERM could benefit many who overlook it

Much has been written about enterprise risk management, yet ERM still does not appear to be gaining the traction it should with organizations that would benefit from its implementation.

Outside the financial services industry, ERM is practiced by few companies, and those that do have ERM programs tend to have very large balance sheets. But a new book proposes that organizations of all kinds—private, nonprofit and even government entities—can apply ERM to their benefit.

"Fundamentals of Enterprise Risk Management: How Top Companies Assess Risk, Manage Exposure and Seize Opportunity" by John J. Hampton offers insights and case studies of many actual companies, from American International Group Inc. to Boeing Inc. to IKEA.

Mr. Hampton is familiar to *Business Insurance* readers because he writes a regular column, "Emerging Risk Strategies," in which he explores aspects of ERM, many of which he explores in depth in his new book. His column appears in print and online at www.BusinessInsurance.com/ERM.

In addition to his frequent writings, Mr. Hampton is the KPMG professor of business and director of graduate business programs at St. Peter's College in Jersey City, N.J., and is a former executive director of the Risk & Insurance Management Society Inc.

According to Mr. Hampton, successful ERM programs need to align with an organization's business model, have owners accountable for every risk category, use a central risk function to scan for changing conditions, and apply technology to see risks and opportunities clearly.

Risk identification is vital to managing risk, but knowing that a single organization might face thousands of specific risks is not helpful. Rather, the ability to visualize risk in the context of an organization's business model is critically important, he writes. A knowledge warehouse offers the ability to share risk information, which also is critical.

Such a tool might have helped AIG avoid its near collapse in September 2008 and billions of dollars in federal assistance, Mr. Hampton suggests.

AIG has had 90 years of expertise underwriting insurance risks, which it always hedged in some fashion. But once AIG began doing business in noninsurance securitizations—that is, credit default swaps—it wrote



REGIS COCCIA

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

enormous amounts of swaps unhedged and, worse, lost sight of its exposures. Without the ability to see clusters of risks and mitigation steps in the noninsurance setting, AIG was unable to assess how exposed it was to CDS relating to subprime mortgages. As we all know now, the subprime market blew up, devaluing hundreds of billions of dollars in assets underlying

Examples in Mr. Hampton's book are not all lessons after disaster. Risk, after all, has upsides.

CDS written by AIG and others. The resulting triggering of collateral nearly bankrupted the world's largest financial services company. "A visual story supported by mitigation strategies and actions might help us identify an exposure before it becomes a crisis," Mr. Hampton writes.

Examples in Mr. Hampton's book are not all lessons after disaster. Risk, after all, has upsides. He discusses best practices, such as those of IKEA in leadership. The Swedish home furnishings company used ERM to create a "state of mind" for its employees and customers that has produced strong financial results. IKEA, he writes, "takes advantage of beliefs, facts, emotions and assumptions, but not of the leaders themselves. Rather, of the customers."

"Fundamentals of Enterprise Risk Management" offers insights for anyone eager to know more about ERM. Copies are available from AMACOM, a division of the American Management Assn., 1601 Broadway, New York, N.Y. 10019; www.amacombooks.org.

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Redomestication: More U.K. insurers relocating holding companies

CONTINUED FROM PAGE 3

"Dutch companies pay no additional tax on the majority of overseas earnings and enjoy a pragmatic regime dealing with income arising overseas," Brit said.

Brit would not comment on its redomestication beyond its statement, which indicated that while its holding company will move, its London underwriting operations will remain in place.

Brit's move follows others who have left the U.K. partly for tax reasons. Among them, Hiscox P.L.C. in late 2006 established a Bermuda-domiciled holding company, Hiscox Ltd., and Beazley Group P.L.C. effectively redomiciled to Dublin earlier this year by incorporating a new parent company in Jersey that is a tax resident in Ireland.

As Brit heads for the Netherlands, few if any other insurers are expected to follow soon for tax reasons, sources said. Solvency II, though, may be a better reason to consider which domicile is appropriate, they say.

"You can understand why a company might want to adopt a different tax regime," said David Masters, London-based analyst within the European insurance team at Moody's Investor Service Inc. But even with the attraction of lower taxes, Moody's does not expect an exodus by London insurers, he said. "We see London as remaining one of the global centers for insurance."

The 2012 implementation of the new European Union's new capital regime, Solvency II, however, may lead to more redomestications, some observers say.

Jane Portas, regulatory director at KPMG in London, said Solvency II's equivalency requirements and the removal of a group support provision have insurers carefully considering domiciles.

Insurers in non-EU jurisdictions will have to consider whether those jurisdictions will implement regulations equivalent to Solvency II, said Ms. Portas. If not, they could find themselves with new capital requirements imposed by EU regulators as a condition of doing business in Europe.

The removal of the group support provision originally contained in the Solvency II proposal means insurance company subsidiaries will not be able to calculate capital adequacy on a cross-group basis. As a result, some insurers are converting subsidiaries into branches of a group entity that will be held accountable for capital adequacy of the branch network. Under such a structure, insurers are considering which jurisdiction is best-suited for their operations, said Ms. Portas.

"We see a lot of companies having these conversations," said Mr. Secker, and some are actively moving to change their operating structures.

Ms. Thomas of Best agreed that the removal of the group support provision will cause insurers to carefully consider their domiciles. "Groups will look more closely at having the regulated entities in tax-friendly jurisdictions," she said.

Some say that regardless of the

impetus, there is not likely to be a rush of redomestications any time soon.

John Andre, group vp with Best in Oldwick, N.J., said Brit's planned redomestication comes after a lull of such moves and there are no signs that redomestications will ramp up.

"Brit was the first one in a while," he said, since last year when Bermuda-based ACE Ltd. redomesticated its holding company to Zurich, Switzerland, and Flagstone Re merged Flagstone Reinsurance Ltd. of Bermuda with a Swiss subsidiary.

There have been rumblings in the United States about how taxes

should be assessed on business that U.S. companies send to Bermuda, Mr. Andre said. "But I think what President Obama might or might not do is up in the air; he is chasing other issues right now."

Anxiety remains

There remains a nervousness in the U.S. and Bermuda, however, about possible tax changes, said Geoffrey Etherington, partner with the insurance and reinsurance department of Edwards Angell Palmer & Dodge L.L.P. in New York.

"There have been a lot of Bermuda companies looking at redomestication and I think it's certainly an

option that international insurance firms think about," he said. "They are worried about tax legislation and tax treaties. Companies in the U.S. are worried about what is going on in Congress," he added, referring to potential new taxes.

Redomestications could flare, Mr. Etherington noted, "if the U.S. Congress or British Parliament decides there is a lot of money sitting in insurance companies and say, 'let's grab some more of that.' You will see a lot of companies motivated towards more tax-favorable jurisdictions."

Bermuda is not likely to lose its attraction as an insurance center,

said Peter Dickey, assistant vp at Best. He pointed out that Flagstone and ACE have kept operations there.

Mr. Masters said the same applies to the London insurance market.

"The technical expertise and skills that London possesses are generally not available in sufficient quantities" in most other jurisdictions, Mr. Masters said. "There is a critical mass in terms of the number of people and technical competencies in London that will limit the drain of companies," he said. "Sure, there will be some who look to move, but we expect the vast majority to remain *in situ*."

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Business Insurance OPINIONS

Ruderman sets bar for benefit managers

EMPLOYEE BENEFIT managers have a tough job at the best of times, and the recession is only making it tougher.

With many companies struggling to keep health care benefits affordable, employee benefit managers face the challenge of keeping employees focused on benefits, whether it be through continued participation in wellness initiatives or maintaining retirement savings even when employers are cutting back their own contributions.

Fran Ruderman, senior director of benefits and compensation at Leviton Manufacturing Co. Inc., met those challenges head-on. Her leadership and innovation have earned her the honor of 2009 Benefit Manager of the Year.

The 2009 Benefit Manager of the Year turned negatives into a big positive.

Amid continuing high health care cost increases and an economic downturn that panicked many employees, Ms. Ruderman went out of her way to implement value-based health plan options and to communicate the importance of Leviton's benefit programs. As we report in a profile beginning on page 9, she turned negatives into a big positive for her employer and its plan members.

In keeping with Leviton's commitment to making energy-saving electrical components, Ms. Ruderman also spearheaded company-wide use of a benefits portal that enables plan members to handle benefit issues without a lot of unnecessary paper.

Business Insurance is proud to salute the 2009 Benefit Manager of the Year and all benefit managers for the impact they're making on the lives of employees and dependents and the companies they serve.

Worker stress remains key challenge for firms

IT MAY BE A tough sell in an era of budget cutting, but organizations that seek to save a few dollars by ending health and productivity programs may be penny wise and pound foolish.

As we report on page 4, a recent survey found that companies that have sought to save money on benefits costs by cutting the programs are now paying the price with higher health care costs and increased absenteeism.

The findings support what advocates of wellness, chronic condition management and absence management programs have argued for several years: in the long run, it costs more not to have the programs than it does to set them up and run them in the first place.

It's far cheaper to prevent health problems or keep existing problems from getting worse than it is to treat the severe illnesses or injuries that result can from a lack of early intervention by employers and health plan providers.

One area that the survey highlights, though, clearly needs more work—relieving workplace stress.

The financial problems of the past two years have affected many workers; increased workloads, fear of termination and blurring boundaries between work and home have increased stress for workers at all levels.

Providing effective work/life balance programs and work environments that provide flexibility for workers while maintain productivity for employers is a challenge still to be met.



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THIS WEEK'S RESULTS

Q Is a proposed \$2,500 cap on flexible spending account contributions in health care reform measures a good idea?



YES, the current \$5,000 limit is too high

9%

NO, the higher limit is helpful to plan members

91%

NEXT WEEK'S QUESTION

Q: How big a problem is stress at your workplace?

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Quality comes first in RMIS selection

New players are entering the risk management information system space, setting up competition in the so-called "cloud computing" environment, says David A. Tweedy, practice director of risk information consulting at Albert Risk Management Consultants Inc. in Needham, Mass. While the offerings are recent, Mr. Tweedy says the questions potential customers should ask remain the same: How will providers help your business grow? Will they deliver quality service and how will they handle adversity?

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BENEFITS MANAGEMENT

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Rising to the benefits challenge

By JOANNE WOJCIK

MELVILLE, N.Y.—Like many benefit managers today, Fran Ruderman, senior director of benefits and compensation at Leviton Manufacturing Co. Inc., has been facing some formidable challenges in the midst of the nationwide economic downturn.

For starters, she needed to address the growing cost of company-sponsored benefits at a time when employees, concerned about the possibility of losing their jobs, started using more health care services.

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She also had to ensure that employees with chronic conditions continued taking their medications, to avoid costly complications, at a time when many were considering cutting back to save money.

Moreover, she had to persuade employees to continue saving for retirement even after a stock market crash and the company's suspension of its 401(k) plan match.

Despite the pressures of the worst recession since the Great Depression, Ms. Ruderman tackled all of these tasks with élan. She even had enough energy left over to inspire employees to lose weight, get fit and take the steps necessary to ensure what she calls their "financial wellness."

"It's important to me to communicate to employees what's important, and educate them and give them the tools to become more aware and accountable, to be better consumers in every respect," Ms. Ruderman said. "In the past, I was

See **RUDERMAN** next page



Fran Ruderman

Senior Director of Benefits and Compensation
Leviton Manufacturing Co. Inc.

Ruderman: Rising to the challenge of managing benefits in recession

CONTINUED FROM PREVIOUS PAGE

once accused of over-communicating. I don't think you can over-communicate on this topic."

In fact, Ms. Ruderman believes that because of her department's enhanced communication efforts, "our employees are getting it. And they're not just doing it for Leviton. They're doing it for themselves."

Due to these, and many other accomplishments, Ms. Ruderman is being recognized as *Business Insurance's* 2009 Benefit Manager of the Year.

Her achievements also have been showcased on MSNBC, on the Wall

Street Journal's Marketwatch.com and in *Workforce Management*, one of *BI's* sister publications at Crain Communications Inc.

In addition, Ms. Ruderman's wellness initiatives have earned the "Best in Class" designation by Chapel Hill-based Blue Cross and Blue Shield of North Carolina, the insurer that administers the company's self-funded health benefits plan.

"Fran is a creative and inspiring leader with an unparalleled ability to rally people around ideas and sustain a sense of optimism even when faced with difficult challenges," said Mark Baydarian, Levi-

ton's chief financial officer, in a letter nominating Ms. Ruderman for the award.

"Her enthusiasm and energy have been instrumental in creating a truly cutting-edge and tailored approach to health care coverage and cost management which Leviton's employees enjoy today. She constantly amazes me with her knowledge and intelligence," he continued. "I could not imagine Leviton without her efforts."

Ms. Ruderman began her work at the Melville, N.Y.-based manufacturer of electrical components in July 2000, coming to Leviton after 14 years at Thomson Industries, a

New York-based manufacturing company.

She said she ended up in benefits almost by accident, taking a position as benefits administrator after serving several years as the office manager for the marina the company owned.

"It was a very glamorous job in terms of getting on yachts and meeting prestigious people, but it was very boring," she recalled.

Ms. Ruderman's "dream job" was to be in marketing, a discipline in which she has both a bachelor's and master's degree.

"I really think my dream has come true because what I've found

in this area of benefits and compensation is that I am marketing. I am marketing very important tools and products to our employees. I love that aspect of what I do," she said.

One of the most essential tools that Ms. Ruderman has had to "market" to Leviton's 3,000 U.S. employees is HR InTouch, an intranet-based employee benefits Web portal, which is supplied by Charleston, S.C.-based Benefitfocus Inc. (see related story, page 14)

The portal connects to Leviton's in-house payroll system, which runs on Oracle Corp.'s PeopleSoft application.

Starting on Jan. 1, 2008, all employees were required to enroll in their benefits plans online. Employees who did not have computer access either at work or at home could do so at computer kiosks that were set up at the company's 14 U.S. locations.

In keeping with Leviton's 2-year-old "Go Green" initiative, "there's no facing or paper that has to be transmitted to the carriers," Ms. Ruderman noted.

'She constantly amazes me with her knowledge and intelligence. I could not imagine Leviton without her efforts.'

Mark Baydarian,
Leviton Manufacturing Co. Inc.

The PeopleSoft system collects the information, sends it electronically to Benefitfocus, which, in turn, sends it to BCBSNC and any other benefits plan vendor with which Leviton has contracted.

Since joining Leviton in 2000, Ms. Ruderman has consolidated the number of health plans offered down to a single vendor, BCBSNC, which was selected because the company's largest employee population is based in North Carolina. The only exception is a group of about 100 employees in Nevada, which is covered by Reno-based St. Mary's HealthFirst because it was the only available provider network in the area, Ms. Ruderman explained.

The plan most recently cut from Leviton's roster was Chicago-based BlueCross BlueShield of Illinois, which had requested a 47% premium increase for a fully insured group of 29 Leviton employees based in that state.

"It's not experience-rated," Ms. Ruderman said. "It's based on their book of business."

Those employees will be enrolled in the company's self-insured plan effective Jan. 1, 2010.

The cost of Leviton's health benefits going into 2010 had been projected to grow by 8.8% had it not been for several plan design changes implemented by Ms. Ruderman.

By adding the HDHP, increasing

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Benefit Manager of the Year Fran Ruderman with Donald J. Hendler, president and chief executive officer of Leviton Manufacturing Co. Inc.

Health care benefits assessed for value

By JOANNE WOJCIC

MELVILLE, N.Y.—Fran Ruderman, senior director of benefits and compensation at Leviton Manufacturing Co. Inc., uses a value-based benefits approach to determine which benefits the company should offer, as well as how much employees should pay for them.

For example, the company has eliminated or lowered copayments for benefits that provide the greatest value, such as preventive care and screenings and maintenance medications.

But it has increased cost-sharing for those benefits that it wants employees to use sparingly, such as specialist office visits and emergency room visits.

Beginning next year, copayments for specialist office visits and emergency room care will increase to \$30 from \$25 previously. Primary care copayments remain at \$20.

Single employees enrolled in Leviton's self-funded preferred provider organization plan, which is administered by Chapel Hill-based Blue Cross and Blue Shield of North Carolina, are subject to a \$300 in-network deductible and a \$1,000 out-of-network deductible with 90% in-network coverage and 70% out-of-network coverage after the deductible has been met.

Employees with family coverage have \$900 in-network and \$3,000 out-of-network deductibles with the same levels of coinsurance after that deductible has been met.

In keeping with the VBBD philosophy, Ms. Ruderman spearheaded the addition of several new benefits beginning in 2010.

For example, after attending a seminar where a dental expert talked about how gum disease can lead to other medical conditions, Ms. Ruderman looked into covering three cleanings per year in the company's dental plan, which is administered by Delta Dental. That benefit will be provided to employees beginning in 2010, regardless of whether they have periodontal disease.

Leviton also will cover up to four cleanings per year for pregnant women since pregnancy often can have a detrimental effect on wom-

en's gums and teeth, Ms. Ruderman said, drawing from personal experience.

A new high-deductible consumer-driven health plan with a health savings account was introduced for 2010. It also is administered by BCBCNC, with ACS/Mellon Bank handling employees' HSAs.

To encourage employees to enroll in the plan, Leviton is providing a one-time \$125 contribution to the HSA for single coverage and \$250 for family coverage. In addition, employees' premium contributions to enroll in the plan are half that of the PPO plan.

As with most CDHPs, preventive care is covered at 100%. In addition, generic drugs that have been identified as "preventive" are also covered at 100%.

In-network deductibles in the CDHP are \$1,250 for single coverage and \$2,500 for family coverage with 90% coinsurance in-network after the deductible has been met. Out-of-network deductibles are \$2,500 and \$5,000, respectively, with 60% coinsurance out-of-network after the deductible has been met.

Besides the PPO and CDHP plans administered by BCBSNC, Leviton also offers a PPO plan from Reno-based St. Mary's HealthFirst to its Nevada employees because it is the only available provider network in the area, according to Ms. Ruderman.

In addition to medical and dental benefits, Leviton also offers vision benefits, which are provided by Davis Vision; long-term disability insurance, life insurance and supplemental group insurance, which is underwritten by CIGNA Corp.; and long-term care insurance, underwritten by MedAmerica.

Leviton also offers post-retirement health care benefits to employees at certain locations who were hired on or before Feb. 1, 1995. Pre-Medicare retirees who are eligible for the coverage are enrolled in the same PPO plan that is available to active employees. For those who are age 65 and older, Leviton offers a Medicare supplemental plan and the same prescription drug benefits as the PPO.

Ruderman: Rising to benefits challenge

CONTINUED FROM PAGE 10

copayments for specialists and emergency room visits, providing first-dollar coverage for preventive care and instituting mental health parity, the rate of increase dropped to 4.3%.

That number could have been lower, however, had it not been for what Ms. Ruderman called "benefits rush."

"We've seen an increase in medical utilization. I think people were concerned about job security, so everyone used coverage more this year than in the past," she explained.

To stem the rate of future cost increases in Leviton's health benefits plan, Ms. Ruderman introduced a series of wellness programs designed to improve the health and well-being of the company's employees and their dependents (see related story, page 14).

Concerned that employees with chronic conditions might cut back on medications to save money, Ms. Ruderman launched a "Medication Dedication" program in January 2008.

Under that program, individuals who have a chronic illness, such as Type II diabetes, high cholesterol, hypertension or coronary artery disease, can obtain generic medica-

tions at no cost. If there is no generic equivalent, or if their doctor prefers they take a brand-name drug, their medication is moved down one tier in Leviton's three-tiered drug plan.

The program increased medication adherence from 69% in 2007 to 81% in 2008. In addition, the generic utilization rate increased to

81%

The 'Medication Dedication' program was launched in January 2008. Under the program, medication adherence increased from 69% in 2007 to 81% in 2008.

65.4% from 59.6% over the one-year period. Figures for 2009 are not yet available.

To determine Leviton's biggest health care cost drivers, Ms. Ruderman asked its consultant to conduct a claims analysis, which found that 75% of the company's employees are mostly healthy and drive about 15% of total costs, while 25% of employees are responsible for the remainder.

Through the use of the Medication Dedication program in conjunction with wellness programs, Leviton was able to reduce costs by 7.9% for employees in the chronic/severe/catastrophic category in 2008 over 2007.

Besides getting health care costs under control, Ms. Ruderman's other major challenge has been persuading employees to continue contributing to their 401(k) plan following both the 2008 stock market crash and Leviton's suspension of its safe harbor match as of March 1, 2009.

To address these concerns, Ms. Ruderman partnered with Leviton's 401(k) plan administrator, Bank of America Merrill Lynch, to develop a holistic financial communications campaign that addressed everything from market volatility to long-term financial planning and retirement security and the value of other company-provided benefits including life, health and disability insurance.

Afterwards, "the concerns stopped. It wasn't a panic situation anymore. People were more happy to keep their job and recognize they had health insurance, they were healthy, they had a comprehensive benefits program," Ms. Ruderman said. "It was a whole process of taking a step back and thinking long-term."

Reality TV inspires weight-loss program

By JOANNE WOJCIC

MELVILLE, N.Y.—In the words of Oscar Wilde, "life imitates art far more than art imitates life," and such is the case at Leviton Manufacturing Co. Inc.

Leviton sponsored a weight-loss competition modeled after the popular reality TV show, "The Biggest Loser," that attracted 178 participants who collectively lost 1,501 pounds during a 10-week period ending Nov. 20.

Dan Perlowitz, a systems analyst based in Leviton's Melville headquarters, won the title of "the biggest loser" as well as a \$200 gift card, losing 45.6 pounds, or 20.35% of his body weight.

In a show of solidarity, Fran Ruderman, senior director of benefits and compensation at the family-owned electrical components manufacturer, also participated in the program, losing 12 pounds.

She said the idea for the contest came from Mara Fischer, her benefits intern who was in charge of the program.

Ms. Ruderman said she approved the competition for several reasons, not the least of which was that weight was an area highlighted as being a concern when she analyzed the health risks of Leviton's employee population.

Moreover, it was easy to arrange, it was a team-oriented activity that provided for intracompany competition, and it provided an opportunity to educate employees on the importance of healthy nutrition and physical activity, according to Ms. Ruderman.

In addition to the Biggest Loser competition, Leviton sponsors and



Contest winners, from left: Dan Perlowitz, Kevin Magee, Souvik Roy, Greg McMahan, John Wilhelm and Linda Pego with Fran Ruderman.

subsidizes a variety of weight-loss and exercise programs in keeping with its holistic approach to wellness.

Employees collectively have lost nearly 3,000 pounds with Leviton's Weight Watchers at Work initiative, and several of them no longer need medications for medical conditions that stem from being overweight, such as hypertension and diabetes, Ms. Ruderman said.

To get started with a 12-week program, Leviton will subsidize 20% of the cost for employees to participate in the first at-work program. If an employee continues on to the next 12-week at-work program, Leviton will subsidize 50% of that cost; if he or she continues to a third 12-week program, Leviton subsidizes 80% of the cost; and thereafter, if the employee continues to participate in Weight Watchers at Work, Leviton will continue to pay 80% of the cost. To encourage its employees to be

active, Leviton sponsors an annual national "Walk at Lunch" day during which employees at all 14 U.S. locations walk for a half hour during their lunch breaks. Close to 90% of the company's 3,000 employees participated at the previous walk, and, as a reward, they received a water bottle and a healthy lunch.

When Chapel Hill-based Blue Cross and Blue Shield of North Carolina sponsored a one-million-step march around the state, Ms. Ruderman asked that the walk leaders stop at Leviton's Morganton, N.C., facility, where BCBS employees conducted a healthy cooking demonstration and invited Leviton employees to try out exercise equipment in a motor home converted into a gym.

"We had some people from our North Carolina facility step on a treadmill for the first time in their lives," Ms. Ruderman said, adding that she hopes it will not be their last time on the machine.

Tough economy requires innovation to encourage 401(k) participation

By **JOANNE WOJCIK**

MELVILLE, N.Y.—In January, Fran Ruderman, senior director of benefits and compensation at Leviton Manufacturing Co. Inc., faced the unpleasant task of communicating to employees that the company would be suspending its 401(k) plan match as of March 1.

This was particularly difficult because the bad news would be arriving on the heels of one of the worst stock market declines in recent history.

Even before the match was suspended, Ms. Ruderman had “received a few phone calls from employees asking how to get their money out,” she recalled. “Their assets were declining. People were in fear and panic. Anybody who considered retiring on Jan. 1, 2009, had to put it off.”

After the suspension, things got even worse.

The percentage of employees contributing to the plan fell to 57.9% as of June 1, 2009, from 71% as of Jan. 1, 2009.

Leviton began automatic enrollment into its 401(k) plan in July 2007, with a 1% of salary minimum deferral rate. At the time, 22% of employees opted out. The 78% who agreed to participate have been saving at an average deferral rate of 3.5% of salary.

To address these concerns, Ms. Ruderman partnered with Leviton’s 401(k) plan administrator, Bank of America Merrill Lynch, to develop a crisis communications campaign to educate employees on the virtues of “financial wellness.” She also added a U.S. Treasury bond index fund to provide another conservative investment option.

“We started an online communications campaign educating employees on the power of compounding. It explained that the fact that you’re still contributing, you’re gaining compounding power,” Ms. Ruderman said.

“Merrill Lynch gave presentations to employees on the basics of financial planning, focusing on retirement security and what individuals needed to focus on, especially in this market,” she recounted. “We also wanted people who were concerned about their assets who were purchasing homes or sending kids to college to work on this financial planning basics program to stay on track with their long-term objectives.”

Ms. Ruderman also arranged for webinars that honed in on all aspects of employees’ “financial wellness.”

Ms. Ruderman also directed Leviton’s 401(k) plan administrator to conduct a generational analysis to determine the best way to target communications in order to boost participation rates.

Although the average age of Leviton employees is 44, 46.8% are baby boomers, born between 1946 and 1964; 40.3% are Generation

Xers, born between 1965 and 1980; 9.9% are millennials, born after 1980; and 3.02% are traditionalists, born before 1946.

The analysis found baby boomers and traditionalists had the highest deferral rates, while millennials and Generation Xers had the lowest.

To reach these two groups, Leviton boosted its online 401(k) communications to include online presentation software to facilitate e-

learning, and advice on which investments to choose based on objectives and risk tolerance levels,” Ms. Ruderman explained.

Ms. Ruderman is hopeful things will turn around, as Leviton recently announced it will resume its 4% company match beginning on Jan. 1. Leviton matches 100% of the first 3% of pay deferred to the 401(k) plan and 50% of the next 2% of pay deferred.



MICHAEL MARCOTTE

Leviton staff, left to right, Sharon Warner, Maureen Carey, Darlene Gladstone, Mara Fischer, Fran Ruderman and Theresa Serkisyan.

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Leviton goes green to save green

Online benefits portal helps company reduce carbon footprint

By JOANNE WOJCIK

MELVILLE, N.Y.—When Leviton Manufacturing Co. Inc. underwent a rebranding campaign in 2007 to emphasize its commitment to protecting the environment, Fran Ruderman, senior director of benefits and compensation, wanted to reduce the carbon footprint of her department, too.

Many of Leviton's products—from sophisticated lighting energy management systems to box-mounted designer switches, outlets and dimmers—were designed to use less energy, and the company's new state-of-the-art headquarters, to which it relocated in June, serves as a showcase for many of these "green building" products.

For example, lights are connected to motion sensors so areas that are not in use, such as empty bathrooms, are not lit, Ms. Ruderman said. In addition, the windows are equipped with blinds that roll down or up automatically to keep heat in or out, depending on internal and external temperatures, she added.

To reflect the company's eco-friendly image, Ms. Ruderman contracted with Benefitfocus Inc., a Charleston, S.C.-based benefits technology firm, to build a benefits portal that would provide paperless communications and electronic enrollment.

"It didn't make sense to issue paper if we could do everything online," she said. "And, of course, it was supported by management."

Ms. Ruderman selected Benefitfocus after being introduced to the company via Leviton's self-funded health care plan administrator, Chapel Hill-based Blue Cross and Blue Shield of North Carolina, which had been using the company's technology. She liked the fact that Benefitfocus is a boutique operation.

"I like being a big fish in a small pond," she said.

Leviton's benefits portal, dubbed "HR InTouch," is pre-populated with each employee's individual and family benefits and claims information, which can be used as a decision-making tool during open enrollment,

which is conducted electronically.

"I think people spend more time shopping for a vacation than for their health plan options at open enrollment," Ms. Ruderman said.

Because not all employees use computers at work, and some don't have them at home, Ms. Ruderman arranged for computer kiosks to be set up at Leviton's 14 U.S. locations so all 3,000 employees would be able to access the site.

Besides information on all of the company's health and wellness programs, HR InTouch site includes interactive videos on stress management, healthy travel eating, drinking water at work to stay hydrated, as well as a primer on how to be a wise health care consumer. The portal also provides information on Blue Card Worldwide, a program available for employees who have medical emergencies while traveling outside of the United States.

HR InTouch also provides employees access to their 401(k) plan, which is administered by Bank of America Merrill Lynch, and to health savings account administrator ACS/Mellon Bank.

For this year's open enrollment, Ms. Ruderman added a video to the portal featuring Leviton Chief Executive Officer Don Hendler, who encourages employees to take part in the company's many wellness programs.

"You can do your part by becoming more personally involved in assessing and improving your own health," he tells employees in the video.

Mr. Hendler also asks employees to consider the high-deductible consumer-driven health plan, which was introduced for 2010, and reminds employees about the high cost of health benefits and the fact that Leviton is paying 77% of all costs.

Besides being "green" itself, the site saves Leviton a little "green" on the cost of paper and printing, according to Ms. Ruderman.

For example, when one of her team members recently went to FedEx Kinko's to make about 900 copies of benefit communications for Leviton, she came back apologizing for the cost.

"She said, 'Fran, I spent \$1,000,'" Ms. Ruderman recounted. "When you multiply that times 3,000 employees, it's thousands of dollars being saved."



Leviton contracts with Benefitfocus Inc. to build a benefits portal that provides paperless communications.

Prescription plan helps lower drug costs

MELVILLE, N.Y.—Leviton Manufacturing Co. Inc.'s "Medication Dedication" program, which was launched in January 2008, has increased medication adherence rates while lowering the cost of care for plan members with chronic illnesses.

Under the program, prescription drug copayments are waived for individuals with a chronic illness, such as Type II diabetes, high cholesterol, hypertension, coronary artery disease or asthma, if they agree to take generic prescription medications for their conditions. If no generic equivalent is available, or if their doctor prefers they take a nonpreferred brand-name drug, that medication is moved down to the preferred brand-name drug tier in Leviton's three-tiered prescription drug plan, which is administered by Chapel Hill-based Blue Cross and Blue Shield of North Carolina.

As a result, employees and their dependents who participate in Leviton's Medication Dedication program can save anywhere from \$10 per prescription for generics to \$25 for non-preferred brand-name prescription drugs.

Under Leviton's three-tiered drug program, generics cost \$10, preferred brand-name drugs cost \$25 and nonpreferred brand-name drugs cost \$50. Specialty drugs are subject to 25% coinsurance with a minimum copayment of \$50 and a maximum copayment of \$100.

This program, coupled with Leviton's weight management programs, reduced the cost of care for plan members who had been categorized as chronic/severe/catastrophic by 7.9% in 2008 over 2007, according to Fran Ruderman, senior director of benefits and compensation.

At the same time, the proportion of these plan members who were adhering to their prescribed drug regimens increased from 69% in 2007 to 81% in 2008, she said.

In addition, generic utilization grew from 59.6% to 65.4% of all prescriptions filled, producing additional savings to the company. Every percentage point increase in generic utilization yields a savings of \$1.27 per member per month, Ms. Ruderman calculated.

—By Joanne Wojcik

Fran Ruderman

Fran Ruderman, 49, has been the senior director of corporate benefits and compensation at Leviton Manufacturing Co. Inc. since July 2000. She came to Leviton, a family-owned electrical component manufacturer based in Melville, N.Y., after 14 years working as the director of benefits and compensation at Thomson Industries in Port Washington, N.Y.

Ms. Ruderman has a Bachelor of Business Administration from Baruch College in New York and a Master of Business Administration from Adelphi University in Garden City, N.Y.

She is married to Andrew Ruderman, a research analyst for Thomas Publishing Co. L.L.C., and the couple has two daughters, Laine, 18, and Darian, 14.



Leviton rewards workers who focus on their health

By accomplishing goals, employees can reduce premiums

By JOANNE WOJCIK

MELVILLE, N.Y.—Concerned that employees were not acting on the information they received from their annual health risk assessments and biometric screenings, Leviton Manufacturing Co. Inc. now requires employees to also accomplish one of three health goals in order to earn up to \$225 to apply toward their 2011 premium contributions.

They must make an appointment with their primary care physician to discuss the results of their HRA and biometric screenings, call a nurse line to arrange for a health coach, or join Health Partnerships and see a nutritionist.

Health Partnerships is a confidential health management program offered by Chapel Hill-based Blue Cross and Blue Shield of North Carolina, which also administers Leviton's self-insured health benefit plan.

Plan members receive educational materials and support services to improve their health and manage specific health conditions, such as asthma, diabetes, tobacco cessation and weight management.

Previously, employees could earn a \$100 annual premium discount for completing an HRA and participating in on-site biometric screenings.

In the Healthy Dividends program, which is open to employees and their dependents, participants earn points that can be exchanged for gift cards for achieving certain goals, such as exercising or losing weight. In 2009, Leviton employees participating in the Healthy Dividends program earned 832,000 points and were awarded \$8,300 in gift cards.

In addition to Healthy Dividends, Leviton offers employees a variety of other wellness and health promotion programs in keeping with the company's "Holistic Wellness

Mission Statement," which promises to "provide awareness for healthier lifestyle alternatives; foster positive behavior changes with programs, information, education and incentives; 'Go Green' with online information access; provide education and information for being a better consumer of benefit programs and services; and promote personal responsibility and accountability."

Among the wellness benefits offered are:

- 100% coverage of preventive care and generic preventive medications
- "Medication Dedication" prescription drug program (see related story)
- Flu shots for employees
- Weight management initiatives
- Biggest Loser competition (see related story, page 12)
- Annual National Walk at Lunch program
- Health and wellness newsletters
- Employee health fairs
- Fresh fruit Fridays
- Indoor and outdoor walking tracks
- Smoke-free campuses
- Worksite yoga
- Smoking cessation programs/classes
- Stress management programs

To encourage employees to adopt healthier eating habits, Fran Ruderman, senior director of benefits and compensation, asked the companies that manage the company's cafeteria and stock vending machines to add some healthy food options.

"We realized we couldn't take away all the chocolate bars and chips," she said. "But we could add some healthy alternatives."

For example, "in the cafeteria, there's a healthy vegetable served every day, and at least twice a week there's a fish option. Some locations have added turkey and veggie burgers," she said.

In addition, 100-calorie snacks, popcorn, granola bars and water were added to the vending machines.



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LEGAL NOTICE

NOTICE OF CLAIM DATE FOR CLAIMS AGAINST FRONTIER INSURANCE COMPANY ON DIRECT POLICIES ISSUED THROUGH TERRAMAR AGENCIES ("NOTICE")

By order dated October 10, 2001, the Supreme Court of the State of New York, County of New York, placed Frontier Insurance Company ("Frontier") into rehabilitation and appointed as rehabilitator of Frontier ("Rehabilitator") the then-Superintendent of Insurance of the State of New York, Gregory V. Serio (and his successors in office) ("Rehabilitation Order"). Pursuant to the New York Insurance Law ("Insurance Law") and the Rehabilitation Order, the Rehabilitator was given the responsibility of, among other things, marshalling Frontier's assets and adjudicating claims consistent with Article 74 of the Insurance Law.

PLEASE TAKE NOTICE that the Supreme Court of the State of New York, County of Albany, has issued an order, dated October 29, 2009, establishing March 12, 2010 ("Terramar Notice Date") as the last date on which a person may submit a notice ("Terramar Notice") with respect to any insurance policy or insurance or reinsurance contract issued by Terramar Insurance Company, Terramar Insurance Agency, Advanced Risk International, Ltd. or Terramar General Agency ("Terramar Policy") so as to preserve any obligation of Frontier pursuant to such Terramar Policy. The Order further provides as follows:

1. The Terramar Notice shall accurately and sufficiently set forth the required information identifying (a) the Terramar Policy pursuant to which Frontier has or may have an obligation ("Identified Terramar Policy"), (b) the policyholder(s) of such Identified Terramar Policy, (c) the person(s) with an interest in the Terramar Policy who, by submitting a Terramar Notice, seeks to preserve such person's interest in the Identified Terramar Policy ("Submitting Terramar Policy Interest Holder"), and (d) any claim under such Identified Terramar Policy where the Submitting Terramar Policy Interest Holder has knowledge of the event, accident or occurrence giving rise to the claim, the person or property allegedly injured or damaged, and the nature of the alleged injury or damage, prior to the Terramar Notice Date;

2. All claims against Frontier pursuant to any Terramar Policy will be barred unless the Terramar Policy, the policyholder(s) of such Terramar Policy and all other information required in Paragraph 1 of this Notice have been accurately and sufficiently identified in a Terramar Notice submitted by the Terramar Notice Date;

3. Any claim against Frontier pursuant to any Terramar Policy will be barred where the Submitting Terramar Policy Interest Holder had knowledge of the event, accident or occurrence giving rise to the claim, the person or property allegedly injured or damaged, and the nature of the alleged injury or damage, prior to the Terramar Notice Date and did not submit a timely Terramar Notice setting forth such information concerning the claim;

4. All persons will be barred from asserting claims against Frontier pursuant to any Terramar Policy other than Submitting Terramar Policy Interest Holders who submit a timely, accurate and sufficient Terramar Notice in connection with such Terramar Policy by the Terramar Notice Date; and

5. All Terramar Notices must be made in writing and sent to the Rehabilitator by first class mail, postage paid and postmarked on or before the Terramar Notice Date, or by overnight courier, fees paid and written acknowledgement of receipt by such courier on or before the Terramar Notice Date, to the following address:

Frontier Insurance Company in Rehabilitation
Attn: Legal Department
195 Lake Louise Marie Road
Rock Hill, N.Y. 12775-8000

Copies of Terramar Notice forms and instructions have been posted on the internet site maintained by the New York Liquidation Bureau at <http://www.nylib.org> or may be requested by calling 845-807-5047.

JAMES J. WRYNN
Superintendent of Insurance
of the State of New York as Rehabilitator
of Frontier Insurance Company

LEGAL NOTICE

NOTICE OF BAR DATE FOR CLAIMS AGAINST FRONTIER INSURANCE COMPANY AND TERMINATION OF FUTURE LIABILITY ON BONDS ("NOTICE")

On October 10, 2001, the Supreme Court of the State of New York, County of New York, placed Frontier Insurance Company ("Frontier") into rehabilitation and appointed as rehabilitator of Frontier ("Rehabilitator") the then-Superintendent of Insurance of the State of New York, Gregory V. Serio (and his successors in office) ("Rehabilitation Order"). Pursuant to the New York Insurance Law ("Insurance Law") and the Rehabilitation Order, the Rehabilitator was given the responsibility of, among other things, marshalling Frontier's assets and adjudicating claims consistent with Article 74 of the Insurance Law.

PLEASE TAKE NOTICE that the Supreme Court of the State of New York, County of Albany, has issued an order, dated October 29, 2009, establishing March 12, 2010 ("Bond Bar Date") as the last date on which a notice ("Bond Notice") regarding any bond issued by Frontier, including any surety bond or other bond or guaranty identified in New York Insurance Law Sections 1113(16) or 6801 ("Bond"), may be filed with the Rehabilitator so as to preserve any obligation of Frontier pursuant to such Bond. The Order further provides as follows:

1. The Bond Notice shall identify (a) the Bond pursuant to which it is alleged that Frontier has an obligation, (b) the default, event, accident, or occurrence allegedly giving rise to a claim pursuant to such Bond ("Triggering Event"), (c) the date of the Triggering Event, (d) the alleged injury, loss or damage caused by the Triggering Event, (e) the dollar amount of the claim alleged as a result of the Triggering Event, and (f) the obligee or principal under such Bond who, by submitting a Bond Notice, seeks to preserve such person's rights under the Bond ("Submitting Bond Interest Holder");

2. Any claim against Frontier pursuant to any Bond shall be barred unless a timely Bond Notice has been submitted that accurately and sufficiently identifies the Bond, the claim alleged pursuant to such Bond, and all other information required in Paragraph 1 of this Notice;

3. Any claim under any Bond in which the Triggering Event occurs after January 11, 2010 ("Bond Cutoff Date") shall be barred;

4. All persons will be barred from asserting claims against Frontier pursuant to any Bond other than Submitting Bond Interest Holders who submit a timely, accurate and sufficient Bond Notice in connection with such Bond by the Bond Bar Date; and

5. All Bond Notices must be made in writing and sent to the Rehabilitator by first class mail, postage paid and postmarked on or before the Bond Bar Date, or by overnight courier, fees paid and written acknowledgement of receipt by such courier on or before the Bond Bar Date, to the following address:

Frontier Insurance Company in Rehabilitation
Attn: Legal Department
195 Lake Louise Marie Road
Rock Hill, N.Y. 12775-8000

Copies of Bond Notice forms and instructions have been posted on the internet site maintained by the New York Liquidation Bureau at <http://www.nylib.org> or may be requested by calling 845-807-5045.

JAMES J. WRYNN
Superintendent of Insurance
of the State of New York as Rehabilitator
of Frontier Insurance Company

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LEGAL NOTICE

No. 16661 of 2009. IN THE HIGH COURT OF JUSTICE, CHANCERY DIVISION, COMPANIES COURT

IN THE MATTER OF ALLIANZ SUISSE REINSURANCE LTD AND THE OTHER COMPANIES LISTED IN THE SCHEDULE TO THE APPLICATION (ALL BEING MEMBERS OF THE TRIMARK 1968 AND PRIOR YEARS POOLS) and IN THE MATTER OF THE COMPANIES ACT 2006

NOTICE IS HEREBY GIVEN that by an order dated 11 November 2009, the High Court of Justice of England and Wales has sanctioned the schemes of arrangement pursuant to Part 26 of the Companies Act 2006 (the Schemes) proposed between certain companies that participated on the Trimark 1968 and Prior Years Pools and their respective Scheme Creditors. The Schemes became effective and binding on the Companies and Scheme Creditors on 11 November 2009.

Known Scheme Creditors will be sent a Claim Form to claim in the Schemes. Any person not sent a Claim Form that believes himself to be a Scheme Creditor should contact CTC Axiom as soon as possible. Scheme Creditors must return their Claims Forms to CTC Axiom by no later than the Bar Date, 12 April 2010.

The Scheme Document, Explanatory Statement and Appendices are available on request from KPMG LLP; please contact Ben Webber (Ben.Webber@kpmg.co.uk).

Any Scheme Creditor that is unclear about or has any questions concerning the action it is required to take should contact CTC Axiom.

CTC Axiom
Lloyd's Chambers
7 Portsoken Street
London
E1 8BT
United Kingdom

Contacts: Trevor Sage & John Farrow
General: +44 (0)20 7767 2700
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The State Board of Administration of Florida (SBA) is soliciting competitive responses from parties interested in offering actuarial consulting services for commutation of hurricane losses to the Florida Hurricane Catastrophe Fund (FHCF). The Invitation to Negotiate (ITN) will be available on December 4, 2009, and may be obtained from the FHCF website at www.sbafla.com/fhcf (under "Announcements"). The deadline for submitting responses is 2:00 p.m. EST on December 21, 2009. The SBA reserves the right to reject any or all competitive proposals and to cancel any ITNs.

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For 2010 BI Rates or Editorial Calendar call Monique at 212.210.0129

Products & Services

Irwin Siegel Agency expands workers comp program

ROCK HILL, N.Y.—Irwin Siegel Agency Inc. has expanded its workers compensation program to cover more sectors.

The expansion, which includes additional eligibility open to small business, social service providers including home health care, medical staffing programs, and other health care industries, will aim to offer "broad eligibility" by lowering the minimum premium from \$10,000 to \$2,500, the company said.

According to the Rock Hill, N.Y.-based agency, the workers compensation product includes claims services and consultative risk management resources, and can be purchased as a standalone policy or as a comprehensive package.

Chartis Inc. will underwrite the policy.

For more details, contact Chad Rowan, associate underwriter, specialty lines, at 800-622-8272 ext. 5143 or chad.rowan@siegelagency.com.

Markel introduces coverage for political campaigns

RICHMOND, Va.—Markel Risk Solutions, a unit of Richmond, Va.-based Markel Corp., has introduced a multiline, admitted insurance product for political campaigns.

CampaignPro, available in most U.S. states, aims to help manage property and liability risks faced by local, state and national political campaigns and committees, including gubernatorial and U.S. House and Senate campaigns.

According to Markel, campaigns have no exemptions from liability under statutory law. Also, ever-growing campaign revenues and donation levels add to the exposure for potential loss.

"2010 is a very active election cycle with all 435 United States House of Representatives and 36 United States Senate seats being

contested. In addition, 39 states will elect governors," the company said in a statement.

The program aims to protect a campaign's financial assets through a "coordinated approach that reduces gaps, simplifies coverage, and keeps costs down," the company said.

For more information, contact Barrett Hubbard, managing director, at 804-527-7792 or bhubbard@markelcorp.com.

Zurich adds enhancements to D&O liability policy

SCHAUMBURG, Ill.—Zurich North America Commercial, a unit of Zurich Financial Services Group, has announced a series of policy enhancements for its D&O liability coverage.

Under its D&O select policy, the Schaumburg, Ill.-based insurer offers coverage to mitigate litigation costs against electronic discovery risk, which refers to discovery in litigation of information from various electronic formats such as e-mail and instant messaging chats.

"The quantity of electronically stored information has increased dramatically over the past 10 years," said Will Fahey, senior vp of Zurich's specialty management solutions group. "Because of this drastic increase, a growing percentage of legal fees paid under D&O policies are related to e-discovery costs."

According to Zurich, the company also will work with ACT Litigation Services Inc., a Valencia, Calif.-based provider of electronic discovery, document review and litigation management consulting, to offer services to qualified policyholders that will develop and test their electronic discovery readiness and potentially control expenses and liability, as part of the increased coverage.

For more information, contact Mr. Fahey at 212-553-5629 or will.fahey@zurichna.com.

Chartis introduces add-on for pollution liability policy

NEW YORK—Chartis Inc. has introduced an endorsement to address specific environmental risk under its existing pollution legal liability select policy, the company said in a statement.

According to Chartis, the supplemental coverage was designed by its environmental unit to address risk exposures for carbon capture and storage operations, where carbon dioxide is captured then permanently stored to prevent its release into the atmosphere.

Chartis aims to "address carbon capture and storage activities with coverage for environmental risks to natural resources, public and private property, and human health," the company said in a statement.

New York-based Chartis Inc. is the property/casualty insurance unit of American International Group Inc.

For more information, contact Sara Eisenstat at 212-458-6275 or sara.eisenstat@chartisinsurance.com.

Pre-employ.com hosts red flag rule webinar

REDDING, Calif.—Pre-employ.com Inc., a pre-employment background screening and human resource provider, will host a free, on-demand educational webinar on mandatory compliance with the Federal Trade Commission's red flag rules.

The webinar, "Identity theft: A User's Responsibilities Under the FACT Act Red Flag Regulations," aims to inform employers about the FTC's red flag rules, which require financial institutions and creditors to implement written prevention programs that identify, detect and respond to identity theft.

Pre-employ.com's webinar features guest speakers Pam Devata, attorney at Seyfarth Shaw L.L.P. and Robert Mather, chief executive officer of Pre-employ.com.

The FTC has delayed the enforcement deadline of the rules to June 1, 2010. The law was enacted in January 2008.

For more information, visit www.pre-employ.com/RedFlagsRule.

TO SUBMIT ITEMS

BI's Products & Services column reports on new product offerings. Please send Product & Services news to Mike Tsikoudakis, 360 N. Michigan, Chicago, Ill. 60601 or e-mail mtsikoudakis@businessinsurance.com.

UP Comings & Goings CLOSE



GARY COOPER

NEW JOB TITLE: St. Louis-based association manager with Safety National Casualty Corp.

PREVIOUS POSITION: Carson City, Nev.-based deputy commissioner for the Nevada Division of Insurance

GOALS FOR NEW POSITION: Safety National is a leader in providing excess workers compensation for self-insured groups and associations and my role will be to act as a liaison between the company and state regulators who oversee those groups. One of our main goals is to facilitate a conversation that will help strengthen the self-insured group concept. This will be in addition to managing our staff of association underwriters and increasing awareness of Safety National's capabilities and expertise in this market segment.

CHALLENGES FACING INDUSTRY: The market remains very competitive and will continue to be until the workers compensation primary market hardens. Once this happens, there will be opportunities for new self-insurance group business. While

current self-insured groups face competitive pressures, there will always be a need for self-insurance.

INDUSTRY OUTLOOK: (Regarding) institutional knowledge, many of the administrators who started groups, and regulators who oversee those groups, are retiring and that knowledge will be difficult to replace. Also, the industry needs a better model for self-insured groups. Right now, there are more differences between state regulations for self-insured groups than similarities. We think that can potentially weaken groups' long-term success. To improve this, input is needed from both the regulator and industry perspectives. The best thing to do is to improve the existing model rather than see the deterioration of the entire concept.

FIRST EXPERIENCE IN JOB MARKET: I was a territory claims adjuster for (Boston-based) Commercial Union Cos. There, I learned how important insurance is for people.

ADVICE: Keep an open mind. Everyone you meet in this business knows something you don't know and can help you make a better contribution.

AIG: Deal to retain Benmosche OK'd

CONTINUED FROM PAGE 3

Bergman, an analyst with Morningstar Inc. in Chicago.

The stock is "designed as a retention tool, and I think a compensation package tied to both time and performance is a smart move for AIG," said Richard V. Smith, senior vp at Sibson Consulting, an executive recruiting firm in New York.

Until the agreement was signed, "it's possible AIG's board considered Mr. Benmosche a flight risk," said Mr. Smith. "But I think this package puts some glue in his seat," he said, estimating the contract probably requires Mr. Benmosche to stay in the role for five years, based on typical noncom-

pete contracts.

Mr. Benmosche also will be eligible for a performance bonus of up to \$3.5 million in company stock, raising his total annual compensation as high as \$10.5 million, according to a Form 8-K filed with the U.S. Securities and Exchange Commission in August.

Pay 'appropriate'

Executive recruiters said a \$10 million package is appropriate given the size of the company and the level of importance placed on the role by company shareholders.

Last week's developments coincide with what appears to be growing opinion in Washington over the issue of executive pay curbs and

their ability to hurt the insurer.

According to a Wall Street Journal report, federal officials are pressing Mr. Feinberg to ease up on compensation restrictions at AIG for 2010, citing anonymous sources.

The officials believe the severe curbs could harm the insurer and jeopardize its ability to repay the government, according to the report.

As a recipient of a 2008 bailout package of up to about \$180 billion, AIG has had to comply with pay regulations imposed on the top 25 executives as mandated by Mr. Feinberg last month. Mr. Feinberg is reviewing 2010 executive compensation packages for AIG's next 75 highest-paid executives.

Comings & Goings

ONLINE

VISIT www.businessinsurance.com/ComingsandGoings for a full list of this week's personnel moves and promotions. Check our Web site daily for additional postings and sign up for the weekly e-mail.

TO SUBMIT ITEMS

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

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INSURERS:
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■ Starr Underwriting Agencies L.L.C.
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ASSOCIATIONS:
■ Casualty Actuarial Society
■ LL Global Inc.
■ London Business Interruption Assn.
■ Property Casualty Insurers Assn. of America

Firms need to prepare for more ERISA lawsuits: Panel

PLUS conference panel says this route increasingly popular

By ZACK PHILLIPS

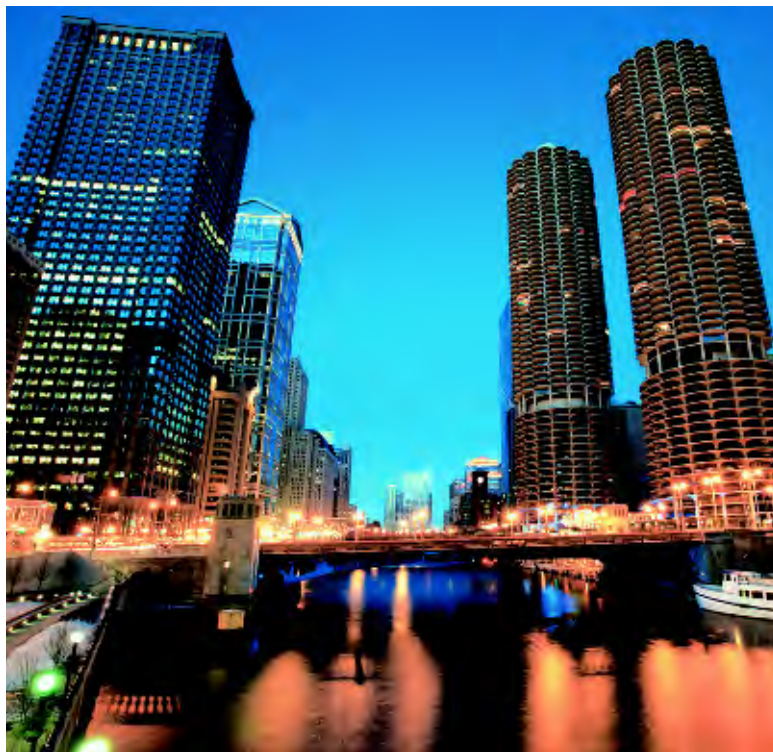
CHICAGO—Investment firms, retirement plan operators and their insurers should brace for more lawsuits filed under the Employee Retirement Income Security Act, experts say.

Filing litigation under ERISA is an increasingly popular route for plaintiffs, according to several attorneys and others on a panel at the Professional Liability Underwriting Society's 2009 international conference in Chicago earlier this month.

For example, in district court in Pennsylvania, a group of plaintiffs this year sued Austin Capital Management Ltd., an Austin, Texas-based partnership that oversees hedge fund investment portfolios, for investing their money with disgraced financier Bernard Madoff. The plaintiffs, including the Pension Fund for Hospital & Health Care Employees in Philadelphia, allege that Austin Capital Management violated ERISA by imprudently investing the plan's funds and failing to notice red flags that Mr. Madoff's firm was a Ponzi scheme.

Kenneth E. Rubinstein, a Manchester, N.H.-based partner at Nelson, Kinder, Mosseau, & Saturley P.C., said at the PLUS conference that he believed the case has settled. He also said the case "signals the beginning" of a new approach by some plaintiffs.

"I think we can take this as a clear sign that plaintiffs have found a



Chicago a PLUS for group's conference

CHICAGO—Nearly 2,000 underwriters, attorneys and other professional liability experts attended the Professional Liability Underwriting Society's 2009 international conference, held Nov. 11-13 in Chicago.

This year's conference included more than 15 educational sessions and panel discussions on recent court cases, trends in litigation, emerging exposures for directors and officers liability, errors and omission liability, fiduciary liability, and other professional liability insurance.

Next year's conference will be Nov. 10-12 in San Antonio.

—By Zack Phillips

(new) avenue," he said. "If you go through the (Austin Capital Management) complaint, it effectively

states a cause of action that probably would survive a motion to dismiss. Once these claims get going...

they're very costly to defend and they have some substantial risk."

For cases related to Ponzi schemes and other frauds, filing an ERISA suit is attractive to plaintiffs in part because there are not enough assets available through securities lawsuits to compensate all investors who were harmed, Mr. Rubinstein said.

But he said ERISA suits also are a way for plaintiffs to avoid the more stringent requirements of the Private Securities Litigation Reform Act of 1995.

That law requires plaintiffs to meet a higher threshold when pleading a case, and it halts discovery—often an enormously expensive undertaking for corporate defendants—when the defense files a motion to dismiss. An ERISA suit could bring allegations very similar to a traditional securities lawsuit but would not be subject to those PSLRA requirements, Mr. Rubinstein said.

"The plaintiffs are realizing that not only is this an additional pocket but it's an additional pocket where they can get a little more leverage and have to deal with a little less strict requirements," he said.

In addition to cases involving Ponzi schemes, plaintiffs have filed ERISA cases against large companies operating 401(k) or similar plans for allegedly excessive fees.

Most of these suits argue that the plan operators should not have paid retail-level fees and should have used their large size to negotiate more favorable fees, said Elizabeth Hopkins, counsel for appellate and special litigation at the U.S. Department of Labor.

Some cases also accuse defendants of undisclosed fees, revenue

sharing or other conflicts of interest, she said.

One of the most important issues in such cases is who constitutes a fiduciary. Ms. Hopkins said that an employee who is not a named fiduciary but who exercises control over the plan, its management or its assets could be named as a fiduciary in an ERISA suit, and many investment managers have been named as defendants in the suits. Still, she said such cases typically are difficult for plaintiffs.

"Generally these cases are very hard for plaintiffs unless there really was no process that was used in picking the funds and unless there was some pretty obvious self-dealing," she said.

Earlier this year, the U.S. Supreme Court established more stringent pleading standards in *Ashcroft vs. Iqbal*, drawing on its 2007 ruling in *Bell Atlantic Corp. et al. vs. William Twombly et al.* Ms. Hopkins said that those rulings, which require that a claim be "plausible on its face," have helped corporate defendants, especially in ERISA suits, and have resulted in numerous dismissals.

"These are hard cases for plaintiffs," she said. "Judges tend not to like them because they're complex and time consuming, and (judges), I think, want to find ways to get rid of these cases. And so far, dismissing them as not being plausible is one way of these cases being dismissed."

Ms. Hopkins said that the 8th U.S. Circuit Court of Appeals soon is expected to rule on a lawsuit against Wal-Mart Stores Inc. for allegedly costing its 401(k) participants \$60 million in unnecessary mutual fund fees.

PLUS: Companies may face lawsuits, regulation on executive pay

CONTINUED FROM PAGE 4

kind of limits that they are going to need because that is a company that not only has a higher risk of being sued, it has a higher risk of being forced to settle at a higher level because of unjust enrichment."

Mark Lebovitch, a New York-based partner at Bernstein Litowitz Berger & Grossmann L.L.P., said he also rejects the logic of arguments defending exorbitant executive pay, and he thinks federal regulation is necessary to provoke the needed changes in compensation structures.

"I'm not a big fan of government intervention, but because of the nature of the market for people who create wealth...they have a lot of options and it's very hard for a single company to try to improve practices," he said. "If one Wall Street firm were to (restrict the compensation of) their moneymakers, they're all going to go to the next firm. So you do have a need, unfortunately, for regulatory intervention."

In October, the Federal Reserve proposed a plan to regulate execu-

tive pay at the nation's 28 largest banks. Mr. Marshall said the regulatory changes fall in three areas: steering executives' focus toward long-term rather than short-term results by pegging compensation incentives to the firm's performance over three years or stretching out the payment of an executive's compensation over three years, using executive power to "claw back" excessive compensation, and eliminating incentives that encourage risk taking, which he said will be difficult.

"This is probably the trickiest piece because most directors did not feel they were taking excessive risk" before the financial crisis, he said. "So it's the definition of risk that's problematic. But the spirit of that (regulation) is correct."

Mr. Marshall also suggested corporations eliminate stock options as compensation and replace them with restricted stock or other alternatives.

"My perspective is...stock options have failed and they're not worth looking at any further," he said. "There are too many ways to game the system. What we really want to

do to genuinely align management interests with shareholder interests is have management become shareholders...the old-fashioned way: actually taking money out of their pocket and buying stock and making money when the stock value goes up."

In addition to federal regulation, Mr. Lebovitch said litigation—particularly derivative lawsuits, which shareholders file on behalf of the company against a third party, such as a former executive—is a tool to provoke needed changes in corporate governance.

"We represent institutions that recognize that derivative suits are about setting incentives and they're about recovery, but recovery for the company," he said. "Sophisticated institutions...will pick out particular cases to set an example. You go in there and...take this egregious situation and then trust that by implementing meaningful corporate governance changes, by getting money back out of directors' pockets and really make an example of a particular company, you're going to have an improvement in the overall market and behavior."

Still, Gary M. Brown, a Nashville-based shareholder and attorney at Baker, Donelson, Bearman, Caldwell & Berkowitz P.C., said the business judgment rule, which protects directors and officers from liability if they make a decision in good faith and with prudence that turns out unfavorably for the company, is "alive and well."

"Use common sense to run your company," he said. "Think about the action you're taking today and how are you going to like it if it shows up in the right-hand column of the Wall Street Journal."

But Mr. Brown also said the business judgment rule often is misunderstood. Directors and officers cannot have an interest in the transaction and must be able to demonstrate how they came to their decision in order to enjoy the protections of the rule, he said.

"There's a significant difference in the law between doing nothing and deciding to do nothing," he said.

Mr. Brown cited a derivative suit filed by Burbank, Calif.-based Walt Disney Co. shareholders in 1997 against board members for approv-

ing a \$140 million severance package to former president Michael S. Ovitz. Disney eventually won the case on the basis of the business judgment rule, but only after 10 expensive years of litigation.

"The lesson out of that Disney case really was those directors could have saved themselves 10 years of litigation and 37 days of trial with a good set of (meeting) minutes," he said.

Mr. Lebovitch's firm represents Amalgamated Bank, which has filed a derivative lawsuit against Pfizer Inc. alleging its executives harmed the company by promoting its drugs for off-label uses, resulting in a \$2.3 billion federal fine in October. He said he did not believe one successful lawsuit would open the floodgates to new litigation.

"I don't think every ruling that says, 'Hey, maybe a director did the wrong thing,' portends a fundamental shift in our capital system," he said. "I think there are times when it's good to hold people accountable for what they did, make an example of people and that will send a...message."

Finite: Accounting scandals change face of financial reinsurance

CONTINUED FROM PAGE 1

"10/10" rule, which determined that a transaction could be considered insurance if there was at least a 10% chance of a 10% loss.

Then came investigations by then-New York Attorney General Eliot Spitzer and others that, among other developments, eventually led to the criminal convictions of several former executives at New York-based American International Group Inc. and Stamford, Conn.-based General Reinsurance Corp. in connection with finite risk deals (*BI*, Sept. 20).

New rule effective

Meanwhile, in 2005, the National Assn. of Insurance Commissioners approved finite reinsurance disclosure requirements for property/casualty insurers. It also said that an insurer's chief executive officer and chief financial officer must attest that risk transfer occurred and there were no side agreements that eliminated risk.

The rule has been effective, according to Joseph Fritsch, director of insurance accounting policy for the New York State Insurance Department and chairman of the NAIC's property/casualty reinsurance study group. Since introducing the NAIC disclosure requirements, "we haven't seen any major cases of abuses," said Mr. Fritsch.

There also is little of what once was called finite reinsurance, observers say.

"Today, there's very little, if any, being written," said Robert P. Hartwig, president of the New York-based Insurance Information Institute. The investigations and convictions in connection with finite reinsurance have "obviously been an enormous deterrent to participating in this market which, at its height, maybe accounted for 5% or 6% of the reinsurance market," said Mr. Hartwig.

Paul Walther, CEO and principal consultant with Lake Mary, Fla.-based Reinsurance Directions Inc., said he has not heard much of finite reinsurance activity recently.

It "just seems the traditional ways of doing things have been restored to popularity," he said. "The bloom

A TREACHEROUS PATH

Finite reinsurance has caused problems for several insurers and reinsurers

■ A bogus finite reinsurance deal between American International Group Inc. and General Re Corp. that was intended to help AIG manipulate its financial statements to falsely inflate its reported loss reserves by \$500 million eventually led to prison sentences for former Gen Re and AIG officials. After a trial last year, five former executives were found guilty of fraud charges, sentenced and fined: Ronald E. Ferguson, former Gen Re chief executive officer, received two years in prison and a \$200,000 fine; Christian M. Milton, former AIG vp of reinsurance, four years in prison and \$200,000 fine; Elizabeth Monrad, former Gen Re chief financial officer, 18 months in prison and \$250,000 fine; Christopher Garand, Gen Re's senior vp in charge of U.S. finite underwriting, one year and one day in prison and \$150,000 fine; and Robert Graham, Gen Re's senior vp and assistant general counsel, one year and one day in prison and \$100,000 fine. All are appealing the sentences. In

addition, two former Gen Re executives were sentenced after pleading guilty to conspiracy charges: Richard Napier, former Gen Re senior vp, received two years probation and a \$10,000 fine; and John Houldsworth, former CEO of Gen Re's Cologne Re Dublin unit, two years probation and \$5,000 fine.

■ Liquidation of HIH Insurance Co. Ltd., Australia's largest corporate collapse, has been tied to its 1998 takeover of FAI General Insurance Co. Ltd. FAI allegedly engaged in bogus finite reinsurance transactions involving an Australian arm of Gen Re that allowed it to mask its true financial state.

■ Inter-Ocean Holdings Ltd., which had been the subject of regulatory probes in the use of finite reinsurance, was shuttered in April 2005. It subsequently was acquired by Castlewood Holdings Ltd.

■ Settlements with state and federal regulators over finite risk products have involved

various insurers and reinsurers including: Gen Re, \$72 million in 2009; Zurich Financial Services Group Inc., \$25 million in 2008 and \$153 million in 2006; unit Zurich American Insurance Co., \$141.8 million in 2006; MBIA Inc., \$75 million in 2007; Renaissance Re Holdings Ltd., \$15 million in 2007; AIG, \$1.64 billion in 2006; Federal National Mortgage Assn., \$400 million in 2006; ACE Ltd., for charges including sham finite reinsurance contracts, \$80 million in 2006; St. Paul Travelers Cos. Inc., for improper use of finite reinsurance, among other charges, \$77 million in 2006; General Reinsurance U.K. Ltd., \$2.3 million in 2006.

■ Deals involving finite risk prompted the exits of the top officers of AIG, Renaissance Re and Max Re Capital Ltd.

■ Restatements involving finite risk have included Fairfax Financial Holdings Inc., Odyssey Re Holdings Corp. and Converium Holding A.G.

—By Judy Greenwald

went off the finite rose" when AIG and Gen Re came under the microscope, he said. "Because of that, I think people got scared" of such deals.

"Everyone seemed relatively comfortable 10 years ago that they knew how much risk transfer" was required, said Stephen K. Bolland, president of reinsurance intermediary Gill & Roeser Inc. But Mr. Spitzer "just basically changed the goal posts as to how much risk has to be transferred, unfortunately," Mr. Bolland said.

"It's very difficult to say there is sufficient risk transfer when you don't know what that risk transfer is

supposed to be anymore," he said. "I don't know if too many actuaries and accountants would be comfortable signing off at the moment, because it's unclear where that line is as to how much risk transfer has to take place."

There continue to be products, however, that incorporate at least some of the elements of finite reinsurance, although all have substantial amounts of risk transfer. Mr. Bolland said that "technically, traditional reinsurance can be adjusted," so as not to replace finite reinsurance, "but get close to it."

"One of the interesting things about finite reinsurance is it was

done for a huge amount of different reasons. It wasn't just a finite product that was sitting there on the shelf and somebody said, 'Oh, I want a bit of that,'" Mr. Bolland said.

"You could use it for a whole host of different reasons, so a whole host of different things has effectively taken its place," said Mr. Bolland. For instance, much of finite reinsurance was done on aggregate basis, with limited risk transfer. Now, insurers continue to buy aggregate excess reinsurance, but there is more risk transfer and it is more costly.

"Effectively, people are paying

more, but they're getting more protection," Mr. Bolland said.

"The deals are being done, but they're not being called finite anymore. They're being called 'structured'" products, said Donald J. Riggan, senior consultant with Spring Consulting Group L.L.C. in Boston. However, these deals no longer follow the 10/10 rule of thumb, said Mr. Riggan. "It's got to be 20/20 or 30/30. There really has to be a significant loss transfer."

Times are changing

Edward Hochberg, Philadelphia-based principal with Towers Perrin's reinsurance brokerage business, said, "In the old days, it was much more about achieving an accounting result," such as discounting loss reserves. "Today, the primary objective is risk transfer," he said.

And those who are involved in these transactions "are being very careful to document pretty extensively the legitimate risk transfer," said Howard Mills, New York-based director and chief adviser for the industry group of consultants at Deloitte & Touche USA L.L.P.

Mr. Hochberg estimates that, where finite risk products once accounted for about 5% to 7% of the market, structured products now account for 50% to 60% of that share. "It's still a pretty vibrant market," he said.

"We've definitely seen a pickup in activity over the last couple of years. The initial runaway has started to move in the other direction," said Mr. Hochberg.

Painting all the finite products with the same brush was an overreaction, "and I think we're starting to come out of it," Mr. Hochberg said.

However, Donald A. Paterson, CEO of Los Angeles-based Paterson², which designs customized risk-transfer products, said insurers still are wary about writing this business because of lingering ambiguity about its accounting treatment.

"Even if you want to do it properly...it's not clear exactly how you should be accounting for it," said Mr. Paterson. Insurers could go to several different auditing firms and "get different advice from each."

Survey: Employers do not do enough to relieve workplace stress

CONTINUED FROM PAGE 4

according to Ms. Wolff.

Forty percent of employers reported higher use of health care benefits due to increased employee stress, 35% cited a higher incidence of disability claims, and nearly half indicated a marked increase in the use of employee assistance programs.

Although 78% of employers responding to the survey cited excessive work hours as a leading cause of stress among their employees, just 21% of them said they are taking steps to address stress.

Moreover, although 68% of employers cited lack of work/life balance as a leading employee stress producer, only 38% said they are

taking action to combat this stress factor.

Meanwhile, only 41% of employers said they are addressing employees' fear of job loss, which was cited by 67% of employers as a leading cause of employee stress.

If employers do not address these stress factors, the productivity gains they've been experiencing could be lost, warned Helen Darling, president of Washington-based NBGH, which cosponsored the survey.

"It's clear that stress has been growing for several years, but it's hit a new high exacerbated by the financial meltdown," she noted. "A little bit of stress is actually good, but we're way beyond the level of it being motivating. It will be very

hard to recover economically if we don't find better ways to help employees address stress."

Fortunately, employers, for the most part, continue to invest in health risk assessments and biometric testing and lifestyle behavior change programs which may, in some cases, address some stressors, according to Ms. Wolff.

"The whole issue of how to manage stress is definitely a tough one," she said.

The survey included 352 responses from employers with 1,000 or more employees who were polled during June, July and August. To view the full 2009/2010 Staying@Work report, visit www.watsonwyatt.com.

STRESSED OUT

Sources of stress at U.S. employers and how many are taking actions to reduce them

	Source of stress	Taking actions to reduce stress
Excessive workload and/or long hours	78%	21%
Lack of work/life balance	68%	38%
Fears about job loss	67%	41%
Technologies that expand employee availability during nonworking hours	59%	24%
Lack of teamwork or inadequate staffing	51%	23%

Source: NBGH/Watson Wyatt Worldwide 2009/2010 Staying@Work report

COBRA: Anticipated subsidy would create administrative headaches

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From March 1 through June 30, monthly enrollment rates for laid-off employees averaged 38%, according to a Hewitt Associates Inc. analysis of COBRA enrollment among 200 large employers.

"Some employers have seen some big spikes in enrollment," said Scott Keyes, a senior consultant with Watson Wyatt Worldwide in Stamford, Conn.

The explanation for the leap in enrollment is simple: With the government picking up 65% of the tab for premiums—which often are \$400 a month for individual coverage and \$1,200 a month for family coverage—COBRA is much more affordable.

But for many beneficiaries, that subsidy has come to an end. The subsidy expired at the end of November for beneficiaries who have received the nine-month subsidy since it first became available, which generally was March 1.

As a result, in December billing statements some employers and plan administrators have asked beneficiaries to pay the full COBRA premium, instead of 35%.

"We have already set up a 100% billing for December," said Kathy Dupree, benefits manager at Core Laboratories Inc., a Houston-based company that provides services to petroleum companies.

But some plan administrators—



especially those that send out payment booklets for COBRA beneficiaries—say that for now they are not sending out new booklets asking beneficiaries to pay the full premium.

"It is a calculated risk," acknowledges Linda Anderson, benefit administration consultant in Watson Wyatt's Chicago office.

Ms. Anderson says if Congress does not extend the subsidy, the work involved in obtaining the money owed by beneficiaries who

EXTENSION BILLS

How legislators would extend the federal COBRA premium subsidy

HOUSE OF REPRESENTATIVES

Extended COBRA Continuation Protection Act of 2009 (H.R. 3930)

- COBRA beneficiaries would have an additional six months of premium subsidies.
- Employees laid off from Jan. 1, 2010, through June 30, 2010, would be eligible for 15 months of subsidized premiums.
- Premium subsidy would remain at 65%.

SENATE

COBRA Subsidy Extension and Enhancement Act of 2009 (S. 2730)

- COBRA beneficiaries would have an additional six months of premium subsidies.
- Employees laid off from Jan. 1, 2010, through June 30, 2010, would be eligible for 15 months of subsidized premiums.
- Premium subsidy would be increased to 75%.

underpaid the premium would be less than issuing refund checks and adjusting future COBRA premiums as an offset to overpayments if Congress does extend the subsidy.

Benefits experts say it is likely Congress will extend the subsidy, most likely as part of a broader bill, though probably not until mid- to late December.

In fact, the chief reason Congress hasn't acted is that members have been consumed with the effort to pass comprehensive health care

reform legislation, observers say.

Less certain, though, is the shape of the extension legislation.

"There is little doubt that Congress will extend the subsidy. But no one knows exactly how the law will be extended," said Andy Anderson, a partner with Morgan, Lewis & Bockius L.L.P. in Chicago.

For example, one possible course of action would be for legislators to make the subsidy available for those who lose their jobs after Dec. 31, 2009.

Another possible course of congressional action would be to extend the premium subsidy for current beneficiaries for several months and to make the subsidy available for those who lose their jobs during the first half of next year. Bills have been introduced in the Senate and the House that would do that, though no action has been taken on those measures.

Regardless of which approach Congress takes, employers and plan administrators will have more work ahead of them in communicating the changes to beneficiaries.

Still, assuming Congress extends the subsidy, the amount of work will be far less compared to earlier this year when the subsidy legislation was enacted. At that time employers, with no regulatory guidance, had to locate former employees who terminated employment as early as Sept. 1, 2008, and initially declined COBRA and give them a second chance to enroll.

In addition, it took the Internal Revenue Service months to issue and complete guidance—such as defining situations that constituted involuntary employment termination—on subsidy-related issues.

That initial confusion and scrambling, though, is long past. COBRA premium subsidy administration now is pretty much "business as usual," said Karen Frost, a Hewitt Associates health and welfare outsourcing leader in Lincolnshire, Ill.

Medicare: Needless work comp cost hikes attributed to inflated rulings

CONTINUED FROM PAGE 1

from workplace injuries or illnesses that employers or workers comp insurers are obligated to fund.

To ensure that workers comp-related medical expenses won't be pushed onto Medicare once an employee reaches retirement age, insurers and employers are supposed to finance workers compensation Medicare set-aside arrangements.

That typically requires allocating a portion of a workers comp claim settlement into a trust fund for the injured employee's future medical care. Set-asides are required in cases where workers comp claimants are eligible for Medicare, nearing retirement age, or qualify for a Social Security disability insurance program.

The set-asides have been recognized since 1995 as a preferred method for considering Medicare's interest in workers comp settlements. But Medicare during the past year has issued new guidelines on the set-asides as it increasingly steps up efforts to make sure parties to a workers comp settlement properly fund for future medical liabilities, experts say.

Regional offices of the U.S. Department of Health and Human Services' Centers for Medicare & Medicaid Services review and approve set-aside arrangements on a case-by-case basis.

While CMS is carrying out its role of protecting Medicare, its staff members often are too aggressive when determining the appropriate

amount that must be set aside for workers comp claims, said Fred O. Pachón, vp of risk management for Santa Barbara, Calif.-based Select Staffing Inc.

"CMS is doing what it is supposed to do, but they are being overly conservative," Mr. Pachón said. "We as insureds really ought to be putting CMS under a microscope, and we need to challenge any CMS set-aside where they seem out of line."

Inconsistent decisions made by new CMS workers who lack experience evaluating workers comp claims are to blame for some of the cost increases, observers say. While inconsistent, they often call for set-aside amounts greater than employers' estimates for an appropriate amount, several sources said.

CMS did not respond to several interview requests.

But estimating reserves for long-term medical claims is a difficult challenge even for seasoned workers comp professionals, said Bob Briscoe, a senior consultant, principal and head of the workers compensation claims practice in New York for Milliman Inc.

With many CMS workers lacking substantial workers comp experience, it's understandable employers are seeing inconsistent decisions that often increase expenses, Mr. Briscoe said.

"It's absolutely unpredictable (when) you send in an MSA for \$30,000 whether it comes back at \$20,000 or \$60,000," Mr. Briscoe

said. "To the extent that the average result is higher than submitted, then obviously the price has gone up."

Several industry sources say that, so far, workers comp research organizations have not tracked cost increases associated with CMS claims decisions. But Mr. Pachón said he has seen claims cost increases ranging from 10% to 20%, and other sources say 20% is

'We as insureds really ought to be putting CMS under a microscope, and we need to challenge any CMS set-aside where they seem out of line.'

Fred O. Pachón, Select Staffing Inc.

roughly average.

"I don't think I would disagree with a 20-odd percent estimate," Mr. Briscoe said.

Several factors complicate the process, including various incentives for attorneys and payers to hold off on settling cases requiring a set-aside, several sources said. For instance, requiring a large set-aside may encourage some payers to delay settling some workers comp claims in hopes that the claimant's

medical condition improves, thus reducing the ultimate set-aside amount.

In addition, workers comp claimants may back out of a settlement agreement during the time a claim payer corresponds with CMS negotiating an appropriate set-aside amount, Mr. Briscoe said.

"Keep in mind, while you haven't settled a claim you are still paying medical (expenses) and maybe even indemnity," Mr. Briscoe said. "So the cost of a claim increases with a delay even if CMS (eventually) agrees with your settlement amount."

Other CMS practices also contribute to the higher costs, experts say.

For example, CMS last year said it would use the average wholesale price—the published price of drugs generally used in setting Medicaid reimbursements—to determine set-aside amount for pharmaceuticals.

But workers compensation claims payers rarely pay AWP, said Roy Franco, director of risk management strategies for supermarket chain Safeway Inc. in Pleasanton, Calif. Payers usually pay discounted amounts established by state pharmaceutical fee schedules.

"No one in the industry uses average wholesale price," said Mr. Franco, who also is a member of the external affairs committee for the Risk & Insurance Management Society Inc. "Everybody gets discounts. Not even Medicare pays AWP. It has caused quite an

increase in MSA costs."

To reduce costs, many employers turn to vendors that specialize in challenging CMS. The vendors can question, for example, whether medical expenses CMS uses in its estimations really stem from a work injury, said Paul Braun, managing director of casualty claims for Aon Global Risk Consulting in Los Angeles.

But not all vendors are equal, and employers can test their worth by comparing how each values a claim, Mr. Braun said.

Mr. Pachón agrees. One vendor valued a set-aside for one of his claims at \$80,000 while another valued it at \$200,000, Mr. Pachón said.

"We had to reopen the case and send it back to CMS and they agreed with the \$80,000," Mr. Pachón said. "Make sure the vendor is being very aggressive."

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fees and expenses or settlement costs, AIG said. Among the disputes covered by the agreement was a \$1 billion derivative lawsuit AIG filed against Messrs. Greenberg and Smith. Messrs. Greenberg and Smith also will submit claims for past legal fees and expenses to an independent third party, who will determine how much of those AIG is legally obligated to pay under its charter and bylaws and Delaware law, up to a cap of \$150 million. Among other provisions in the agreement, AIG will give Mr. Greenberg "reasonable access" to AIG's archives to write his memoirs. The agreement also calls for certain personal property to be returned to Mr. Greenberg, including photographs of him and AIG founder Cornelius Vander Starr and a Persian rug from AIG's former headquarters.

Senate to begin debate on health reform bill

The Senate will begin consideration of sweeping health care reform legislation this week, after a Nov. 21 vote—along party lines—to allow debate to proceed. Sixty senators—58 Democrats and two Independents—voted to open debate on the measure, while 39 Republicans opposed. The Senate bill would impose stiff fees on all but the smallest employers that don't offer affordable coverage to employees and would impose penalties on individuals who don't enroll in a health insurance plan. The measure also would provide federal health insurance premium subsidies for the lower-income uninsured and set up health insurance exchanges where individuals and small employers could choose from plans offered by insurers. To help finance the expansion of coverage, an excise tax would be imposed on costly group health insurance plans, while boosting Medicare payroll taxes on high-income workers. The House previously passed its own version of the reform legislation.

Marsh reportedly in talks to acquire HSBC Insurance

Marsh Inc. is said to be in "advanced talks" to acquire London-based broker HSBC Insurance Brokers Ltd. Quoting industry insiders, London's

Daily Telegraph said banking giant HSBC Holdings P.L.C. no longer views the brokerage as a core part of its strategy and that talks between the bank and Marsh are "at an advanced stage." HSBC Insurance is the ninth-largest broker in the United Kingdom and is valued at between £150 million to £200 million (\$247.6 million to \$330.2 million), the paper said. Spokespeople for Marsh and HSBC Insurance said they do not comment on marketplace speculation.

Swiss Re places bond for extreme mortality risk

Swiss Reinsurance Co. has transferred \$75 million of extreme mortality risk in the United States and United Kingdom to the capital markets in a securitized transaction through a Cayman Islands company. The transaction with VITA Capital IV Ltd., which comes when the H1N1 flu virus is spreading, covers a five-year period ending in 2014. Vita IV, as it is called, issued notes rated BB+ linked to the risk into the capital markets. The notes offering was successful notwithstanding the media focus on the H1N1 flu virus, Zurich-based Swiss Re said in a statement.

McDonald's liable in employee assault case

McDonald's Corp. is liable in the sexual assault case of an employee detained by supervisors who were following the instructions of a prank caller pretending to be a police officer, a Kentucky appeals court has ruled. The ruling upholds a jury award of \$1.1 million in compensatory damages and \$5 million in punitive damages for the plaintiff's sexual harassment, false imprisonment, premises liability and negligence claims. The ruling stems from a 2004 incident in which an unknown individual telephoned the Mount Washington, Ky., restaurant where Ms. Ogborn worked. He claimed to be a police officer investigating a purse or wallet theft. The caller convinced an assistant manager to take Ms. Ogborn's clothes while she was held in an office and convinced the assistant manager to recruit her fiancé to watch over Ms. Ogborn. While the assistant manager left the room, the fiancé sexually assaulted Ms. Ogborn, court records state. McDonald's appealed the jury award arguing that the exclusive remedy under workers compensation barred Ms. Ogborn's suit. The appeals court disagreed finding that McDonald's knew of 30 hoax telephone calls to its restaurants between 1994 and 2004 and that it decided not to warn and train store managers and employees about the calls.

Winter: Cold safety a snap

CONTINUED FROM PAGE 3

In the South, where prolonged freezes are rare, steps need to be taken to protect outside equipment and processes in case a cold snap lingers, Mr. Beauman said. For example, heat tape should be wrapped around piping and critical instrumentation, he said. Outside sensors need to be protected as well.

In the North, snow loading can be an issue, he said. Loss-control officials need to have maintenance workers regularly visit roofs to make sure they're clear.

While the recession hasn't been an issue for Pennsylvania State University's winter property protection program, the university is prepared to deal with snow loading, said Gary W. Langsdale, risk officer for Penn State in State College, Pa. The recession has encouraged people without jobs to enroll, and "that means we don't have any empty buildings."

He said because of the school's location, buildings are constructed to withstand cold. "The biggest issue gets to be snow loading on the roof," he said. "It's just a matter of keeping an eye on the roofs," he said. Mr. Langsdale said there are maintenance people in each building every day who are reminded by their supervisors to keep an eye on roofs and to do things such as making sure drains remain unplugged.

The recession also has meant there a "lot of new players involved in the ownership and operations of buildings," said George Dale, managing director of Aon Risk Services' Construction Services Group in Los Angeles. Banks and other holders of foreclosed properties find themselves in the new position of having to maintain buildings, he said. "It has a very significant impact on how projects are being protected."

"From a macro perspective, there's a huge amount of transition when you've got a bunch of folks who are not used to being operators and absolutely we are being called upon to bridge that gap," he said. "They have to make sure both from a winterization as well as a security issue that their collateral is there."

Boilers deserve special attention, said Rick Grobart, technical services supervisor-risk control consulting services for Gallagher Bassett Services Inc. in Itasca, Ill.

"Make sure the boiler systems are adequate and have undergone routine maintenance," he said. Doing so is a year-round process, he said.

DON'T GET SNOWED IN

Steps to mitigate the risk of roof collapse in winter.

- Always keep the roof well maintained and free of excessive snow and ensure all drains are clear.
- Inspect the roof structure for weaknesses and snow-loading capacity, especially where snow can accumulate.
- Ensure your facility's winter emergency response plan includes a section on removing snow and ice from the roof.
- Identify loads added since the building was constructed, such as equipment hung from the roof. Reinforcement may be necessary.
- Check annually for loose connections, sagging or twisted roof supports, or signs of rot or corrosion.
- Ensure shovels, wheelbarrows and snow blowers are regularly available for crews to use to remove snow from the roof to prevent overloading.
- Check drains, scuppers and downspouts to ensure they are free of debris.

Source: Factory Mutual Insurance Co.



Boilers should be inspected weekly by checking the boiler room for cleanliness, removing unnecessary combustibles, and assuring there's at least a 36-inch clearance between the boiler and anything combustible. Those responsible for loss control also need to check for water leaks and any unusual odors. In addition, they will want to observe proper firing of the boiler if possible and make sure pressure and temperature are within the allowable limits for the system set by the manufacturers. The oil storage tank needs to be checked and delivery scheduled, if necessary.

Monthly maintenance should include testing the boiler's low-water cutoff and manually testing the safety relief valve, said Mr. Grobart. Annually, staff should test all safety and pressure relief valves, test all combustion safety controls, clean fire sides in the flue, take apart and clean the low-water cutoff, evaluate combustion burner efficiency, and check steam traps, he said.

Sometimes, maintenance that had been outsourced might be brought

in-house as a cost-saving step, said Mr. Grobart. But the process should undergo an adequate analysis to assure that switch from vendor to in-house personnel is seamless.

"Cutting corners when it comes to something like boiler maintenance could result in a catastrophic loss," he said.

Winter also presents loss-control issues for corporate fleets, said Zurich's Ms. Browning. Driving should be an ongoing training issue for all employees, she said. Vehicles should be in good condition and employees should keep at least a half a tank of fuel in the vehicle. They also should have basic emergency supplies such as flashlights and cell phones that work.

Preparation is a constant effort, said Regina McMichael, head of customer education and engagement for Zurich in Clemson, S.C.

Companies with a large fleet probably are more likely to think about winter risk, but businesses with only handful of vehicles might need an extra reminder.



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Man's designs for TV fame go down the tubes

If you're in the middle of a scam to collect disability benefits, it's probably best not to go on television.

Ronald E. Hunt, a 56-year-old interior designer in California, found this out the hard way.

Mr. Hunt was convicted of one felony count of state income tax fraud and one felony count of insurance fraud when it was discovered he had been working as an interior designer from 2003 to 2006, the entire time he was claiming to be disabled, according to the California Franchise Tax Board.

Figuring the odds of being caught were in his favor, Mr. Hunt appeared on a home improvement show on HGTV while he was claiming disability, but his plan was foiled when an observant employee with the private insurance company paying Mr. Hunt's disability spotted him on the show and contacted the California Department of Insurance.

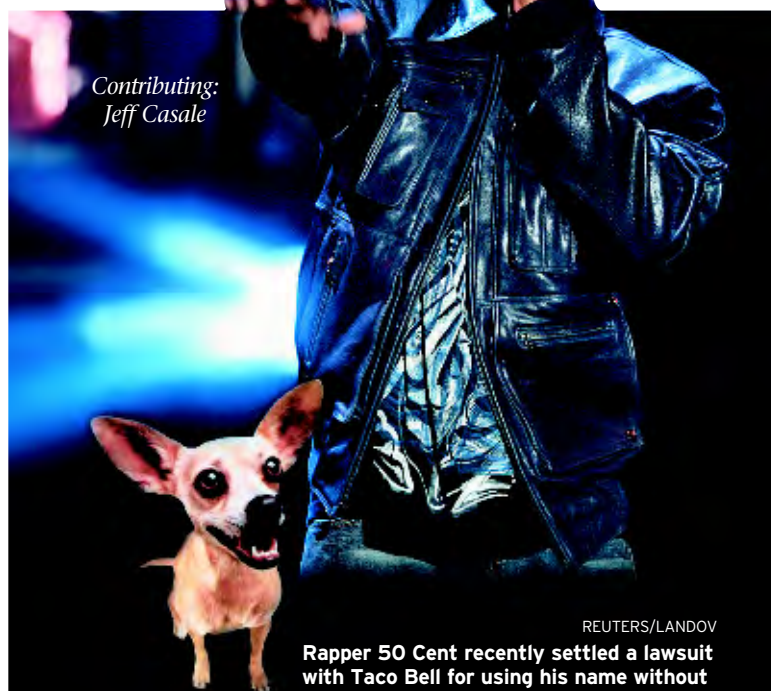
During the time he claimed to be



disabled, Mr. Hunt collected more than \$400,500 in income as an interior designer while also collecting \$147,600 in disability benefits, according to the Franchise Tax Board. Mr. Hunt also failed to report this income on his state income tax returns for the same years.

Mr. Hunt was ordered to pay \$151,700 restitution to the private insurer and \$31,000 to the FTB. He also was sentenced to 200 hours of community service and 60 months probation. That's a pretty stiff price for a few moments of fame.

Business Insurance END PAGE



Contributing:
Jeff Casale

REUTERS/LANDOV

Rapper 50 Cent recently settled a lawsuit with Taco Bell for using his name without his permission.

Rapper 50 Cent tastes victory

Rapper 50 Cent is getting richer without even trying.

50 Cent, whose real name is Curtis James Jackson III, recently settled his lawsuit with Yum! Brands Inc.'s Taco Bell after claiming the taco chain was "diluting the value of his good name" while promoting tacos and burritos.

50 Cent originally sought \$4 million, but terms of his settlement with the Louisville, Ky.-based Yum! Brands weren't made public.

The lawsuit, filed last year in federal court in Manhattan, said Taco Bell did not obtain the rapper's authorization to use his name, persona and trademark to promote its business and products. As part of a national campaign, Taco Bell asked that the rapper change his name to "79 Cent," "89 Cent" or "99 Cent" to promote its low-cost menu items.

In exchange for doing so, Taco Bell said it would donate \$10,000 to a charity of his choice.

According to the suit, Taco Bell was trying to use a multimillion dollar star without having to pay him multimillions of dollars. The suit also claims the campaign hurt 50 Cent's street credibility as "numerous Internet blogs" ripped the rapper for "selling out" and endorsing Taco Bell.



Good times end badly for depressed woman on disability

If Nathalie Blanchard's depression symptoms weren't bad before, they might get worse now.

Ms. Blanchard, of Bromon, Quebec, Canada, recently found out her employer's insurance company is cutting disability payments she has been receiving since she was diagnosed with depression a year and a half ago.

Ms. Blanchard, 29, was on long-term sick leave from her job with IBM Corp. after her diagnosis, but was spotted having some fun in several photos on her Facebook profile by an employee with Manulife Insurance Co.

After Toronto-based Manulife cut off her payments, Ms. Blanchard called the insurer and was told that "I'm available to work, because of Facebook," she told Canadian news agency CBC News.

The insurance agent described several pictures Blanchard had posted on her profile including ones showing her having a good time at a Chippendale's bar show, a birthday party and a vacation, indicating that she is no longer depressed, according to reports.

Ms. Blanchard is fighting this, claiming that her doctor had encouraged her to try to have some fun to help improve her mood.

"In the moment, I'm happy, but before and after I have the same problems" as when she was diagnosed, she told the CBC.

Recent reports said Ms. Blanchard was considering suing Manulife because, she says, she was just following doctor's orders.

Watch who you're calling a douche bag

You know name calling has gone too far once courts and insurance companies get involved.

Drew Kerr, owner of New York-based public relations firm Four Corners Communications Inc. didn't like the way his competitor Ronn Torossian conducted business, so he used an image posted on a Web site to suggest that his rival was a "douche," an increasingly popular insult.

This, of course, spurned lawsuits, including one between Mr. Kerr and his insurer, Graphic Arts Mutual Insurance Co. Inc., who insured Mr. Kerr against defamation claims.

Manhattan Supreme Court Justice Judith J. Gische ruled that calling someone a "douche" or a "douche bag" is an opinion and not a statement of fact and, therefore, Graphic Arts Mutual



Insurance was forced to pay the legal costs incurred by Four Corners Communications.

According to court documents, Mr.

Kerr was criticizing Mr. Torossian's practice of purchasing domain names of competitors so they cannot purchase them. Mr. Kerr then purchased

www.ronntorossianpr.com and posted a photo of a package of Summer's Eve douche on it.

Mr. Torossian's and his company, 5W Public Relations, were none too pleased and filed a defamation suit against Mr. Kerr, who then claimed he was covered for legal expenses under his insurance policy with Graphic Arts Mutual.

New Hartford, N.Y.-based Graphic Arts Mutual, subsidiary of National Insurance Group, tried to deny coverage based on the insult, arguing that the policy exempted defamation coverage of statements made "with known falsity."

"To the extent that Mr. Kerr's action implied a statement that Mr. Torossian was 'a 'douche' or a 'douche bag,' is not capable of being proven false," Judge Gische wrote in her opinion.



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December 2009

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THE BUSINESS OF BETTER BROKING

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True collaboration in underwriting seen as the road to avoid erosion in margins and customers. [page 14](#)

Last word

Clearly defined roles, accountability are essential for growth, says Marsh, Berry & Co. Inc.'s Patrick T. Linnert. [page 16](#)

Report helps intermediaries stay productive

FOR NEARLY FOUR DECADES, *Business Insurance* has been reporting on insurance agents and brokers and charted the growth of intermediaries' business. Our annual rankings and data on agents and brokers are among the most sought-after research that *BI* produces. It's a privilege for us to expand on our reporting to provide special supplements such as this one on



"The Business of Better Broking." *Business Insurance's* experienced editorial team, led by Special Projects Editor Rodd Zolkos and Senior Editor Sally Roberts, produced this supplement to help agents and brokers understand current market challenges and maintain their productivity in serving clients. We hope you find this supplement insightful and gain many good ideas to drive success in placing coverage and advising clients.

—REGIS COCCIA, EDITOR

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Mid American still reigns as most productive

By Sally Roberts

WESTMONT, Ill.—When it comes to being productive, no agency or brokerage in the United States does it better than Mid American Group Inc.

The Westmont, Ill.-based employee benefits broker, consultant and administrator generated an impressive \$367,892 in revenues per employee in 2008, making it No. 1 in *Business Insurance's* Top 20 ranking of the most productive U.S. agents and brokers for the fourth consecutive year.

BI analyzed the revenues and employee counts of 135 U.S. agents and brokers for this year's productivity ranking. To qualify, the firms had to generate at least \$500,000 in 2008 revenues and derive a majority of those revenues from commercial retail brokerage or employee benefits.

Mid American, which reported \$4.4 million in revenues with 12 employees in 2008, specializes in providing employee benefit products and services to middle-market clients, most of which have 100 to 1,000 covered employees.

Because many of these firms have a small human resources staff that needs assistance, Mid American has found its niche in offering not only brokerage services but other services as well, including flexible spending account and COBRA administration, Health Insurance Portability and Accountability Act compliance training, employee assistance programs, and customized employee benefit Web sites.

While such specialization certainly helps with productivity, Jim Lill, Mid American's chief executive officer, says there are several other keys to the broker's success.

He noted, for example, that Mid American outsources nonessential jobs that don't involve direct contact with clients, such as information technology and accounting. As a result, all of the firm's employees "touch our customers," he said.

In addition, "we are very selective" about the customers Mid American serves, he said.

"We are looking to work mostly with closely held businesses," Mr. Lill said. "We need to understand the purchasing process and it usually is pretty clear within a closely held business."

Therefore, Mid American avoids customers that look at brokerage services as a commodity, he said. "We really don't want to be on someone's spreadsheet. It is important that we are given the opportunity to meet with decisionmakers, present our value proposition, and connect personally with the executives at our selected customers."

Given all the complimentary services the broker provides, Mr. Lill said it's important that it also work with what he

calls "profitable" accounts—meaning Mid American brokers all of the employee benefits for an account, including medical, life, disability, dental, vision, long-term care, voluntary plans and 401(k) retirement plans.

Technology also plays a role in the firm's productivity, Mr. Lill said. All of Mid American's in-house administrative services, for example, are done on Web-based applications, he said. So the status of COBRA recipients, the balances of flexible spending accounts, and timelines associated with the Family and Medical Leave Act all are maintained on a secure site. "As a result, the staffing for both Mid American and our clients is at the most productive level," he said.

While Mid American could act like a third-party administrator and offer COBRA, FSA and other administration services on a stand-alone basis, Mr. Lill said those services are provided only to its brokerage clients. As a result, Mid American does



Mr. Lill

MID AMERICAN GROUP INC.

Westmont, Ill.

2008 BROKERAGE REVENUES: \$4.4 million

EMPLOYEES: 12

REVENUE PER EMPLOYEE: \$367,892

not have to hire additional personnel and can take a more "holistic approach" to manage clients' benefits.

As a result of Mid American's productivity, it is able to take those margins and offer at least one new service each year, Mr. Lill said.

Within in the past few years, for example, the broker has added total compensation statements and ERISA 5500 report preparation services to comply with the Employee Retirement Income Security Act. "Next year, we will be providing dependent eligibility audits" for clients, Mr. Lill said.

Timothy J. Cunningham, a principal with OPTIS Partners L.L.C. in Chicago, attributes Mid American's success to its "very disciplined" business approach.

Not only does the broker have a clearly defined client size, but it "will not do business with an account that does not get and appreciate their value added," Mr. Cunningham said. "As such, their account size provides sufficient scale to deliver the value added to an audience that appreciates their value proposition."

'WE REALLY don't want to be on someone's spreadsheet. It is important that we...connect personally with the executives at our selected customers.' **JIM LILL**, MID AMERICAN GROUP INC.

MOST PRODUCTIVE: ALL AGENTS AND BROKERS

Intermediaries* ranked by 2008 brokerage revenues per employee

	Company	REVENUE/EMPLOYEE			BROKERAGE REVENUES			EMPLOYEES		
		2008	2007	% change	2008	2007	% change	2008	2007	% change
1	Mid American Group Inc. ¹	\$367,892	\$429,281	-14.3%	\$4,414,700	\$5,580,651	-20.9%	12	13	-7.7%
2	DataRisk L.L.C.	\$318,900	\$271,983	17.2%	\$1,913,400	\$1,631,900	17.2%	6	6	0.0%
3	Alliant Insurance Services Inc.	\$308,519	\$295,177	4.5%	\$333,200,600	\$291,635,000	14.3%	1,080	988	9.3%
4	Western Benefit Solutions L.L.C.	\$298,438	\$314,375	-5.1%	\$4,775,000	\$5,030,000	-5.1%	16	16	0.0%
5	Tanenbaum-Harber Co. Inc.	\$298,267	\$302,675	-1.5%	\$66,215,229	\$63,561,668	4.2%	222	210	5.7%
6	Benefit Controls Cos.	\$298,246	\$240,385	24.1%	\$17,000,000	\$12,500,000	36.0%	57	52	9.6%
7	Frank Crystal & Co. Inc.	\$297,059	\$295,506	0.5%	\$126,250,000	\$119,680,000	5.5%	425	405	4.9%
8	Thesco Benefits L.L.C.	\$297,000	\$277,987	6.8%	\$17,225,971	\$15,845,265	8.7%	58	57	1.8%
9	Capacity Group of Cos.	\$294,938	\$304,337	-3.1%	\$52,499,034	\$48,085,187	9.2%	178	158	12.7%
10	Mesirow Insurance Services Inc. ²	\$281,151	\$259,638	8.3%	\$89,968,189	\$89,055,876	1.0%	320	343	-6.7%
11	Bollinger Inc.	\$258,128	\$247,899	4.1%	\$103,767,372	\$104,613,278	-0.8%	402	422	-4.7%
12	Frenkel & Co. Inc.	\$244,725	\$233,451	4.8%	\$55,063,220	\$52,059,615	5.8%	225	223	0.9%
13	Thomas Rutherford Inc. ³	\$241,507	\$237,289	1.8%	\$76,316,095	\$70,949,440	7.6%	316	299	5.7%
14	William Gallagher Associates Insurance Brokers Inc.	\$238,089	\$239,186	-0.5%	\$47,617,737	\$47,837,161	-0.5%	200	200	0.0%
15	R.C. Knox & Co. Inc.	\$238,038	\$216,915	9.7%	\$25,232,000	\$25,379,000	-0.6%	106	117	-9.4%
16	Risk Strategies Co.	\$235,248	\$234,519	0.3%	\$27,994,500	\$24,624,500	13.7%	119	105	13.3%
17	DelWitt Stern Group Inc.	\$230,868	\$153,657	50.2%	\$43,865,000	\$43,024,000	2.0%	190	280	-32.1%
18	Associated Financial Group L.L.C.	\$227,497	\$224,295	1.4%	\$55,281,833	\$54,279,428	1.8%	243	242	0.4%
19	Conner Strong Cos. Inc.	\$227,044	\$219,954	3.2%	\$77,422,000	\$76,104,000	1.7%	341	346	-1.4%
20	Trion Group Inc. dba Trion	\$222,697	\$207,973	7.1%	\$67,700,000	\$62,600,000	8.1%	304	301	1.0%
	Averages	\$ 271,212	\$ 260,324	4.0%	\$64,686,094	\$60,703,798	3.4%	241	239	0.8%

*Reflects U.S. agents and brokers deriving a majority of revenues from commercial retail brokerage or employee benefits. 1. Fiscal year ending Jan. 31 2. Fiscal year ending March 31. 3. Fiscal year ending Oct. 31.

Source: B/survey

Researched by Kevin Edison

PRODUCTIVITY IN PROFILE

Alliant's productivity good 'report card'

By Sally Roberts

NEWPORT BEACH, Calif.—There are efficiently run large insurance brokers and then there is Alliant Insurance Services Inc.

The Newport Beach, Calif.-based specialty brokerage boasts a remarkable \$308,517 in revenues per employee, making it the No. 3 most productive broker worldwide among the 135 U.S. firms analyzed for this year's *Business Insurance* rankings.

Not only is Alliant the largest broker featured in the Top 20 productivity chart, with \$333.2 million in 2008 brokerage revenues, it also is the only broker among *BI*'s list of the 100 largest brokers of U.S. business to generate more than \$300,000 in revenues per employee.

It's a fitting accomplishment that is not lost on executives at the nearly 10-year-old firm.

"People might look at our productivity numbers and think we're doing this on the backs of our clients," said Tom Corbett, Alliant's chairman and chief executive officer. In actuality, "the productivity numbers are kind of a report card" for Alliant's business model, he said. That business model is grounded in delivering better products and services to clients that, in turn, fuel organic growth, he said.

"We have grown at a pace between 5 and 10 (percentage) points a year better organically than our industry and we will do that again this year" despite a very difficult economic environment, Mr. Corbett said.

He points to two key elements behind the broker's highly efficient business model: specialization and an entrepreneurial, team-based culture.

For instance, rather than trying to be all things to all people, Alliant has

made a name for itself by specializing in industry niches such as health care, tribal nations, public entities and real estate.

Being a specialty broker is "just more efficient in that you're well-known in the space," Mr. Corbett said. "We find that the doors open better and we develop programs and products that bring value add to our clients."

About 70% of Alliant's revenues are specialty-based and that continues to grow, said Jerry Hall, Alliant's chief operating officer. Alliant is a company "that is very focused on internal improvement and best practices, so we



Mr. Corbett

Mr. Hall

continue to strive for even greater gain, and that will come out of greater and greater specialization," he said.

TEAM PLAYERS

Alliant also organizes its operations into broker teams of 10 to 20 insurance experts who focus exclusively on serving and developing business in those niches.

At the same time, each broker team is empowered to build and execute its own business plans and is responsible for client service, executives said.

That empowerment eliminates "a lot of the road blocks" that can get in the way of delivering better products and services to clients, which fuels growth, Mr. Corbett said. It also drives overhead

down and revenue per employee up.

Alliant was formed in March 2000 by veteran broker builder John Addeo, now nonexecutive chairman of Mercator Risk Services Inc., with capital from private equity firm GTCR Golder Rauner L.L.C. Alliant ventured into the property/casualty brokerage business a year later with the acquisition of San Diego-based Robert F. Driver Co. Inc. In 2005, Lindsay Goldberg & Bessemer and Alliant's management bought out the firm. In 2006, Alliant purchased the U.S. property/casualty and employee benefits retail brokerage business of U.K. broker Jardine Lloyd Thompson Group P.L.C. for \$100 million.

Then in June 2007, Blackstone Group L.P. bought out Lindsay Goldberg's equity stake in Alliant for \$1.1 billion.

Robert J. Lieblein, managing partner at Hales & Co. in Harrisburg, Pa., an

ALLIANT INSURANCE SERVICES INC.

Newport Beach, Calif.

2008 BROKERAGE REVENUES: \$333.2 million

EMPLOYEES: 1,080

REVENUE PER EMPLOYEE: \$308,517

investment banking firm that specializes in insurance, said he's a "big fan" of Alliant.

"They've truly become experts in their fields and have been able to go deeper and broader into their niches," which, in turn, allows them "to grow organically much quicker, and efficiency and productivity measures like revenue per employee are higher than others," he said.

Alliant is one of smallest investments Blackstone has ever made, Mr. Lieblein added. The fact that it would commit capital to the broker is a reflection of Alliant's management team and its past performance. "Their growth and productivity have always been two of their strong points," he said.

Alliant is a company **'THAT IS VERY FOCUSED** on internal improvement and best practices, so we continue to strive for even greater gain.' **TOM CORBETT**, ALLIANT INSURANCE SERVICES INC.

MOST PRODUCTIVE: LARGEST PRODUCERS OF U.S. BUSINESS

Intermediaries* ranked by 2008 brokerage revenues from U.S.-based clients per employee

	Company	REVENUE/EMPLOYEE			BROKERAGE REVENUES			EMPLOYEES		
		2008	2007	% change	2008	2007	% change	2008	2007	% change
1	Alliant Insurance Services Inc.	\$308,519	\$295,177	4.5%	\$333,200,600	\$291,635,000	14.3%	1,080	988	9.3%
2	Tanenbaum-Harber Co. Inc.	\$298,267	\$302,675	-1.5%	\$66,215,229	\$63,561,668	4.2%	222	210	5.7%
3	Frank Crystal & Co. Inc.	\$297,059	\$295,506	0.5%	\$126,250,000	\$119,680,000	5.5%	425	405	4.9%
4	Capacity Group of Cos.	\$294,938	\$304,337	-3.1%	\$52,499,034	\$48,085,187	9.2%	178	158	12.7%
5	Mesirow Insurance Services Inc. ¹	\$281,151	\$259,638	8.3%	\$89,968,189	\$89,055,876	1.0%	320	343	-6.7%
6	Bollinger Inc.	\$258,128	\$247,899	4.1%	\$103,767,372	\$104,613,278	-0.8%	402	422	-4.7%
7	Frenkel & Co. Inc.	\$244,725	\$233,451	4.8%	\$55,063,220	\$52,059,615	5.8%	225	223	0.9%
8	Thomas Rutherford Inc. ²	\$241,506	\$237,289	1.8%	\$76,316,095	\$70,949,440	7.6%	316	299	5.7%
9	William Gallagher Associates Insurance Brokers Inc.	\$238,089	\$239,186	-0.5%	\$47,617,737	\$47,837,161	-0.5%	200	200	0.0%
10	R.C. Knox & Co. Inc.	\$238,038	\$216,915	9.7%	\$25,232,000	\$25,379,000	-0.6%	106	117	-9.4%
	Averages	\$270,042	\$263,207	2.6%	\$97,612,948	\$91,285,623	6.9%	347	337	3.0%

*Reflects U.S. agents and brokers deriving a majority of revenues from commercial retail brokerage or employee benefits.; chart derived from *BI* ranking of largest 100 brokers of U.S. business. 1. Fiscal year ending March 31. 2. Fiscal year ending June 30.

Source: *BI* survey

Researched by Kevin Edison

PRODUCTIVITY IN PROFILE

DATARISK L.L.C.

Portsmouth, N.H.

2008 BROKERAGE REVENUES: \$1,913,400

EMPLOYEES: 6

REVENUE PER EMPLOYEE: \$318,900



Mr. Daigle

"WE ARE A VERY UNIQUE boutique risk management and insurance brokerage firm that is staffed with

some of the most talented risk professionals in the industry. Within our small firm, we have over 100 years of front line large corporate risk, finance, accounting, legal and operational experience that is used daily to identify, negotiate and execute cost-effective risk solutions for our clients.

Prior to engagement, each client receives an exhaustive risk management due diligence review that we are told is unique in the brokerage industry. This review forms the basis for developing an individualized insurance or self-insurance program for our nationwide clients, and is continually referenced and updated as needed. This upfront commitment also allows us to become strategic partners with our clients, thereby minimizing the typical broker competition activities.

We grow selectively, concentrating on clients that share the same risk management philosophies we hold paramount. Otherwise, our value-centric, nontransactional business model will not succeed."

—Mike Daigle, founder and president

WESTERN BENEFIT SOLUTIONS L.L.C.

Boise, Idaho

2008 BROKERAGE REVENUES: \$4,775,000

EMPLOYEES: 16

REVENUE PER EMPLOYEE: \$298,438



Mr. Kennedy

"WESTERN BENEFITS HAS WORKED very hard to be a premier employee benefit consulting and brokerage

organization. Our success is because of our high-quality people who go out of their way to provide the best service possible. We are committed to treat our clients and their employee benefit needs as if they were our needs.

We have built long-term relationships where our clients trust our advice and value it, knowing we represent them. We encourage building relationships. We encourage our brokers and all staff to become involved and dedicated to our clients.

This is based on a belief that if you can have your client say, 'My broker is my friend,' you will have a very productive and successful client relationship.

For example, I have a Fortune 500 client, which I have handled their benefit business for over 34 years. Using the philosophy that if you have the client's best interest, become involved in their issues and problems, and make recommendations based upon what you would do if you were the decision-maker of that company, they will appreciate that advice."

—Ron Kennedy, partner

TANENBAUM-HARBER CO. HOLDINGS INC.

New York

2008 BROKERAGE REVENUES: \$66,215,229

EMPLOYEES: 222

REVENUE PER EMPLOYEE: \$298,267



Mr. Harris

"THERE ARE A FEW KEYS behind the success of Tanenbaum-Harber, which is in the process of changing its

name to T&H Group Inc. For example, we work for the most part with larger clients. We don't have an enormous amount of small business. As a result, we have a lot of clients that generate higher revenues per account.

Also, we're about 25% surety and 25% employee benefits, so our mix of business tends to be higher-margin business than traditional property/casualty. We also have some other specialty practices like construction wrap-up, which generates a lot of revenue per employee.

In addition, we keep a very flat management structure...Our principals in the company are all active in the business. Even though I'm CEO, for example, I'm handling accounts.

I'd liken us to some of the larger, better-run law firms, where the senior partners both manage the firm but are also intimately involved with their clients. I believe if you become a pure manager, you lose the pulse of the business very quickly. We really want our senior executives to be involved with our clients.

At the same time, we pay our people very well and we expect them to be very productive...We've decided to go the extra yard to get a strong group of employees who, I think, are more productive and give more value-added (services) to their clients."

—Walter L. Harris, president and chief executive officer

MOST PRODUCTIVE: WORLD'S 10 LARGEST BROKERS

Intermediaries* ranked by 2008 brokerage revenues per employee

	Company	REVENUE/EMPLOYEE			BROKERAGE REVENUES			EMPLOYEES		
		2008	2007	% change	2008	2007	% change	2008	2007	% change
1	Wells Fargo Insurance Services Inc. ¹	\$220,501	\$176,286	25.1%	\$1,743,062,000	\$1,282,130,000	36.0%	7,905	7,273	8.7%
2	BB&T Insurance Services Inc.	\$215,628	\$222,293	-3.0%	\$962,134,200	\$877,391,500	9.7%	4,462	3,947	13.0%
3	Gras Savoye & Cie.	\$215,443	\$186,958	15.2%	\$786,368,400	\$680,339,820	15.6%	3,650	3,639	0.3%
4	Marsh & McLennan Cos. Inc.	\$211,691	\$197,754	7.0%	\$11,516,000,000	\$11,094,000,000	3.8%	54,400	56,100	-3.0%
5	Lockton Cos. L.L.C. ²	\$202,168	\$188,458	7.3%	\$778,345,000	\$728,203,000	6.9%	3,850	3,864	-0.4%
6	Willis Group Holdings Ltd. ³	\$197,765	\$188,015	5.2%	\$3,362,000,000	\$2,463,000,000	36.5%	17,000	13,100	29.8%
7	Aon Corp.	\$193,899	\$198,722	-2.4%	\$7,310,000,000	\$6,995,000,000	4.5%	37,700	35,200	7.1%
8	Jardine Lloyd Thompson Group P.L.C.	\$180,912	\$174,273	3.8%	\$992,843,665	\$947,346,400	4.8%	5,488	5,436	1.0%
9	Brown & Brown Inc.	\$178,952	\$181,226	-1.3%	\$965,982,617	\$914,649,642	5.6%	5,398	5,047	7.0%
10	Arthur J. Gallagher & Co.	\$163,368	\$167,386	-2.4%	\$1,611,302,000	\$1,523,551,000	5.8%	9,863	9,102	8.4%

1. 2008 revenues are pro forma including Wachovia Insurance Services Inc. purchased December 2008. 2. Fiscal year ending April 30. 3. 2008 revenues are pro forma including Hilb Rogal & Hobbs Co. purchased October 2008.

Source: *BI* survey

Researched by Kevin Edison

QUESTIONS & ANSWERS



Customer service trumps productivity

Mesirow Insurance Services Inc., the insurance operation of Chicago-based diversified financial services firm Mesirow Financial Holdings Inc., consistently ranks high among Business Insurance's most productive agents and brokers, ranking 10th overall this year and fifth among the most productive agents and brokers of U.S. business. Recently, Richard S. Price, president and chief operating officer of Mesirow Financial, discussed some of the reasons for that productivity with BI Special Projects Editor Rodd Zolkos.

Q: Is achieving a high level of productivity a deliberate goal at Mesirow?

No.

Q: So then, what are some of the factors responsible for Mesirow Insurance Service's productivity?

We think to some extent it's a structure. And when I say we're not focused on productivity, I think what we've built is a middle-market premium practice, so it's hard to deliver customer service at the level that we want to middle-market businesses and wealthy individuals and have maximum productivity as a focus, because they conflict with each other.

We use technology to create some efficiencies and ease of handling—we're trying to eliminate as much paper as we can. We're using technology as a service for our clients as well, where they can access our systems, get information, issue certificates of insurance, things of that nature. Those naturally create significant productivity gains for us, but the reason that we're looking at it is really along the lines of customer service, and not anything different than that.

We have a natural tendency, I think, just because of our structure. We have a production team orientation, so we run (profit and loss statements) for every

production team. Our team leaders—which by the way are also owners of Mesirow Financial, we're a private company—they're driven financially, top line and bottom line. So there's a natural tendency to operate as efficiently as you possibly can serving the client's needs.

I know, obviously, there's a big focus in the industry on driving cost ratios down. I think any well-run organization is going to look to do that and, certainly in these really troubled economic times, you're forced to do it. And whether that's staff compensation or other things, everybody's looking at it. But again, it depends on what you're trying to deliver to the marketplace and how you're trying to differentiate yourself. And delivering a high-quality service and a high touch to clients is what Mesirow Financial has always tried to do, everywhere, not just in the insurance group.

Q: Can you offer some examples of the conflicts that might emerge from placing productivity before customer service?

We have spent a lot of money on infrastructure, for one. So we've got risk management services that we give away free to clients—we don't charge fees for them—loss control services that we give for free, we do a lot of benchmarking. So there's a lot of infrastructure. My guess is we have several millions of dollars of infrastructure

costs that we give to our clients for free.

If we were really focusing on maximizing productivity and therefore profitability, we would start to cut away at those things. But we choose not to do it because of where we want to position ourselves in the marketplace. But there could be, obviously, a natural clash in that area. Forget about compensation; just talk about all the infrastructure and services that you want to deliver to your clients.

We do charge fees at a certain level and for special projects, but I would say that 95% of the services that we provide to clients, we don't charge.

Q: Do you do any sort of benchmarking of your own business or compare yourself to any sort of peer group companies?

I think we're really looking at it internally. It's hard to get some good information in the marketplace. You can see a little bit of information regarding growth of revenue and productivity and things like that. But because many Mesirow clients cross so many lines in the organization, for us the measuring stick is really fortifying the relationship that we have with the client, figuring out how many other things we can do for them and be there to assist them with whatever their needs are. We feel very good about that.

That's a major focus of our business—to expand that client relationship as far as we can.



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MERGERS & ACQUISITIONS



Economy, soft market crimp broker M&As

By **RODD ZOLKOS**

The condition of the credit markets is one factor limiting merger and acquisition activity in the insurance agent and broker sector, but not as large a factor as the still-weak U.S. economy and ongoing soft market conditions that are stifling deals, according to many industry experts.

Traditionally, most of the major acquirers have financed deals through internal cash flow, said Robert J. Lieblein, managing partner with insurance agent and broker M&A specialist Hales & Co. in Harrisburg, Pa.

"They're typically doing transactions through their cash flow," Mr. Lieblein said. "Over time, there have been times when they may go out and raise some capital to support their acquisitions, but historically they generate a lot of cash flow."

"On the private equity side, clearly

you're seeing less private equity activity because the availability of funds and the cost of funds, if you can get them, the cost is greater, therefore it impacts their financial model or their leverage model," Mr. Lieblein said.

The result is that those private equity firms "have to put more equity into the deal and they prefer to leverage it," he said. "So you probably see more impact of (credit market conditions) on the private equity side where a buyer needs to use private equity money to fund a transaction."

CAPITAL SCARCE, EXPENSIVE

For private equity firms looking to do a deal, "to the extent that they have to obtain new capital, capital is scarce and capital is more expensive," he said, "which now also drives down the price, which makes offers less attractive to the seller because pricing is reduced because of the additional cost of capital

as well as the amount of equity that the private equity firm has to put into the deal."

"The number of transactions completed this year is down," said John W. Wicher, principal at John Wicher & Associates Inc. in San Francisco. "The bankers have pulled back from that marketplace. Certainly the private equity players, their capital has been cautious."

Timothy J. Cunningham, principal at OPTIS Partners L.L.C. in Chicago, agreed credit market conditions likely are having only a limited effect on the M&A slowdown in the insurance brokerage business.

"The slowdown, I think, is attributable to what I would call a perfect storm event—the economic conditions and the insurance market," he said.

The most frequent acquirers typically have funded the deals from their existing credit lines, Mr. Cunningham said.

"If somebody wanted to do a blockbuster deal, they may see some scrutiny from their lenders," he said. But "well-structured private firms" still have access to capital because their businesses have been sound and profitable.

Mr. Lieblein also sees the economy as a significant factor in limiting M&A activity, along with other considerations.

"Probably a bigger picture is you're seeing fewer deals done overall just because of economic concerns, health care concerns and so forth. Buyers are just being more cautious," Mr. Lieblein said. "Clearly, price has been reduced, but it's really been reduced 15% to 20% because there are fewer buyers out there to start with and that they felt that the market was overpriced going back 12 to 18 months ago."

The health care debate has put the brakes on for potential buyers eyeing benefit brokers, Mr. Lieblein said. "Most firms are still interested in talking to employee benefit firms. Clearly, we see a trend of more employee benefit firms considering a sale, but the pace is much slower and people are being more cautious, hoping to get some better sense

as to where all of this is going to fall out.”

Those concerns have eased somewhat as the final form of health care-related legislation begins to take shape, Mr. Lieblein said. “People feel better about it now than they did six months ago” and most in the broker M&A community are beginning to believe a final bill won’t have a public option, he said.

“If that’s the case, you’re going to see more buyers more actively pursue health care in employee benefit agencies,” Mr. Lieblein said. “But they’re just unsure, so they’re taking it very slow and there’s sort of a wait-and-see attitude at this time.”

In its recent Insurance Brokerage Outlook, Moody’s Investors Service Inc. suggested that the U.S. health care reform effort “is not apt to have a major impact on insurance brokers.”

“The main threat to this scenario would be the inclusion of a robust public health insurance option available to everyone,” the rating agency said. “Assuming that the public option would be cheaper than most group plans, employers could opt to drop coverage altogether, sending their employees into the public market.”

Mr. Cunningham noted that the trend of reduced M&As is not exclusive to insurance brokerages. “Middle-market deals are down, depending what statistics you’re looking at, across the board 40% to 70%. It doesn’t matter what industry you’re in,” he said.

The fact that the insurance brokerage business generates a considerable amount of cash continues to set it apart from many other businesses. “That’s why the business remains relatively attractive,” Mr. Cunningham said.

Agency and brokerage cash flow is relatively predictable and the industry isn’t particularly capital-intensive compared with other businesses. “You can fund your operation and even some expenses out of cash flow,” Mr. Cunningham said.

“That’s what’s great about this industry,” Mr. Lieblein said. “It’s not capital-intensive, so most of their profits can be reinvested whether it’s in producer

hire, people hire, technology or acquisition. Unlike manufacturing, where you may have to spend a lot of money on plant and equipment, you just don’t have that.”

BRIDGING THE PRICE GAP

But one major sticking point that will have to be overcome before the pace of agency and brokerage M&As can return to more typical levels is getting buyers and sellers to agree on appropriate price levels, an issue on which they often are far apart in the current environment.

“You have probably the largest gap I’ve ever seen between buyers’ and sellers’ expectations regarding value,” said Mr. Wicher.

Sellers think if they hold on into 2010, they will start to see the sort of sale prices they expect, he said.



‘YOU HAVE probably the largest gap I’ve ever seen between buyers’ and sellers’ expectations regarding value.’

JOHN W. WICHER

JOHN WICHER & ASSOCIATES INC.

That’s possible if they see improved earnings in 2010, though such improvements are unlikely to come from further cost reductions. “Costs have been squeezed as far as they can,” Mr. Wicher said. “So the relief is going to have to come on the top line.”

“There are more sellers considering a sale, but (sales will not happen) until buyers and sellers get to a place where price kind of meets in the middle...and right now we’re not there,” said Mr. Lieblein. “Sellers’ expectations have come down from where they were, probably not as far as they should. Buyers have probably come down too far in price and probably will have to inch back up.”

However, Mr. Lieblein said business necessity could drive M&As.

“I say that because if you look at the big three (most-frequent acquirers among brokers), Brown & Brown, Gal-

lagher and Hub, their business models are greatly built upon acquisition,” he said. With a soft market likely continuing into next year, next year could be an even more difficult year for such firms than this year, he suggested.

“2010 could potentially be a harder year than 2009, because (in) 2009 their revenues are being impacted positively by acquisitions they did in 2008,” Mr. Lieblein said. “Since they’ve done so few acquisitions (in 2009), when you go into 2010, there’s no acquisition left.”

Mr. Lieblein cited Arthur J. Gallagher’s recent decision to trim 400 staff positions as an example of brokers’ recognition of likely challenges still ahead.

Ultimately, pressures confronting acquirers and sellers probably will push prices to an agreeable level, he said.

“That’s an interesting dynamic that’s taking place that’s probably going to begin to push buyer and seller pricing closer together, because buyers are going to have to do deals and sellers are going to have to do deals,” Mr. Lieblein said. “And right now, people are kind of holding off for different reasons. But I think pricing will kind of move and get a little closer aligned as we get into 2010.”

And Mr. Wicher noted that, despite all the factors slowing industry M&A, there are certain strategic deals that always seem to get done.

“There will always be market interest in acquisitions where one, the target is in a niche business, two, has strong margins, three, is scalable, and four, the management is capable of managing something larger,” Mr. Wicher said. “There is also strong interest in much of Asia and Latin America.”

Brokers find ways to cope with economy

By **Rodd Zolkos**

Agents and brokers have spent much of the year reacting to challenges confronting their businesses, from a challenging economy to soft market conditions.

A survey of brokers who participate in *Business Insurance's* annual Directory of Agents and Brokers conducted earlier this year gave some insight into the way they're responding to many key issues.

Not surprisingly, one of the key issues agents and brokers have had to contend with this year is the state of the economy, and most of them have relied on a similar set of responses in trying to steer their business through the economic downturn.

Asked about the methods they're using to cope with the economy, 27.7% cited salary freezes, 22.3% cited travel restrictions, 21.3% mentioned hiring freezes, 17.0% cited layoffs at their firms, and 11.7% cited deferred investment.

"I think the very smart ones were way out ahead of this and were reducing staff immediately as they saw the economy collapse," said Timothy J. Cunningham, principal at OPTIS Partners L.L.C. in Chicago. It's very difficult to reduce expenses quickly enough in a declining revenue environment, he said.

Among the responses he said he's seen agents and brokers implementing in addition to staff cuts are such measures as eliminating 401(k) matches, salary freezes and reductions, other reductions in employee benefits, and staff furloughs.

"Even if you were not ahead of the curve or tried to be ahead of the curve, there has been a lot of that," he said.

"The good firms communicate it with employees. We're all in this together," Mr. Cunningham said. I think it's important that the right communication and the right spirit prevail—what's best for everyone as opposed to what's best just for me."

The economy "will come back and

you want to be poised when it does come back," he said.

"I've never seen greater pressure on earnings in the brokerage community in my career," said John W. Wicher, principal at John Wicher & Associates Inc. in San Francisco. "A common theme has been the market realities."

A continuing soft market and a significant reduction in insurable exposures as a result of the economic downturn "have put tremendous pressure on the revenue line and it has resulted in some of the difficult decisions that had to be made," Mr. Wicher said. "The circumstance that results from declining revenues is fierce decisions that have to be made."

Mr. Wicher said that in the private broker market he's seen companies looking not only at reducing the number of non-client-facing employees but also at such measures as reducing employee health care costs through increased employee contributions and reductions in travel and entertainment expenses.

"I think the rubber band has been stretched pretty far. So as we look into 2010, I think many of the public and private brokers are looking for some relief. And that would mean some sort of upturn in rates," Mr. Wicher said. "But I think there are numerous ques-

tion marks."

"I think a lot in the industry are going to be thrilled to put 2009 to bed," Mr. Wicher said. Looking forward, "there are some bright spots," he said. "It looks like the economy is beginning to mend." He noted, though, that as the economy recovers, "The insurance industry is a lagging indicator."

"It lags a little bit," he said. "There's a dribble into the system of the increased exposures that move premiums."

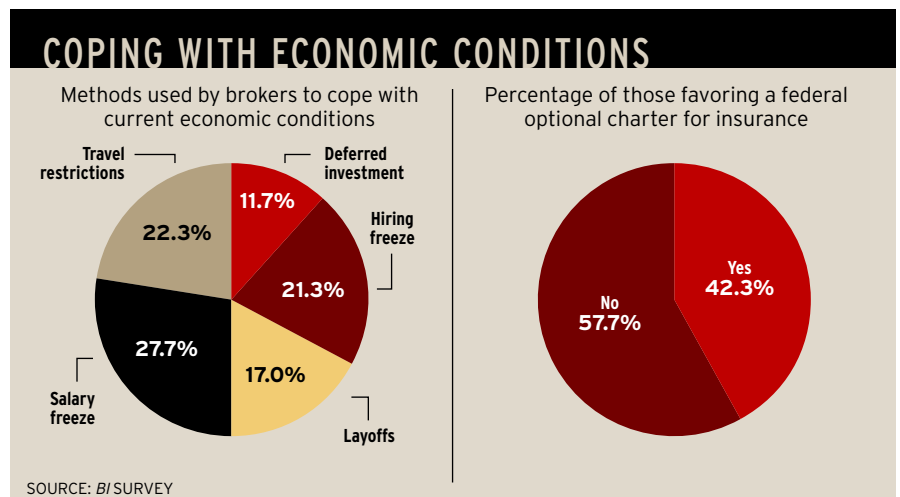
According to James Auden, managing director at Fitch Ratings in Chicago, "The biggest thing fundamentally is there are plenty of top-line challenges for brokers, with pricing and the insurance market being very competitive."

"We're seeing in nine-month results organic growth negative for many of the companies," Mr. Auden said.

In response, he's typically seen companies turning to the expense side of the ledger, Mr. Auden said. "You see headcount reductions, outsourcing of IT and other resources," he said. He's also seen pension plan changes at some brokers.

"It's mostly still a very people-based, transaction-oriented business," Mr. Auden said. So when revenues decline, brokers typically look to their biggest expense: labor.

In its Insurance Brokerage Outlook released in October, Moody's Investors Service Inc. said the biggest challenges brokers are facing is the soft U.S. property/casualty market, the weak global economy and high financial leverage among privately held firms.



Brokers have responded by cutting costs, exiting non-core businesses, and slowing their pace of acquisitions, Moody's said.

Moody's noted that salaries and benefits represent 50% to 65% of brokerages' expenses, with a large portion of that tied to business generated by producers.

MARKET OUTLOOK

Asked about their expectations for market conditions, most of the brokers surveyed by *BI* expect no change from present conditions as the new year begins. Of those responding, 59.5% said they expect no change in the state of the market at the end of the year, 36.8% expect a hardening, and 3.7% expect the market to turn softer still.

Regarding their expected merger and acquisition activity, 52.5% of those responding to the survey conducted earlier this year expected their companies to be on the sidelines in 2009 and not be involved in merger and acquisition activity, while 47.5% thought their companies were going to be M&A participants.

In its outlook report, Moody's said that, as market conditions improve, it expects to see most of the brokers it rates making acquisitions to supplement organic growth.

Fitch's Mr. Auden noted that Marsh Inc. is looking to buy small agents to build its smaller-account business. "I think they'll continue on that front," he said. "But the bigger deals are probably less likely at the moment, given the environment. And I think companies are focused on internal challenges still. There's plenty of challenge within the business in the near term."

Regarding any change in market conditions, Mr. Auden noted that Fitch has a negative outlook for U.S. insurers. The rating agency initially moved to a negative outlook last year due to credit crisis-related concerns, though now "it's kind of shifted more to traditional underwriting concerns," Mr. Auden said.

"We're in a soft market, pricing is inadequate across many lines," he said. "But what the depth of that soft market is is the real unknown."

Business Insurance also asked brokers where they look to find new talent, with the results showing a considerable

reliance on several sources.

Competitors are the most frequent place agents and brokers look when trying to find employees, according to the survey, with 37.9% citing competitors as the most common source of their new hires. Other industries were cited by 21.5% of survey respondents, with 20.3% mentioning executive search firms and the same 20.3% figure citing recent college graduates.

Competitors could be a rich source of available talent in some circumstances, according to Mr. Cunningham.

"You can capitalize on the turmoil of your competitors," he said. "I think there are people from good organizations who've been furloughed or (reduced in force) or whatever."

And other sectors like investment banking probably are possible sources of talent for insurance brokers looking for specific skills, such as a producer to deal with high-net-worth personal lines business, Mr. Cunningham said.

"If you have a need, this is probably the best climate for employers," Mr. Cunningham said.

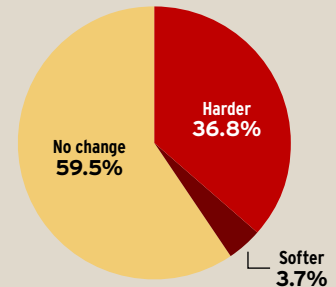
Regarding supplemental compensation from underwriters and their approach to informing clients of their practices, a sizable majority of the brokers surveyed, 69.6%, indicate they provide such notification on request of a client. Nearly one quarter—24.1%—said they automatically inform clients of any supplemental compensation, while 3.8% said they don't disclose supplemental compensation, and 2.5% said they don't accept such compensation.

"I think it's influenced by size of the firm, trade area and maybe lastly customer base," Mr. Cunningham said of such disclosure. He said he believes that, in many firms, disclosure decisions may be driven by the nature of a book of business, such as a company with a large nonprofit business automatically making such disclosure, because disclosure generally is a common element in nonprofit clients' business.

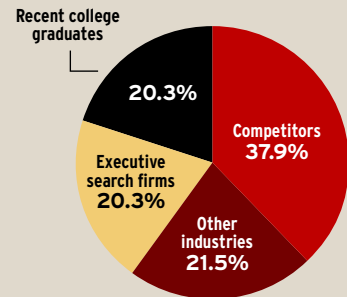
The *BI* survey found agents and brokers nearly evenly split on the question of federal insurance regulation, with 42.3% of respondents favoring an optional federal charter for insurance and 57.7% opposing such a move.

MARKET CONDITIONS

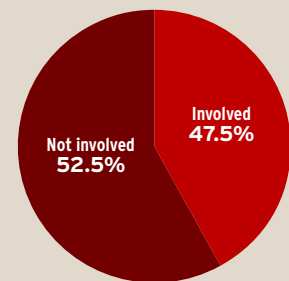
Expected state of the market at the end of 2009



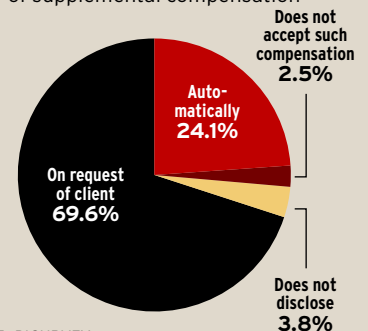
Most common sources for finding new employees



Percentage of companies involved in merger activity in 2009



Methods used to inform clients of supplemental compensation



SOURCE: BI SURVEY

Hurdles remain in achieving collaborative underwriting

By Rodd Zolkos

Information technology has evolved to the point that it could allow a truly collaborative environment for placing and underwriting insurance among brokers, buyers and insurers. But, according to some insurance technology experts, the industry must clear some fundamental hurdles before such collaborative underwriting becomes a reality.

Speaking earlier this year at the annual Entrepreneurial Insurance Symposium in Dallas, Frank Sentner, director of strategic technology at the Council of Insurance Agents & Brokers in Washington, said technologies used in the insurance industry have evolved to the

'THE PROBLEM TODAY is that even though we are the most information-intensive industry that I know of, we know nothing about ourselves.'

FRANK SENTNER

COUNCIL OF INSURANCE AGENTS & BROKERS

point that they allow for collaboration in underwriting and placement.

But, Mr. Sentner said, the insurance industry is constrained by how carefully it examines the past. That's natural, given the nature of the business, but it hampers the industry in its implementation of technology.

"The problem today is that even though we are the most information-intensive industry that I know of, we know nothing about ourselves," Mr. Sentner said. "Everything we know is retrospective."

Sharon Emek, managing director of CBS Coverage Group Inc. in New York, noted that some insurers have proprietary Web sites. Such proprietary sites, however, are bad for brokers for various reasons, she said. Among other things, such sites don't allow brokers to research all markets and they require brokers to enter data multiple times.

"The Web sites are really valuable after

you place the account," Ms. Emek said, allowing a broker to go online and manage the policy process, but the industry still hasn't addressed online placement.

To move forward, brokers, agents and their staffs face big challenges, she said. At many agencies, owners and staffs feel they're too busy servicing clients to make the necessary changes. Also, getting staff to change is difficult.

At most brokers and agencies, there also is a lack of dedicated implementers and senior management lacks experience in transferring processes using technology. But, she said, business processes must change or margins and customer service will continue to decline.

Among the solutions Ms. Emek suggested were pressuring insurers to support comparative rating, providing needed technology training at the executive level, and providing business execution tools such as dashboards, benchmarks and best practices.

Insurance exchanges could help drive the push toward embracing technology to achieve collaborative underwriting, Ms. Emek said. "Industries that become very efficient did so because of an exchange," she said. "All exchanges drive cost out of the system, create efficiencies, and provide real-time analytics for better decision-making."

Another panelist, Chris Gay, chief executive officer at auto insurance by-the-mile company and enterprise software developer MileMeter Inc. in Dallas, emphasized that technology must be seen as a tool to enable business goals.

"Technology is there to serve you. It should serve the business and if it doesn't, get rid of it," Mr. Gay said.

He noted that his company makes use of on-demand resources through Amazon Web Services. "The benefit is, I can scale up and scale down. I only pay for what I use," Mr. Gay said. The arrangement is "incredibly efficient," though he noted, "It doesn't fit everybody's needs."

Podcasts feature strategies to boost productivity

ALEXANDRIA, Va.—The Independent Insurance Agents & Brokers of America's Agents Council for Technology has released a group of podcasts focused on agency productivity and Internet marketing.

Each podcast is approximately one hour in length. The first is titled "Practical Strategies to Enhance Agency Productivity," while the second is "The Transformation in Agency Marketing."

Jeff Yates, ACT executive director, said in a statement that the podcasts provide a summary "of the breakthrough strategies agencies are employing today to enhance their productivity and Internet marketing presence."

The podcasts can be downloaded at www.independentagent.com/ACT.

ACT was formed by the Alexandria, Va.-based Big I in 1999 to provide a forum for agent and industry associations, user groups, companies and vendors to address critical technology and workflow issues facing the independent agency system.

Zywave releases HR tool designed to help brokers

MILWAUKEE—Zywave Inc. has released HRconnection 5.0, a Web-based human resources communication tool that allows brokers to tailor their agency-branded HR employee communication solutions to their clients' needs.

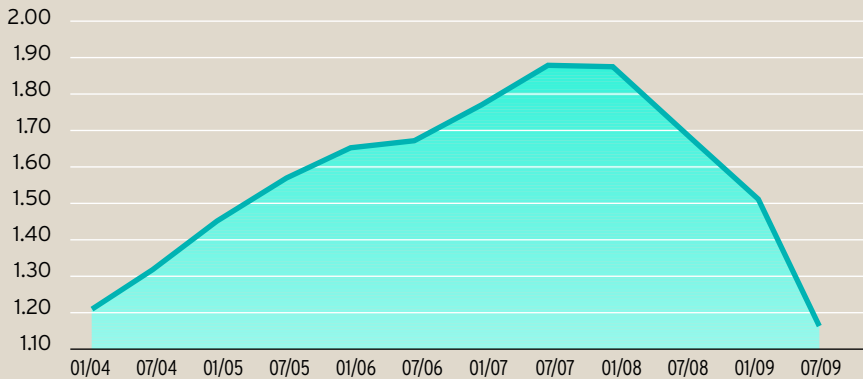
According to Zywave, a Milwaukee-based provider of enterprise automation solutions to property/casualty and employee benefits brokers and agents, HRconnection 5.0 allows brokers to deliver customized company and benefits information to employees in one secure online location, including features such as anytime access to company and benefits information.

Zywave said the tool has an interface that allows for quick customization of the portal's look and functionality, including the ability to select the portal's layout and color scheme, control images, and offer different information for different employee groups.

BY THE NUMBERS

PROPERTY VALUES

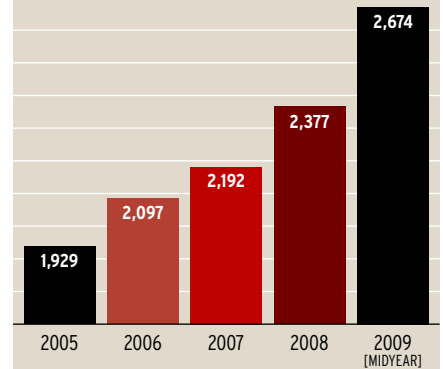
All properties, national index, in the Moodys/REAL Commercial Property Price Index



Source: MIT Center for Real Estate, Real Capital Analytics Inc.

BANK INSURANCE

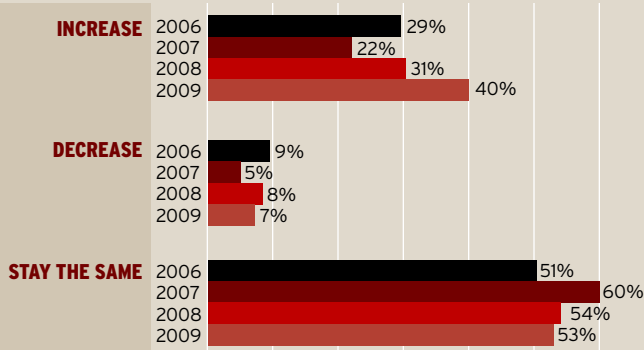
Insurance brokerage income per bank employee, in dollars.



Source: Michael White Associates

LEGAL DISPUTES

For the third straight year, there was growth in the proportion of corporations that expect to be involved in more legal disputes.



Source: Fulbright & Jaworski L.L.P.

EMPLOYMENT IN INSURANCE

Employment in insurance, 1999-2008, in thousands

Year	INSURANCE COMPANIES*				Total industry
	Life, health and medical	Property/casualty	Reinsurers	Insurance agencies and brokerages**	
1999	815.3	603.9	33.5	783.4	2,236.1
2000	808.8	591.6	32.3	787.8	2,220.6
2001	807.7	591.3	31.4	803.2	2,233.7
2002	791.1	590.0	31.7	820.4	2,233.2
2003	789.0	608.6	31.0	837.4	2,266.0
2004	764.4	604.4	29.8	860.1	2,258.6
2005	761.9	595.0	28.8	873.6	2,259.3
2006	787.4	597.4	28.0	890.8	2,303.7
2007	784.0	586.1	27.0	909.8	2,306.8
2008	804.2	569.2	28.4	906.9	2,308.8

*Described by the Bureau of Labor Statistics as "direct insurers."

**Includes claims adjusters, third-party administrators of insurance funds and other service personnel such as advisory and insurance ratemaking services.

Source: U.S. Department of Labor, Bureau of Labor Statistics

PRODUCTIVITY CHANGES

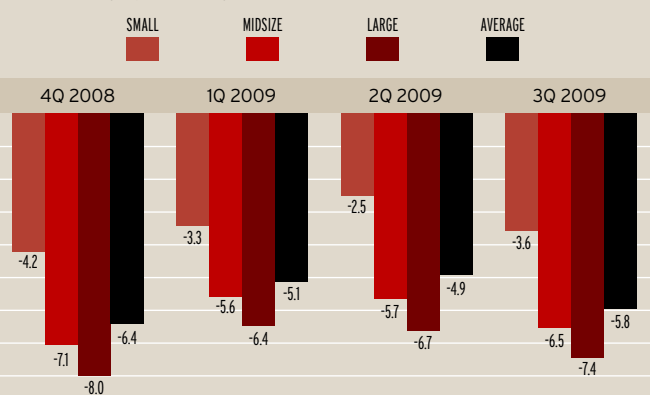
Preliminary third-quarter 2009 productivity, percentage change compared with second-quarter '09 and third quarter '08, by sector

	Nonfarm business		Business		Manufacturing		Durable manufacturing		Nondurable manufacturing	
	20 '09	30 '08	20 '09	30 '08	20 '09	30 '08	20 '09	30 '08	20 '09	30 '08
Productivity	9.5	4.3	9.8	4.3	13.6	3.1	21.2	-0.9	5.5	4.7
Output	4.0	-3.5	4.1	-3.3	7.7	-10.8	12.4	-16.9	3.4	-4.6
Hours	-5.0	-7.5	-5.1	-7.4	-5.2	-13.5	-7.2	-16.1	-2.0	-8.9
Hourly compensation	3.8	0.5	4.2	0.5	5.5	5.5	6.0	6.2	5.2	4.8
Real hourly compensation	0.2	2.1	0.5	2.1	1.9	7.1	2.3	7.9	1.6	6.4
Unit labor costs	-5.2	-3.6	-5.1	-3.7	-7.1	2.3	-12.5	7.2	-0.3	0.1

Source: U.S. Department of Labor, Bureau of Labor Statistics

COMMERCIAL P/C PREMIUMS DECLINE

Rate change percentage by account size



Source: Council of Insurance Agents & Brokers

Balancing growth, profit in staff pay



PATRICK T. LINNERT
Executive vp
Marsh, Berry & Co. Inc.

As insurance agents and brokers learn from the past but look toward the future, the fundamental principle of running the organization like a business prevails.

Historically, many insurance executives have operated the enterprise as a mechanism to fund personal lifestyles. Stock was too narrowly held, balance sheets were void of working capital, owner perks permeated the income statement, and accountability was sacrificed for conflict avoidance. This cigar box mentality under which

insurance agencies and brokerages survived for decades is quickly evaporating for those who wish to sustain their organizational viability.

In a new era of economic transparency, producer compensation has jumped to the forefront of organizational change initiatives. The best insurance agencies and brokerages continue to establish and refine compensation structures that satisfy the delicate balance between expense control and continued organic growth.

The compensation and perk expenses for an insurer's sales staff, typically the largest expense, will account for approximately 32% of the organizational revenues. At the same time, the average insurance brokerage realized only 1.3% organic growth during the past 12 months.

In an effort to control expenses while facilitating top line growth, the nation's leading organizations have redefined the role and responsibility of a salesperson. Whether that role is to sell more business, retain clients, grow the individual book, or proactively identify and close new opportunities, leading organizations have refined the position descriptions and employment agreements of the sales staff. This simple change provides focus and clarity to the sales staff regarding organizational expectations.

Second, leading organizations have implemented a carrot-and-stick compensation formula for their salespeople. The carrot serves to reward salespeople for exceeding goals and expectations. The key resides in clearly defining expectations. Such carrots often include increased new business commissions, additional travel and entertainment expenses, or access to more value-added resources for their clients.

At the same time, insurance executives must believe that the title, compensation formulas, service teams and limitless income opportunities afforded to the sales staff truly are an honor and privilege. In exchange for that privilege, salespeople must achieve minimum performance criteria. If those minimum criteria are not met, then

salespeople are subject to reductions in renewal commissions, expense allowances, or access to internal service resources.

In the average insurance organization, only 42% of validated salespeople hit the minimum performance standard. Within high-growth organizations, more than 60% of validated salespeople surpass the minimum expectations. While both are unacceptable, the difference between average and peak performers resides in the executive-level commitment to establishing and enforcing expectations.

Leading insurance entities also balance growth and earnings through regimented sales recruiting, training and retention programs. When facilitated properly, the investment returns on such a program often are double that of an agency acquisition. Key to this statement is two basic practices. The first practice instituted by high-growth organizations moves failing new sales hires into other positions or out the door within the first six months.

The second practice instituted by high-growth insurance operations mirrors the carrot-and-stick compensation formula for seasoned producers as outlined above. When hiring experienced salespeople, we must provide some compensation upside, or carrot, for those exceeding sales or growth goals. As executives do not confuse activity and achievement, the upside almost always resides in exceeding quantifiable commission results.

Concurrently, new hires must validate their monthly compensation during the first six to 12 months by achieving clearly defined activity metrics. Within the sales process, activities and behaviors are the lead indicators of potential success; while the actual commissions received are the lag, or last, indicator. Toward that end, new hires must hit such activity metrics as "X number of monthly quality appointments" just to earn their monthly paycheck. If the number of appointments falls below the minimum, the new hire sees an associated reduction in the next month's base pay.

True salespeople are entrepreneurial in nature. They embrace downside risk as long as the upside potential exists.

Simply stated, leading insurance organizations have restructured the rules of the game. Such firms have created an infrastructure under which the sales team can win with the upside carrot or lose with the downside stick. Clearly defined roles and responsibilities have been established, executives have armed the sales force to do battle, and accountability is strictly enforced.

Patrick T. Linnert is executive vp at Marsh, Berry & Co. Inc., a Willoughby, Ohio-based consultant and mergers and acquisitions adviser.