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Business Insurance®

December 19, 2005 www.businessinsurance.com $5

TRIA COMPROMISE FORGED

Measure would raise trigger, narrow scope of backstop

By MARK A. HOFMANN

WASHINGTON—House and Senate negotiators resolved differences late Friday afternoon between competing bills designed to extend the federal terrorism insurance backstop through 2007.

The agreement came as the Terrorism Risk Insurance Act of 2002, which created the federal backstop for insurers' future terrorism-related losses, neared its expiration date of Dec. 31.

The compromise draws almost exclusively from White House-based legislation approved by the Senate, which would scale back the backstop before ending the program entirely on Dec. 31, 2007.

Both the House and Senate were expected to vote on the measure over the weekend before adjourning until January.

Although the compromise bill did not meet the expectations of all extension backers, most of whom tended to favor a more expansive bill approved by the House, the fact that some extension was likely drew more than a little relief.

"We're obviously very pleased that the passage of the legislation is now imminent, as there have clearly been several conservative and influential members of Congress who would have been content to see the bill expire amid gridlock between the two chambers," said Joel Wood, senior vp-government affairs for the Council of Insurance Agents & Brokers in Washington, who spoke before the final legislative language was available.

The compromise legislation will extend TRIA for two years. Unlike the original backstop, it will not provide coverage for general liability, commercial auto, burglary/theft, surety or professional liability. And, unlike the House bill, the compromise measure will not cover group life.

The minimum trigger for the backstop will be raised to $50 million in 2006 and $100 million in 2007 from the current $5 million. The measure will also increase the

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Late News

Acordia's Conboy retiring, Wissinger named CEO

Peter J. Wissinger, president and chief executive officer of Wells Fargo Home Mortgage, is taking over as chief of Chicago-based Acordia Inc. following the retirement of Acordia President and CEO Kevin W. Conboy. Parent company Wells Fargo & Co. also said that it is combining all of its insurance business–including Acordia, Wells Fargo Insurance and Rural Community Insurance Services–under the leadership of Mr. Wissinger, a 20-year veteran of Wells Fargo.

Judge says Aloha Airlines can terminate pensions

Financially ailing Aloha Airlines can terminate its four underfunded pension plans, a federal judge ruled last week. Judge J. Michael Seabright of the U.S. District Court for the District of Hawaii said Aloha could not emerge from bankruptcy without terminating its plans. The plans, which have about 4,000 participants, are underfunded by $155 million, of which the Pension

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Congress set to confer on big pension changes

By JERRY GEISEL

WASHINGTON—Negotiators in the U.S. House of Representatives and Senate next month will try to hammer out a compromise on what is shaping up to be the most comprehensive pension reform measure in three decades.

Last week, the House, on a 294-132 vote, cleared a reform measure to shore up the nation's badly tattered pension insurance program through tougher funding requirements and higher employer-paid premiums. That approval came one month after the Senate approved, on a 97-2 vote, a somewhat different reform bill.

That sets the stage for a conference committee to work out those differences in legislation that—if an agreement is reached—will completely rewrite funding rules for defined benefit plans and usher in changes for defined contribution plans as well.

"We are talking about the most significant changes in funding rules since ERISA," said Scott Macey, a senior vp with Aon Consulting in Somerset, N.J., referring to the Employee Retirement Income Security Act, the 1974 law that laid down the first comprehensive set of funding and other rules for retirement plans.

Indeed, both measures would speed up—in some cases, dramatically—the amount of time employers have to fund liabilities; lay down new rules for calculating the value of liabilities; stop employers with underfunded plans from boosting benefits; give a new infusion of cash to the Pension Benefit Guaranty Corp.; and provide a measure of legal certainty—prospectively—for employers adopting cash balance plans, the only type of defined benefit plan that employers in large numbers have adopted over the last decade.

> "Our nation's pension laws are outdated and broken, placing at risk the retirement security of millions."
>
> **Rep. John Boehner R-Ohio**

PHOTO: DENIS BRACK/BLOOMBERG

While members of Congress have argued over details ever since the reform drive began more than two years ago, there is a consensus on the need for action, observers say.

"There is a fair amount of bipartisan support," said James Klein, president of the American Benefits Council in Washington.

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Aon sees 70% take settlement

Compensation fund to make first payment

By SALLY ROBERTS

CHICAGO—After extending its opt-in deadline by a month, Aon Corp. last week said that more than 70% of the 352,000 offers it extended as part of the nationwide contingent commission settlement it reached earlier this year with state attorneys general had been accepted.

The Chicago-based brokerage declined, though, to say how many clients that figure represents, but it noted that some clients received multiple offers and that more than 90% of its "top 1,000" clients had accepted settlements.

Roughly $140 million of its $190 million compensation fund will be allocated to clients, and the first of three payments will soon be mailed out, a spokesman said.

Aon established a $190 million compensation fund in March as part of its agreement with officials

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Advertisement

AON Focus
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The challenge for reinsurers is to deliver value in price and service.

DECEMBER 19, 2005

An international perspective on insurance and reinsurance markets

Dennis Mahoney is chairman and chief executive of Aon Limited, Aon's U.K. operation. He is also deputy chairman of Aon Re Global, Aon's worldwide reinsurance broking arm.

The last five years have been the most eventful during my 30-plus years in the business, with major shocks to the reinsurance world from all directions – political, economic, social and technological, as well as from Mother Nature. While most of these events occurred in the United States, their repercussions have reverberated throughout the global reinsurance industry, raising challenges that are still far from being resolved. Carriers' credit ratings have come under severe pressure and are still not back to the levels at which they stood in 2000. Clearly, the credit rating agencies think that the reinsurance industry continues to face considerable challenges. However, from the amount of new capital that has come into the industry through recapitalizations and start-ups over the last month, capital market investors think that there are still profits to be made in the short to medium term.

As the last two hurricane seasons have shown only too clearly, the potential for catastrophic losses is increasing in terms of both frequency and severity. It is now commonly accepted that climate change will create more drought in some parts of the world, more intense precipitation in others (and hence more floods) and more windstorm activity. The complexity of manufacturing facilities, their interdependence and the continued growth of the big or mega-cities, often located in areas most prone to natural perils, all means that the human, economic and insured costs of future floods, hurricanes and earthquakes will continue to rise.

Manmade perils also present their own challenges, as the history of coverage for difficult areas such as terrorism and pharmaceuticals has shown over the last five years. The reinsurance industry does not have the capacity, nor should it, to pay for all the problems and failures of society. It will always require a partnership between the insurance industry and government to manage and fund exposures to the largest catastrophes, whether they are natural or manmade.

Meanwhile on the casualty side, the compensation culture continues to spread across the world, pushing up the frequency and costs of settling casualty claims.

Equity markets have shown some signs of recovery in recent months, but the outlook is still fragile. Insurers and reinsurers have had to relearn to write for underwriting profit, not just cash flow.

This underwriting discipline held longer than some expected but was showing signs of weakening pre-Hurricane Katrina. While the impact of this year's hurricanes was generally expected to halt this decline, the huge influx of new capital (estimated to be around USD 16 billion at present) means that capacity will not be as limited as originally expected. Also, many reinsurance buyers increased their retentions in the recent hard market. They have now become comfortable with these higher retentions and are still increasing them. This trend not only puts pressure on reinsurers' premium earnings, but also increases the volatility that they are subject to, as their layers of participation get pushed up the risk-reward spectrum. The challenge for reinsurers is to remain relevant to their clients and to deliver value, in terms of both price and service delivery.

New Medicare Secondary Payer rules hold employers liable for mistaken payments

According to a recent ruling, employers are liable under the Medicare Secondary Payer (MSP) rules to reimburse Medicare for claims it mistakenly paid on a primary basis, regardless of whether the employer is insured, self-insured or whether the employer is unable to recoup the payment from its insurer. In ruling against the employer, the court said employers are free to negotiate contracts with insurers and HMOs that allow the employer to recoup payments from them that the employer makes to Medicare. To learn more about recent regulatory developments impacting employers, visit **www.aon.com/focus**.

Final regulations on pension benefit options provide relief for plan sponsors

ERISA and tax rules prohibit plan amendments that reduce accrued benefits and early retirement benefits, subsidies and optional forms associated with those accrued benefits. Although the IRS issued regulations to accommodate changes in benefit choices, plan sponsors asked for further relief. Congress instructed the IRS to relax the rules for plan amendments that reduce or eliminate benefits or subsidies if they create significant burdens for the plan and its participants, as long as participants' rights are upheld. The IRS has recently issued final regulations to address this directive. For more information, visit **www.aon.com/focus**.

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Research has yet to answer why such factors influence mishap rates.
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Online poll - [12/12 - 12/16]

Will U.S. House and Senate negotiators be able to reach an agreement on a bill to extend the federal terrorism insurance backstop before TRIA expires on Dec. 31?

Participate in *BI*'s online polls at *www.businessinsurance.com.*

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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

Business Insurance (ISSN 0007-6864) Vol. 39, No. 51, is published weekly by Crain Communications Inc., 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to Business Insurance Circulation Department, 1155 Gratiot Ave. Detroit, Mich. 48207-2912. $5 a copy and $97 a year in the U.S. $130 in Canada and Mexico (includes GST). All other countries, $230 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 40012850, GST No. 136760444, Canadian return address: 4960-2 Walker Road, Windsor, ON N9A6J3. Printed in U.S.A.

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State-level tort reforms help shrink ATRA's list of 'judicial hellholes'

By MARK A. HOFMANN

WASHINGTON—The American Tort Reform Assn.'s annual list of so-called "judicial hellholes" continues to shrink in size, according to a report released last week.

Only six jurisdictions made the 2005 list of "judicial hellholes"—which ATRA defines as places where "judges systematically apply laws and court procedures in unfair and unbalanced ways, generally against defendants in civil lawsuits."

That's down from nine in 2004, 12 in 2003 and 11 in 2002's inaugural report.

"Trends have been very positive at the state level," said Victor Schwartz, ATRA's general counsel in Washington.

According to Mr. Schwartz, the "most important" state-level reform has been venue reform, which includes limiting the venue in which a lawsuit can be filed to the plaintiff's home jurisdiction, the jurisdiction in which the alleged injury occurred or the jurisdiction in which the defendant maintains its principal place of business.

The jurisdictions that made this year's list are, ranked in order from first through sixth: Grande Valley and Gulf Coast, Texas; Cook County, Ill.; Madison County, Ill.; St. Clair County, Ill.; South Florida; and West Virginia. In addition, ATRA gave a "dishonorable mention" to the Wisconsin Supreme Court for a series of decisions overturning tort reforms.

A leading Illinois tort reform advocate complained that having so many jurisdictions listed as hellholes is hurting the state's reputation.

"Having three of the six 'hellholes' within our state is an embarrassment and a severe detriment to economic growth and development–and to the creation and attraction of private-sector expansion and jobs," said Edward D. Murnane, president of the Chicago-based Illinois Civil Justice

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Order in the courts?

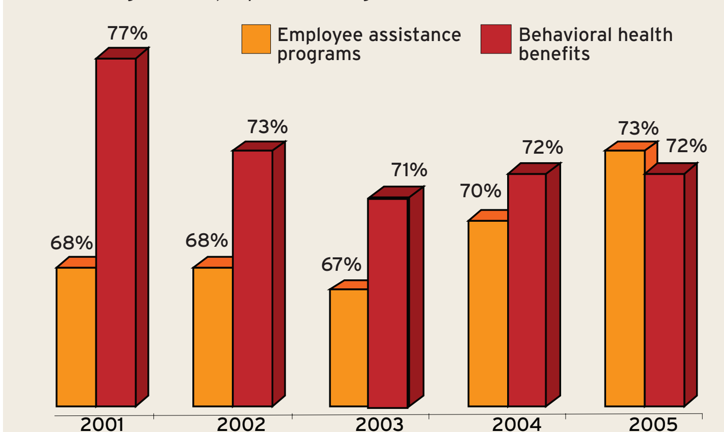
The length of the American Tort Reform Assn.'s annual list of "judicial hellholes" has been cut by more than half over the past three years.

2005	2004	2003
1. Rio Grande Valley and Gulf Coast, Texas	1. Madison County, Ill.	1. Madison County, Ill.
2. Cook County, Ill.	2. St. Clair County, Ill.	2. Jefferson County, Texas
3. West Virginia, entire state	3. Hampton County, S.C.	3. 22nd Judicial Circuit, Miss.
4. Madison County, Ill.	4. West Virgina, entire state	4. Hidalgo County, Texas
5. St. Clair County, Ill.	5. Jefferson County, Texas	5. Orleans Parish, La.
6. South Florida	6. Orleans Parish, La.	6. West Virgina, particularly Kanawha County
	7. South Florida	7. Nueces County, Texas
	8. Philadelphia	8. Los Angeles County, Calif.
	9. Los Angeles	9. Philadelphia Court of Common Pleas, Pa.
		10. Miami-Dade County Fla.
		11. St. Louis
		12. Holmes County, Miss.
		13. Hinds County, Miss.

Source: ATRA

Behavioral health care services level out

Percentage of employers offering EAP and behavioral health services



Source: NBGH, SHRM

Large-employer group sees behavioral health lacking coordination

By SALLY ROBERTS

WASHINGTON—While employers increasingly recognize the importance of offering behavioral health care benefits to their employees, their current approach to managing the cost and quality of the care is insufficient, according to the National Business Group on Health.

This is especially true in the general medical setting, where a high proportion of employees are being treated for mental health and substance abuse problems due in part to benefit design constraints on access to specialty mental health care services. The adequacy and quality of the mental health care delivered in the general medical care setting is suboptimal, the organization said, with treatment generally limited to psychotropic drugs.

Indeed, standardized and integrated programs addressing the delivery of behavioral health care remain rare, according to the group. Nor is it customary for employers to integrate behavioral health care benefits offered through health plans with those offered through disability management, employee assistance or health promotion programs, it

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2006 Risk Manager of the Year

BI extends deadline for nominations

CHICAGO—The deadline for submitting nominations for the 2006 Risk Manager of the Year competition has been extended until Dec. 23.

Nomination forms are available for downloading at *www.BusinessInsurance.com/RMOY* or by contacting Karen Tucker at 312-649-5319.

A nominee need not handle risk management duties full time, but he or she must be a full-time employee of the organization whose program he or she directs. Risk managers anywhere in the world are eligible.

Anyone acquainted with a candidate's work may submit a nomination. All nominations are confidential; only honored candidates will be announced.

The 2006 Risk Manager of the Year will be the 29th individual to receive the honor, which was first presented in 1978 to commemorate the 10th anniversary of *Business Insurance*. The award recognizes outstanding performance in the field of risk management. Honorees will be profiled in the April 24, 2006, issue of *Business Insurance*, and will be recognized at a special awards luncheon to be held in Honolulu during the Risk & Insurance Management Society Inc. annual meeting.

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

Please visit *www.BusinessInsurance.com/RMOY* today to take advantage of this extended opportunity to nominate a worthy candidate.

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U.K. oil blast won't rock market

Operator, OIL pool likely to absorb property losses

By SARAH VEYSEY and BARBARA COCKBURN

HEMEL HEMPSTEAD, England—Property losses from a fire described as the largest ever in peacetime Europe are not expected to have a huge impact on the energy insurance market, and the full extent of business continuity and other liability losses is still unclear, sources say.

A series of explosions ripped through the Hertfordshire Oil Storage Terminal, known as the Buncefield depot, in the early hours of Dec. 11, and fires burned in several storage tanks at the depot for three days. No one was killed in the blast, though 43 people were injured, one seriously.

The depot is located in an industrial complex, and businesses within the complex, as well as local schools and other local businesses, were closed for several days following the explosions as a huge cloud of smoke drifted across the area.

Most of the property losses from the blast will be covered by self-insurance mechanisms, sources say.

French oil company Total S.A., which operates the Hertfordshire Oil Storage Terminal, is a member

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PHOTO: STEFAN ROUSSEAU/GETTY IMAGES

Firefighters battled a blaze last week at the Hertfordshire Oil Storage Terminal. The fire raged for three days, badly damaging property at the facility and the surrounding industrial complex.

Greenberg, Spitzer spar over sale of Starr assets

By MICHAEL BRADFORD

NEW YORK—New York Attorney General Eliot Spitzer last week leveled new accusations against Maurice R. Greenberg, alleging that the former American International Group Inc. chairman and others decades ago improperly benefited from the sale of assets belonging to a charity affiliated with the insurer.

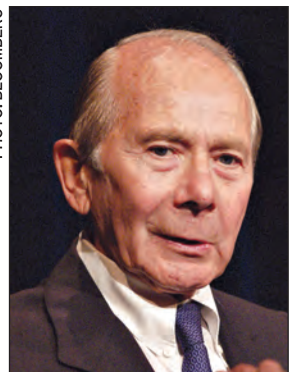
PHOTO: BLOOMBERG

Mr. Greenberg

Mr. Spitzer last Wednesday released a 26-page report detailing the allegations against Mr. Greenberg and three other living executors of the estate of Cornelius Vander Starr—Houghton Freeman, John J. Roberts and Ernest E. Stempel. In the report, Mr. Spitzer states that that the executors improperly enriched themselves 35 years ago through deals that have deprived The Starr Foundation of assets that would now be worth more than $6 billion.

Also made public was a letter to Florence A. Davis, president of the New York-based foundation that was formed by Mr. Starr, urging her to take action regarding the allegedly suspect transactions.

Mr. Greenberg and the other executors later that day issued a statement calling the attorney general's accusations "outrageous and an insult."

Mr. Starr, the founder of the insurance businesses that eventually became AIG, died in

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Errors & omissions

Due to a production error, a Dec. 12 story on the National Assn. of Insurance Commissioners omitted a portion of the final paragraph. The complete paragraph should read: "The current compacting states represent approximately 30% of the (nation's) premium volume" for those coverages and products, according to an NAIC statement.

PBGC head calls for funding rules reform

Executive director calls pension system 'fundamentally flawed'

By JOANNE WOJCIK

CHANDLER, Ariz.—The law governing defined benefit pension plans must be changed because the federal program designed to insure those plans is now in the benefits administration business and, perhaps more importantly, because the government has acquired significant holdings in several major U.S. corporations as a result of takeovers by the Pension Benefit Guaranty Corp., according to the PBGC's executive director.

"I think that should make all of us a little bit nervous," Bradley Belt told benefits executives attending the 24th annual symposium of the International Society of Certified Employee Benefit Specialists, held Dec. 4-7 in Chandler, Ariz.

"Right now, we are dealing with four of the largest corporate bankruptcies of all time, and we're dealing with them at the same time," Mr. Belt said, singling out United Airlines, Northwest Airlines, Delta Air Lines and Delphi Corp. In addition, the

"We're in the benefits administration business right now. We cut about 700,000 checks each and every month."

Bradley Belt
Pension Benefit Guaranty Corp.

PBGC has assumed responsibility for pension plans representing entire industry sectors, including about 140 steel industry plans, he noted.

"We are now directly responsible for 1.3 million Americans—that's the number of participants that are in pension plans that have terminated over the last 31 years. We're responsible for cutting their benefit checks," Mr. Belt said. "We're in the benefits administration business right now. We cut about 700,000 checks each and every month."

Moreover, because many of the pension plans that were terminated and taken over by the PBGC also owned company stock, the government agency now holds sizable interests

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Seize the chance to approach CFOs, learn language of business finance

By JOANNE WOJCIK

CHANDLER, Ariz.—As more and more chief financial officers become aware of how much benefit costs are chipping away at corporate profits, benefit managers are finding it increasingly necessary to learn how to speak the language of business finance.

But rather than waiting for the CFO to come beating on their doors, benefit managers should make the first move, advises Steve Ashley, a senior vp with Ultralink in Costa Mesa, Calif.

"Be proactive. Don't wait for your CFO to come to you. Then you'll be on the defensive," he told a group of benefit executives attending the 24th annual symposium of the International Society of Certified Employee Benefit Specialists, held Dec. 4-7 in Chandler, Ariz.

"You've got to go to your CFO and start the discussion, and now is a good time to start the '07 discussion," Mr. Ashley suggested, particularly because 2007 is not yet on CFOs' radar screens.

Once the benefit manager has the CFO's ear, he or she will probably need to translate many common benefit terms to bridge the language barrier, Mr. Ashley said.

"This is an opportunity to educate," he said. "Don't assume everyone involved knows as much as you do."

In many cases, benefit professionals have a better understanding of business language than CFOs have of benefit terms, according to Mr. Ashley. "Do they know what 'adverse selection' is?" he asked. "Explain things even if they don't ask for an explanation."

Mr. Ashley likened talking to CFOs and chief executive officers to talking to children and teenagers. "You think they understood you, but then they go and do what you told them not to do," he said. "Know your audience. How can you reach this person?"

Mr. Ashley also recommended that benefit managers use visual aids to illustrate specific issues, such as the rate of increase in health care costs.

Benefit managers should create a corporate benefits summary covering at least a three-year period, adjusting the figures to eliminate the effects of employee turnover and benefit plan design changes, he advised.

Benefit managers also should design charts that break down the cost increases by individual plan, such as preferred provider organization costs vs. those of health maintenance organizations. The charts should show the actual costs of each plan at year end vs. their projected costs at the beginning of each year, as well as the changes in percentage rates for each year examined, he

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Continued coverage on page 14

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PAUL WINSTON

Editorial Director

Study: There goes the neighborhood

A U.S. insurance research firm is analyzing unusual new data that it says could predict the risk of auto accidents for policyholders, as well as adjust the pricing for coverage.

Before you raise your deductible to keep premiums level or start talking to geckos, let's consider the research and other factors, such as how well the insurance industry historically has used data to differentiate risks in other coverage lines.

The study draws a correlation between a policyholder's proximity to certain community establishments and his or her risk of having a car accident. The research—conducted by Quality Planning Corp., a San Francisco-based insurance data mining specialist acquired by Insurance Services Office Inc. in 2004—concludes that its findings will help auto insurers more precisely identify risks of a given location than the current means of pinpointing geographical exposures, namely the ZIP code.

"While ZIP codes may be convenient and necessary for speedy mail delivery, they are not a particularly good predictor of property/casualty insurance losses. The ability to assess risk at the street address level is a major breakthrough in private passenger auto underwriting and will eventually lead to more accurate rating and could reduce premiums for some drivers," QPC says.

Well, yes, use of this data could reduce some premiums, but what insurer is going to invest in that? Let's call it like it is: This data is more likely to enable auto insurers to raise premiums by identifying these new street-level risk factors.

QPC studied data on more than 15 million policyholders and 2 million auto claims and mapped this information against the location of various types of businesses, such as banks, bars, churches, gas stations, movie theaters, restaurants and schools. The analysis showed that a policyholder's proximity to, for example, a liquor store could predict whether he or she is more or less likely to have an accident.

QPC found that the five riskiest places to live near (defined as within one mile) were: restaurants, 30% more likely to have an accident; grocery stores, 26% more likely; elementary or secondary schools, 26% more likely; banks, 25% more likely; car dealers, 23% more likely; and gas stations, 22% more likely. The safest residential landmarks were: churches or religious institutions, 10% less likely to have an accident; doctor's offices or clinics, 1% more likely; airports, 2% more likely; local or community parks, 3% more likely; national parks or forests, 4% more likely; and hotels, motels or spas, 5% more likely.

The study does not delve too deeply into the question of why these locations influence accident rates, but it does note that the odds of an accident are higher along busy commercial routes. On the other end of the spectrum, the nature of national parks is that fewer people live near them.

But what about elementary schools and churches? Given that both are ubiquitous features of nearly every community in the country—yet are linked to dramatically different accident rates—it would be disturbing if insurers began to use these conflicting correlations to adjust auto premiums.

I'll grant that this kind of data is fascinating—in the same way that economist Steven Levitt examined data for unusual correlations to come up with his book "Freakonomics." I'm sure there is other data that can be correlated to auto accidents, such as what kind of pet a driver owns, favorite sports team, and so on and so on.

But as tantalizing as the data seems, it gets us no closer to answering the question of why these factors influence accident rates. More research is needed before auto insurers start to use the data to differentiate risks.

If you find this of interest, QPC has conducted a variety of other studies, including a 2003 study that analyzed the professions of individuals most likely to be involved in car accidents (hint: architecture students might be an insurer's worst nightmare). You can view QPC's body of work at *www.qualityplanning.com*.

At the end of the day, though, I wouldn't worry about moving farther away from the local elementary school to keep premiums from rising.

While the sort of rigorous data mining that QPC's research represents is relatively new to auto insurance underwriting, it has been more widely available for a longer time in other lines of coverage—yet has held little sway against more powerful forces like cash-flow underwriting. If it were otherwise, insurers probably would use the data to consistently adjust property insurance rates.

See? No reason to worry … yet.

Editorial Director Paul Winston's commentary appears fortnightly.
He can be reached at pwinston@businessinsurance.com

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H20154

Editorial

Vigilance needed in keeping pressure on judicial hellholes

THE AMERICAN TORT REFORM Assn.'s new list of "judicial hellholes" reflects some good news indeed, but it should also be taken as a sign that pro-reform forces cannot afford to ease up on their efforts to restore balance to the civil justice system.

As we report on page 3, the annual list has shrunk to just six jurisdictions, compared with twice as many only two years ago.

A variety of factors has played a role in removing jurisdictions from the list of "hellholes," which is what ATRA calls jurisdictions where "judges systematically apply laws and procedures in unfair and unbalanced ways, generally against defendants in civil lawsuits."

State tort reforms and the judges who are willing to uphold them—particularly those regarding the issue of the proper venue in which a civil suit can proceed—have proved crucial in curbing abuses in the civil justice system. The Supreme Court of Illinois—a state that has the dubious distinction of being home to three of the six hellholes cited by the tort reform association—won recognition for subjecting class action certifications to heightened scrutiny.

Such achievements are worthy of applause, but other parts of the report underscore that the applause must be tempered with the realization that victories are not necessarily permanent. One example is the single "dishonorable mention" bestowed by ATRA upon the Supreme Court of Wisconsin, which had not previously been considered particularly problematic. But a series of decisions that overturned long-standing liability reforms raised questions about the majority's interpretation of the state constitution.

Of additional concern are the entries on the report's "watch list."

Delaware, which has long enjoyed a reputation for judicial evenhandedness, appears on the list not because of anything that has changed with its courts but, rather, because of the sudden flood of lawsuits alleging asbestos injury into its courts. According to ATRA, this raises the possibility that the state's courts will be flooded with asbestos litigation, because Delaware is the favored state of incorporation for many companies.

This year's report amply underscores that progress has been made in the battle for civil justice reform. But some of its troubling findings, such as the backslide in Wisconsin, indicate that such progress cannot be taken for granted. Continued vigilance is vital if balance is to be maintained.

Schillerstrom

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Spitzer looking at AIG deal with starry eyes

THE SHOCK MANY FELT AT the charges of wrongdoing leveled in the insurance industry since the fall of 2004 has largely dissipated, but recent allegations by New York Attorney General Eliot Spitzer are surprising for a different reason.

According to news reports, Mr. Spitzer has charged in a letter to the Starr Foundation that former American International Group Inc. executives who served as executors of the Starr estate took advantage of the foundation in asset sales whose proceeds enriched the executives as well as AIG.

Mr. Spitzer's letter reportedly urged the foundation to seek recovery of the assets. Mr. Spitzer said the sales took place between 1969 and 1978.

Our initial reaction to this news was along the lines of "Is he kidding?" Even if the charges are true, Mr. Spitzer's questioning of a sale that occurred 37 years ago makes his case against former AIG Chairman and Chief Executive Officer Maurice R. Greenberg for improper accounting look vindictive, in our opinion. Indeed, a statement issued by Mr. Greenberg and other living Starr executors questioned Mr. Spitzer's motivation in making the latest charges.

We think these allegations merit some historical perspective. First, the philanthropic Starr Foundation was set up in New York in 1955 by Cornelius Vander Starr, the founder of the company that became AIG. Secondly, Mr. Greenberg was handpicked by Mr. Starr to succeed him as CEO of the company in 1967, as well as serve as an executor before Mr. Starr's death in 1968. Thirdly, if assets from the foundation helped AIG, it's also true that the value of AIG shares—which make up the majority of the foundation's assets—have benefited the Starr Foundation and the recipients of its philanthropy.

Would the founder of American International Group have been displeased at the astounding success of the agency he set up in Shanghai in 1919 or the $3.6 billion in assets the foundation now has? We think not.

That said, we'd be remiss if we didn't once again applaud Mr. Spitzer's aggressive pursuit of wrongdoing. He has uncovered deceptive practices at insurance brokers and faulty accounting at AIG and other insurers that did harm clients and investors. His investigations and lawsuits resulted in transparency and accountability in the insurance industry, especially among brokerage firms, that clearly was long overdue. But we think the latest charge is a stretch, and Mr. Spitzer should stick to serious matters.

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SUBSCRIPTIONS: Detroit: 888-446-1422

Business Insurance is published by Crain Communications Inc.

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Published weekly at 360 N. Michigan Ave., Chicago, Ill. 60601-3806, Fax: 312-280-3174, *biweb@crain.com*. Offices: 711 Third Ave., New York, N.Y. 10017-5806, Fax: 212-210-0704; 71121 Minkler St., Abita Springs, La. 70420; Fax: 985-871-4006; Suite 814, National Press Building, Washington, D.C. 20045-1801, Fax: 202-638-3155; 6500 Wilshire Blvd., Suite 2300, Los Angeles, Calif. 90048- 4947, Fax: 323-655-8157; 967 Bermuda Court, Sunnyvale, Calif. 94086-6750, Fax: 408-774-1155; 34 Southwark Bridge Road, London SE1 9EU, Fax: +44-(0)20-7457-1440; 8157 N. Torrey Place, Tucson, Ariz. 85743, Fax: 520-579-3476; 1746 Cole Blvd., Suite 150, Golden, Colo. 80401, Fax: 303-733-9941; 12524 Acuff Court, Olathe, Kan. 66062, Fax: 312 280-3174. 77 Franklin St., Suite 809, Boston, Mass. 02110-1510; Fax: 212-210-0704. 4 Executive Circle, Suite 185, Irvine, Calif. 92614-6791. $5 a copy and $97 a year in the U.S., $130 in Canada and Mexico (includes GST). All other countries, $230 a year (includes expedited air delivery). John Azua, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, *Business Insurance*, 711 Third Avenue, New York, N.Y. 10017-5806. Microfilm copies available: University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48013. Microfiche copies: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For reprints or reprint permission: Reprint Management Services, 1808 Colonial Village Lane; Lancaster, PA 17601; 800-290-5460, ext. 160; *BusinessInsurance@reprintbuyer.com.*

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Martin A. Schweighauser, Energy Industry Expert, Swiss Re

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Builders risk coverage needs care

Insurers remain wary of construction site hazards

By Marjorie Young and Peter Scala

Insurance for projects under construction—so-called builder's risk insurance—has always been expensive, and today the market remains tight and limited. Insurers charge more because things can go wrong with an unfinished building—from collapse, to theft, to a total loss by fire—faster than with a completed project.

Developers need to shop smart and make sure their contractors are following stringent safety and construction practices so insurers will be willing to take on their projects at reasonable prices.

Here are some guidelines:

Consider insuring both hard and "soft" construction costs. The price of permits and architects' and engineers' fees are part of the cost of construction. Buy enough insurance to cover those soft costs too.

Make sure your general contractor's liability policy insures your company. The name of the game is to minimize your exposure by having someone else's policy cover you. Even have your general contractor provide a protective liability policy that names you as the "insured." This covers liability during construction. For example, if the contractor drops a beam on a Mercedes and you are named in a lawsuit for damages, this policy will respond to it and your exposure on your own general liability policy should be minimal. And if the claim is so big that it exceeds the contractor's coverage, then your policies may kick in with additional protection on your behalf.

Consider a wrap program. Some projects are large enough to qualify for a wrap program, which considers the project as a single entity. The wrap program covers the developer and contractors as one group, wrapping in workers compensation, general liability and umbrella liability around the combined entities. This provides ease of administration and cost control.

Insuring the finished value of the project is easier. With most projects, insuring the finished value of the project is simplest, but an insure-as-you-go plan can sometimes save money. With such a plan, you buy insurance to cover the value of the project to that date. You have to file timely reports on increases in value. Generally, though, the modest potential cost savings are not worth the extra work and risk involved.

Terrorism insurance may not be needed. Because terrorists aim to cause the most death and destruction, they are attracted to occupied buildings.

Building sites are chaotic and ever-changing, as contractors rush to get the job done. Under such circumstances, safety can fall to the bottom of priorities. There are an incredible number of hazards at a construction site: compressed gas containers, temporary heaters, combustible debris such as wood chips, gasoline and other inflammable liquids, and blocked exits.

Security

Theft and vandalism are the most frequent causes of loss. Construction sites are an attractive nuisance to children, who love to play in them—and sometimes steal tools if they get a chance.

Security guards on duty round the clock can't hurt but aren't as great a deterrent as most people think. While the guard is snoozing, going to the bathroom or reading the newspaper, miscreants can cause havoc. Lighting and a well-maintained fence that is high enough to discourage interlopers do more good. And it's best to take tools offsite every night.

Collapse and fire happen less often but are often catastrophic. Contractors must follow all industry protocols to make sure neither the building under construction nor the one next to the site will collapse.

A fire can quickly rage out of control and gut entire buildings under construction, which are open and don't have the fire-control features of finished buildings, such as firewalls, fireproofing and sprinklers. So fire prevention is paramount.

After welding, a fire watch should be held until everything cools down to ensure that embers don't catch fire. Smoking is rampant on job sites. Post "No Smoking" signs, but be realistic and place sand buckets around so that smokers can extinguish their butts.

You will hardly ever see fire extinguishers on construction sites. This is an inexcusable omission. A small investment in extinguishers can save your building from becoming a charred ruin.

Your job supervisors can be your key allies, even though their job is to get the project done on time and safety isn't their top concern. Take a little time to try to win them over. Weekly safety meetings with the general contractor and daily "toolbox talks"—quick morning safety reminders to the work crew—will help keep safety at the forefront.

But even the most conscientious supervisors and workers can become blind to hazards and walk right by problems. Supervisors appreciate a pair of trained eyes to look things over. So have a professional loss-control engineer do a monthly inspection of the site. A pro will spot both major and minor problems and help prevent accidents from happening—and that will keep everyone happy.

When you combine smart insurance shopping with top-notch safety, you'll have a true risk management program that will reduce your exposure to risk and give you the most insurance bang for the buck.

Marjorie Young is vp at New York-based brokerage E.G. Bowman Co. Inc. Peter Scala is a senior loss control engineer with E.G. Bowman.

Poor workmanship not an 'occurrence' under CGL policy

The allegedly defective performance of a subcontractor was not an "occurrence" within the meaning of an insured's commercial general liability insurance policies, according to the U.S. Court of Appeals for the Fourth Circuit.

Miller Building Corp., a general contractor, obtained CGL policies from The Travelers Indemnity Co. of America. These policies obligated Travelers to indemnify Miller for bodily injury or property damage caused by an "occurrence." In the policy, "occurrence" was defined to be an accident including continuous or repeated exposure to substantially the same general harmful conditions. Wal-Mart Stores Inc. and I.B.Ventures L.L.C. hired Miller to complete site development work on two adjacent properties. Miller used a subcontractor to complete the site development work; however, the subcontractor allegedly selected and used defective fill material. The allegedly deficient fill material expanded, resulting in damage to buildings on both properties. Wal-Mart and I.B. Ventures sued Miller for property damage. Travelers brought this action in federal court to determine coverage under the CGL policies. The trial court ruled that Travelers had a duty to defend and indemnify Miller in the suit. Travelers appealed.

The appellate court said that poor performance on a renovation contract could not be considered an accident or occurrence. Furthermore, the court said that a CGL policy is not a performance bond—it does not cover poor workmanship. The damage here to the Wal-Mart store, the court said, was a result of Miller's subcontractor's defective performance. "As a result," the court said, "such damage is not considered to be 'unexpected,' or caused by an 'occurrence.'" The trial court decision was reversed.

Travelers Indemnity Co. of America vs. Miller Building Corp., U.S. Court of Appeals for the Fourth Circuit, July 20, 2005 (BI/01/J.-$10)

Legal Briefs

Court affirms insurers' right to reimbursement

The U.S. Court of Appeals for the 11th Circuit ruled that an insured under a commercial general liability insurance policy was obligated to reimburse its insurer for amounts the insurer paid to settle a claim against the insured.

Boral Industries Inc. sued Continental Casualty Co. to obtain a declaration from the court that its CGL policy with the insurer did not provide coverage for an underlying indemnity claim. Therefore, Boral asserted that the insurer had acted in bad faith by settling the underlying claim for less than the policy deductible and then seeking to recover the total amount of the settlement from Boral. The insurer countersued Boral seeking recovery, under the policy deductible, of the $300,000 settlement. The trial court ruled against Boral and for the insurer. Boral appealed.

The appellate court said that the trial court correctly interpreted the "right to settle" and deductible provisions in the CGL policy. The court said that Boral was a sophisticated corporate entity and had the opportunity to bargain for insurance without a provision that granted the insurer an "unfettered right to settle claims." Thus, the court said that Boral, having contractually afforded the right to settle a claim was obligated to reimburse the insurer for the settlement so long as the insurer did not act with bad faith. Finding no evidence that the insurer acted in bad faith, the court affirmed the trial court decision.

Boral Industries Inc. vs. Continental Casualty Co., U.S. Court of Appeals for the Eleventh Circuit, Aug. 1, 2005 (BI/03/J.-$10)

Workers comp denial found unconstitutional

An Arizona law providing that a worker who tests positive for alcohol impairment or illegal drug use was not eligible for workers compensation benefits was unconstitutional, according to the Supreme Court of Arizona.

David C. Grammatico, who installed metal trim on building exteriors, performed his work on drywall stilts. After working for most of his shift on stilts, he fell while walking, on stilts, through a cluttered area. Mr. Grammatico broke his right wrist and left knee in the fall. He admitted that he had smoked marijuana and ingested methamphetamine on the previous two days, days he was not required to work. His urine test showed positive results for marijuana, amphetamine and meth-amphetamine, all of which are illegal to use in Arizona. Under Arizona law, if an employer maintains a certified drug-testing policy (as Mr. Grammatico's did), workers comp is denied unless the employee proves that the use of an unlawful substance was "not a contributing cause of the employee's injury." Mr. Grammatico was denied workers comp. He appealed. The appeals court found the statute violated Arizona's constitution. The employer appealed.

The state supreme court said that because the necessary risks and dangers of working on drywall stilts could have partially caused or contributed to Mr. Grammatico's injury, the statute in question was unconstitutional as applied to deny him workers compensation benefits. The court said that the statute denying benefits abrogated claims for injuries partially caused or contributed to by necessary risks or dangers of employment and, thus, imposed a restriction on legal causation that conflicted with the state constitution. The decision of the Court of Appeals was affirmed.

David C. Grammatico vs. Industrial Commission, Supreme Court of Arizona, Aug. 10, 2005 (BI/02/J.-$10)

These abstracts were prepared by Mayo H. Stiegler. Copies of these decisions are available, at $10 each, by sending a check payable to Mayo H. Stiegler, to Business Insurance 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Provide the listed number for each opinion ordered.

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Follow steps to execute arbitration program

By Julie I. Ungerman and W. Stephen Cockerham

Your business has opted to arbitrate its disputes with employees instead of proceeding in the courts and has assigned you the task of developing and implementing a program requiring mandatory arbitration. What do you need to consider?

You need to consider: 1) what elements should be included in the program, 2) how to get management involved in the process, 3) how to communicate the program to employees, and 4) how to implement the program.

Step 1—Potential elements to include in a dispute resolution program: An alternative dispute resolution program is a system designed to resolve employment disputes in a quick, fair and economical manner. A program can contain elements other than arbitration, such as an open-door policy, an ombudsman program and/or mediation. An open-door policy is a voluntary process that allows employees to talk to their immediate supervisors or to higher levels of management without fear of retaliation. An ombudsman program provides employees with a neutral resource to assist them in resolving their workplace disputes. Mediation provides the opportunity to resolve problems with assistance from a trained, independent mediator. Including an open-door policy or ombudsman program will demonstrate to employees that your business is committed to resolving employee disputes quickly and effectively.

Step 2—Management involvement: Ultimately, the elements that your business includes in its dispute resolution program will depend on its culture and its relationship with its employees. In order to decide what steps to include, you must consider what is best for your company and its employees. An effective way to do this is to meet with management to discuss various options for dispute resolution programs and the anticipated employee reaction to the options. Management can then reach a consensus about what type of program would work. After a consensus has been reached, a proposed alternative dispute resolution program should be developed with the assistance of counsel.

Step 3—Communication with employees: Once your company decides what steps to include in its program, you should begin to foster employee support for the program by including employees in the development process. You can do this by holding focus groups with employees and management. These focus groups should be led by human resources or by outside consultants. During the focus groups, employees will be told that your company is going to adopt an alternative dispute resolution program and that it wants the employees' feedback before finalizing the program.

It is important to remember that these focus groups are your first opportunity to describe the proposed program to your employees and to reassure employees that the program will be mutually beneficial to both them and the company. The focus group leader should stress the fact that the program was designed to foster and improve communications between employees and management by allowing employees to raise grievances at any time without fear of retaliation. The leader should also discuss the fact that the mandatory arbitration step does not limit the employees' substantive rights. The employee can still recover anything that he or she could in a court of law. Moreover, the employee's claims will be heard by a neutral decision maker in a hearing at which the employee can be represented by counsel and present testimony and evidence supporting his or her claims.

As the steps and benefits of the proposed dispute resolution process are explained to the employees, the focus group leader should encourage employees to provide feedback, ask questions and raise concerns. The company and its counsel should then consider and discuss the information provided and the concerns raised by the employees in the focus groups when finalizing the dispute resolution program.

Step 4—Implementation: Once the mandatory arbitration program is finalized, your company must distribute details about it to employees and inform them in writing that if they continue their employment after a given effective date—which has been set sometime in the future—they will be deemed to have accepted the terms and conditions of the program. You have several options on how to do this, including by mail, by a mass distribution at the employment site requiring employees to sign verification that they received the program, or by meetings with employees. Holding meetings with employees would allow you to relate the discussions back to the focus groups, demonstrating that your company seriously considered the employee feedback and concerns in finalizing the program. This would serve to foster employee support for the program.

An effective and enforceable dispute resolution program supported by employees will minimize your company's risk by taking cases away from unpredictable juries and by encouraging open communication regarding grievances. Open communication about workplace grievances is likely to lead to their resolution well before they become legal disputes.

Julie I. Ungerman and W. Stephen Cockerham are partners in the Dallas office of Hunton & Williams L.L.P.

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PRODUCTS & SERVICES

CCH introduces tool for retirement plan sponsors

RIVERWOODS, Ill.—CCH Inc., a provider of employment law and human resources information and software, is offering an online tool to assist plan sponsors who are responsible for 401(k) and 403(b) plans. CCH's offering, the Plan Investment Analyzer, provides plan sponsors with practical terms and benchmarks on current fiduciary issues.

It also includes an electronic evaluation tool, which analyzes existing portfolios and provides recommendations on how to choose vendors and investments. The Plan Investment Analyzer is available on a subscription basis, which includes print and electronic formats of "The 401(k) & 403(b) Participant-Directed Handbook." For more information, contact CCH at 888-224-7377 or visit the company's Web site at *www.hr.cch.com*.

Petersen International enhances product for pilots

VALENCIA, Calif.—Petersen International Underwriters, a Lloyd's of London correspondent, has released the latest version of its pilot disability insurance product.

The enhanced insurance offering includes a temporary loss of license provision, which can be written up to a three-year coverage term. The program requires a disability to activate the coverage.

The pilot disability insurance program provides disability benefits to corporate pilots, aerial applicators and aerial firefighters. Also, certain commercial pilots may be considered for coverage.

More information can be obtained by contacting the Valencia, Calif.-based company at 800-345-8816 or at *piu@piu.org*.

Benefit Software enhances communication system

SANTA BARBARA, Calif.—Benefit Software Inc., an employee benefit communication systems provider, has enhanced its Fringe Facts Communicator product.

The upgraded product, Fringe Facts Communicator 7.0, includes a benefit statement Wizard, which helps create personalized summary statements of employee benefits. With the addition of the Wizard feature, it intends to cut down on the time it takes to create benefit statements.

Fringe Facts Communicator is a part of the Fringe Facts products. It is a benefit communication program that produces personalized benefit statements for employees and can be set up to include an unlimited number of employer-paid benefits, including medical, dental, life and long-term care. It can capture benefits on a weekly, semimonthly or quarterly basis.

For more information, contact Angela Tippey, public relations manager, at 800-533-1388 or visit *www.bsiweb.com*.

GMSI adds to job task analysis

VIRGINIA BEACH, Va.—General Management Solutions Inc., a provider of occupational and nonoccupational management services, has expanded its job task analysis service by offering a video and CD-ROM component.

The job task analysis process identifies the physical demands of each job. GMSI provides onsite documentation of each essential job function—such as push and pull; lift, lower and carry; and bend and reach. This is done by measuring the push and pull force and weighing items that are lifted, lowered and carried. The video and CD-ROM elements are customized for each company, depicting each specific physical demand as it is performed. It is intended to be used as a training tool for existing employees to demonstrate proper body mechanics, as well as an orientation tool for new employees. In addition, this component can be shown to treating physicians and attorneys to facilitate work releases.

For more information, contact the company at 888-561-6282 or visit www.gmsidirect.com.

Betterley releases report on Side A D&O coverage

STERLING, Mass.—Betterley Risk Consultants Inc. has published its 2005 evaluation of Side A directors and officers liability insurance coverages.

The "Side A D&O Liability Insurance Market Survey 2005" examines the policies offered by 11 insurers and evaluates the state of the market. Some of the topics within the report include coverage terms and exclusions, defense provisions, capacity and retentions and risk management services.

An executive summary is available at *www.betterley.com/products.html*. For further information, contact the Sterling, Mass.-based Betterley Risk Consultants at 877-422-3366.

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Endurance

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Health care management wards off preventable problems, lowers costs

By JOANNE WOJCIK

CHANDLER, Ariz.—Employers should institute health care management programs today to avoid having to pay for preventable health conditions in the future, a health care expert warns.

"For the first time in history, the adult population is sicker than the adult population was 20 years ago," according to Christopher Coulter, chief medical officer at Precept Human Capital Management in Irvine, Calif.

And the growing obesity epidemic will only exacerbate the situation, because experience shows there is a direct correlation between obesity and adult-onset diabetes, Dr. Coulter explained.

There are three basic levels of care management, each of which addresses health care at various stages, Dr. Coulter told benefit specialists attending the 24th annual symposium of the International Society of Certified Employee Benefit Specialists, held Dec. 4-7 in Chandler, Ariz.

Large-case management addresses the sickest 1% of the population, which statistically generates approximately 25% of an employer's total health benefit costs, Dr. Coulter explained.

Disease management programs address the 30% of the population that has been diagnosed with chronic health conditions. Their health care costs usually amount to about 55% of an employer's total health care expenditures, he said.

> "For the first time in history, the adult population is sicker than the adult population was 20 years ago."
>
> **Christopher Coulter**
> **Precept Human Capital Management**

Health promotion and health screening programs help to prevent the remaining 69% of an employer's population from becoming unhealthy. This segment of an employer's population generates, on average, about 20% of its total health care benefit costs, Dr. Coulter estimated.

Dr. Coulter recommends that employers put into large-case management the high users of medical care. They can be easily identified by analyzing claims data, including the number of doctor's office visits, the number of prescription drugs taken and the amount of lab work done, he said.

Provided an employer receives the information in a format that does not reveal patients' identities, it will not be violating the Health Insurance Portability and Accountability Act, Dr. Coulter noted. Claims administrators, case managers and others involved in the treatment of those individuals are permitted to have personally identifiable health information under HIPAA, he added.

While most employers have done a great job of cracking down on excessive prescription drug costs by using pharmacy benefit managers, few are instituting large-case management programs, which would

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The resolute gather in Arizona

CHANDLER, Ariz.—After two false starts interrupted by hurricanes Katrina and Rita, the International Society of Certified Employee Benefit Specialists finally got its 24th annual symposium off the ground Dec. 4 in the Arizona desert.

The 400 attendants who made it to the conference received T-shirts poking fun at the situation. They read: "Hurricanes & Wild Horses couldn't keep us from meeting in '05."

The 24th annual ISCEBS symposium was originally scheduled for Sept. 25-28 in New Orleans. But after Hurricane Katrina devastated the Big Easy, ISCEBS was moved to Dallas. Unfortunately, that locale also proved to be inaccessible when Texas coastal residents fleeing Hurricane Rita overtook the hotels there. The conference ultimately ended up in a hurricane-free zone: The Wild Horse Pass Resort & Spa in Chandler, Ariz.

This was not the first time the conference had to be moved at the last minute due to catastrophes, members of the organization pointed out.

The 2003 meeting, scheduled for Toronto, was moved to Arizona after fears of the SARS epidemic caused numerous cancellations by speakers and attendants. In 1989, the ISCEBS symposium was relocated to Arizona due to the San Francisco earthquake. And though it did not cause a relocation, the Sept. 11, 2001, attacks on the World Trade Center and the Pentagon did strand those attending the symposium that year in Boston until the airports reopened.

Barring any unforeseen circumstances, next year's conference will be held Sept. 10-13, 2006, in Toronto. To register, visit *www.iscebs.org*.

Ceremony salutes CEBS exams success

By JOANNE WOJCIK

CHANDLER, Ariz.—Though benefit managers typically attend the yearly symposiums sponsored by the International Society of Certified Employee Benefit Specialists to keep up with industry trends, a select group comes to collect their diplomas.

Each year, ISCEBS holds a conferment ceremony where those who have passed the eight examinations that make up the CEBS curriculum officially receive their professional designations. This year, 450 individuals received the CEBS designation, and about 60 of them attended the Dec. 4 conferment ceremony at the 24th annual ISCEBS symposium, held in Chandler, Ariz.

The designation is perhaps the only formal education available to professionals in the employee benefit field, because no colleges or universities offer degree programs in employee benefits, according to Linda Bielski, associate director of the CEBS program, which is administered by the Brookfield, Wis.-based International Foundation of Employee Benefit Plans.

"There's not a lot of formal training. We've come across a couple of universities that offer human resources. Some might offer a course in risk management. But to really get a graduate degree in benefits, I don't know if there is such a thing," Ms. Bielski said. "You never hear somebody say, 'When I grow up, I want to work in benefits.' "

But continuing education is becoming increasingly essential with changes that have occurred in the benefits field recently, Ms. Bielski pointed out. "People kind of fall into benefits," she said. "Ideally, they might have a business background, but certainly they come from all areas."

Because of the complexity of the benefit manager's job, the CEBS curriculum is intentionally broad, Ms. Bielski said.

CEBS requires the completion of six core classes and two electives. The required classes cover health and welfare benefits, defined contribution plans, defined benefit plans, human resources and compensation. Electives include courses on asset management, health care economics, executive compensation and financial planning.

Completion of the curriculum usually takes three to four years, according to Ms. Bielski. Holding the designation is comparable to having an advanced college degree such as a master's degree, she explained.

Though ISCEBS doesn't require those who earn the designation to take continuing education courses to retain the designation, the organization offers advanced courses that lead to the status of CEBS Fellow. In addition, the Wharton School of the University of Pennsylvania offers a CEBS Fellowship exam, which covers contemporary benefit issues. More than 75 CEBS Fellows attended this year's symposium and were recognized at a special Fellowship Luncheon held on Dec. 5.

Approximately 11,000 benefit specialists in the United States now hold the CEBS designation, according to Ms. Bielski.

Informal surveys have found that individuals having the CEBS designation are more likely to receive promotions and to qualify for certain positions in the employee benefits field.

"It shows you've taken that extra step, you've gone above and beyond, you're very serious about your job," Ms. Bielski said.

For more about obtaining the CEBS designation or taking CEBS courses, visit the organization's Web site at *www.iscebs.org*.

Belt: PBGC head calls for funding rules reform

Continued from page 4

in those corporations, Mr. Belt pointed out. "There is really a backdoor industrial policy," he said, being carried out though the Employee Retirement Income Security Act and the PBGC.

The PBGC now owns 7% of US Airways and between 15% and 35% of United Airlines, according to Mr. Belt. "I'm not sure that's appropriate for government," he said. "But that's the box that we're in now. We now have to think of ways of getting out of that box. That's where reform debate comes in."

Mr. Belt said he hopes the debate will not be over the need for reform but, rather, about how it should be shaped. "The bottom line is, we have a system that is fundamentally flawed and rife with moral hazard, and the funding rules demonstrably do not work," he asserted.

For example, he said, United Airlines followed all of the rules under the ERISA yet still ended up with a $10 billion funding deficit.

Mr. Belt criticized employers that are reluctant to accept a rate hike from the PBGC to cover the cost of those plan takeovers, and he compared the situation to what is happening to property insurance rates across the United States following the recent spate of hurricanes in the Gulf Coast. "If we're taking losses, somebody has to make up for the losses," he said. "Right now, the way the system is designed, it's supposed to be made up by higher premiums."

Mr. Belt said that it is as futile for employers to resist PBGC rate hikes as it is for policyholders to resist property insurance rate hikes. "I would prefer not to have pay higher homeowners insurance" premiums as a result of hurricanes Katrina and Rita, he said, "but that's the way insurance works."

Without a premium increase, "the cost of that underfunding is being shifted to third parties, to participants in the form of lost benefits," he said, "and, potentially, to the American taxpayer."

"It strikes me as fundamentally unfair for the American taxpayer to pay the benefits," because "the vast majority of American taxpayers do not have access to these plans," Mr. Belt said.

CFO: Seize the chance to learn the language of business finance

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explained.

Finally, Mr. Ashley recommended that benefit managers find benchmarking data from an independent, reliable source, comparing his or her company's benefit offerings and costs with those of other companies in the same industry, as well as those in the same geographic area. "CFOs love benchmarking data," he noted.

"The hidden costs" that benefits often eliminate, such as the cost of recruiting and replacing workers who leave because of poor benefits offerings, should also be calculated, he added.

Though it is essential that benefit managers be proactive to ensure they are framing the discussion, they, too, should take advantage of the discussion as an opportunity to learn more about "the business of business," Mr. Ashley suggested. "Know how your benefits can fit into the corporate strategy that they live with everyday," he said, referring to both the CFO and CEO. "You need to know how your company is performing and how your benefit costs fit into that picture."

It is also a good idea to ask the CFO to describe how he or she thinks benefits fit into corporate goals, according to Mr. Ashley. "Resolve the goal conflict between what the CFO is trying to accomplish and what you want your benefits to accomplish," he advised.

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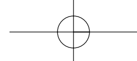

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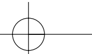

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COMMENTARY

Senior Editor Douglas McLeod

On the record with Hank Greenberg

On Oct. 31, 2007, Fox/NBC News chief investigative correspondent Lisa Simpson welcomed back former American International Group Inc. Chairman Maurice "Hank" Greenberg to her show, "Mano a Mano." The following is a transcript of the interview.

Simpson: Hank, it's good to see you again.

Greenberg: Glad to be here, Lisa.

Q: First, I have to ask you about the reports that ACE is mounting a hostile tender offer for AIG. Is it true?

A: Well, I'm not the chairman of ACE, I'm still running C.V. Starr, so it probably isn't appropriate for me to comment on it.

Q: But what about the reports that C.V. Starr might throw its AIG shares behind the offer? You and the Starr companies still control 15% of AIG, don't you?

A: AIG is appealing that ruling, the court's ruling that we control the shares, so it's an open question. Whatever we do or don't do with the stock is something we'll decide down the road, so I really can't discuss it.

Q: What if ACE succeeds, and your son Evan, ACE's chairman, ends up in charge at AIG? Do you see a role for yourself there?

A: I won't be reporting to him. (Laughter.)

Q: Are the two of you in touch?

A: We talk. Whenever our antitrust lawyers can schedule it.

Q: Now, I understand that your other son, Jeffrey, might also back this AIG offer through the private equity firm he runs. What about that?

A: You'd have to ask him.

Q: We haven't actually been able to locate him.

A: Connecticut's not a big state, Lisa.

Q: All we've heard from his spokesman is that he's at an undisclosed secure location.

A: I'm sorry, I can't help you there.

Q: All right. Well, on another subject, you've been very busy in China. You're just getting started privatizing the People's Insurance Co., and you have some very influential partners, don't you?

A: Yes, one of them is a good friend, Hu Jintao … (coughing) … former president …

Q: I'm sorry, your partner is …

A: Hu.

Q: Your partner in China.

A: Hu.

Q: Your Chinese partner in …

A: It's Hu.

Q: What's who?

A: What do you mean, what's Hu? He's the former president of China. Look, Lisa, I don't know what you're asking me.

Q: I'm sorry, Hank. Maybe we should move on. Gov. Spitzer, New York Gov. Eliot Spitzer, has been very quiet about the insurance industry lately. Granted, he's not a prosecutor anymore, but do you feel his view of the industry has changed?

A: Look, Gov. Spitzer and I patched up our differences a long time ago. That's water under the bridge. I was a big supporter of his in the gubernatorial race. And it's no secret that New York has got some big financial problems right now. (Tax) revenues are way down, especially since the housing market went south, and it's very difficult to get spending cuts through (the Legislature). So he's looking for creative ways to deal with that, to smooth revenues so the state doesn't go through these boom and bust cycles. And the fact is that I and some other people in the industry have been able to help him with that, just informally. We've suggested some approaches.

So to answer your question, I think he understands the insurance industry a lot better than he used to.

Q: OK. Finally, I was glad to hear your dog, Snowball, is recovering so well from the kidney stones.

A: Thanks.

Q: Along with Snowball's medical records, has AIG now returned all of the personal property they held onto after you left?

A: Yes, they have. As a matter of fact, by accident, they sent me some things that aren't mine. Somehow, I ended up with records for Martin Sullivan's dog, Seamus. A basset hound.

Q: Are you going to return them?

A: We'll talk it over. I'll be seeing Martin in New York sometime soon.

Q: Well, thanks very much for coming in, Hank.

A: Happy to, Lisa.

Senior Editor Douglas McLeod can be reached at dmcleod@businessinsurance.com.

Management: Avoid preventable health problems

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bring them more bang for their buck, according to Dr. Coulter.

Prescription drug costs represent only about 15% of the average employer's health care expenditures. Conversely, though the sickest employees may be few in number, they generate perhaps one-quarter of an employer's health care costs, Dr. Coulter noted.

The second tier of care management targets the 30% of the population that has been diagnosed with a chronic condition and perhaps given prescriptions by their doctors or advised to make dietary changes.

Unfortunately, these individuals often are ill-equipped to address their newly diagnosed health conditions and need some assistance, according to Dr. Coulter.

"Say a person was just told they're diabetic, they were given a prescription, and their doctor advised them to go to a dietician. They are not prepared to take care of themselves. But what if that person had a good friend who was a diabetes educator?" he suggested. "This is the kind of support a good disease management program is all about."

If a disease management program is effective, its impact is usually long-term, he noted. The initial savings from disease management average about 15%, and there is a three-to-one return on investment in disease management over several years, Dr. Coulter said.

But don't take the disease management vendor's word for it if they say your program is effective, he warned. "It takes a bit of work to make sure you're getting good results from your disease management vendor," he said. "One way is to see how well you're doing compared with the national average."

For example, if an employer's asthma rate is less than 4.3% of its total covered population, then it is doing better than the national average, according to Dr. Coulter.

On average, an employer with 1,000 individuals enrolled in its health plans has about 43 asthmatics, 46 diabetics and 26 people with heart disease, he said, citing data from the National Center for Health Statistics.

The challenge for employers that apply care management to the healthy group is to find a way to promote necessary behavior changes at a time when those individuals don't think they need to do anything to maintain their health status, Dr. Coulter said.

This is why employers often have to offer incentives to persuade employees to participate in health risk appraisals that can be used to identify any risky behaviors at an early stage, he said.

Dr. Coulter recommends that employers choose the incentives they know will work best with their employee populations, whether they be cash payments for taking an assessment or requiring those who do not take the assessment to pay more for their health benefits.

While this may seem to be an expensive endeavor, it has the potential for a big payoff, according to Dr. Coulter. "If you take someone with five or more health risks and cut them to three, you can cut their annual health care costs by as much as 50%," he noted.

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Canada DC plan rules to take effect

By GLORIA GONZALEZ

TORONTO—A new set of regulatory guidelines codify the responsibilities of Canadian employers with defined contribution pension plans that allow participants to make investment decisions.

While the guidelines created by the Joint Forum of Financial Market Regulators are technically voluntary, plan sponsors are being urged to comply with them because of the likelihood that they will be adopted by Canadian courts as the minimum standard of best practices for the governance of defined contribution plans.

The guidelines apply to capital accumulation plans—tax-assisted investment or savings plans that permit participants to make investment decisions among two or more options offered within the plan (see sidebar). They outline the responsibilities of CAP sponsors in the area of administration and governance of their CAPs.

The Joint Forum was created in 1999 by the Canadian Council of Insurance Regulators, Canadian Securities Administrators and Canadian Association of Pension Supervisory Authorities as a mechanism through which pension, securities and insurance regulators could coordinate, harmonize and streamline the regulation of financial products and services in Canada.

There are a number of key guidelines to which employers must pay attention. For example, the guidelines state that CAP sponsors should clearly define and document why the CAP is being established and ensure that the terms of the plan are consistent with its purpose. Employers should state whether the CAP is being used for retirement savings vs. savings for other financial goals such as education or home purchase, and ensure that the funding vehicle is appropriate given the stated purpose of the plan.

"It's just part of good governance, defining what you're trying to do with the CAP," said Becky J. West, chair of the advocacy and government relations committee for the Toronto-based Assn. of Canadian Pension Management, which represents plan sponsors in Canada.

Any ambiguity or lack of connection between the statement of purpose and the funding vehicle could create problems for plan sponsors, said Greg Hurst, a Vancouver-based pensions consultant with Heath Benefits Consulting Inc. "It's very much a potential trap," he said. Employers "need to be clear on statement of purpose and this purpose must be consistent with the funding vehicle."

Another key issue for employers relates to investment selection and

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Voluntary guide targets member-choice offerings

The guidelines for capital accumulation plans—tax-assisted investment or savings plans that permit members to make investment decisions among two or more options offered within the plan—reflect the expectations of regulators regarding the operation of CAPs.

The guidelines were developed by the Joint Forum of Financial Market Regulators in conjunction with industry representatives and establish a set of best practices for the administration and governance of defined contribution pension plans and other savings plans in which members make investment choices.

CAPs are savings vehicles used for a number of purposes, although the majority of CAPs are defined contribution registered pension plans or group registered pension plans. Defined contribution pension plans that offer investment choices to members are

See CAPS/page 19

U.K. health/safety panel wants duties put into law

Senior managers, directors affected

By CAROLYN ALDRED

LONDON—The United Kingdom's health and safety watchdog wants the government to change the law to impose health and safety duties on company senior managers and directors.

The Health and Safety Commission, a government-appointed body of employer and worker representatives, will advise Health and Safety Minister Lord Hunt later this month that it is recommending a review of legislation relating to the health and safety responsibilities of senior managers and directors.

In addition, the HSC has asked its executive arm, the Health and Safety Executive, to explore how legislation can be changed to make it easier to prosecute managers for health and safety lapses.

Existing health and safety legislation requires that a corporation be prosecuted for lapses before a case can be brought against an individual. The HSE will examine ways in which individuals can be prosecuted without the need for the corporate entity itself to be taken to court, said an HSE spokesman.

The government's Select Committee on Work and Pensions earlier this year had asked the HSC its opinion on whether the law needed to be changed.

The HSE had recommended in a paper presented to the HSC earlier this month that the HSC publish "authoritative guidance on what is expected of directors in all sectors and businesses," rather than seeking to change the law. An HSE spokesman said there is concern that a legislative approach could unduly constrain corporate activities due to management's concerns about greater individual liability for health and safety lapses, among other things.

However, the HSC voted in a Dec. 6 public meeting to recommend that the government change current law. Imposing new legal duties on individual directors would in part make it easier for the HSE to prosecute them for health and safety lapses, the spokesman pointed out.

The HSE has been charged by the HSC to report back by April 2006 on how legislation should be changed, he added.

"We are delighted that the commission has unanimously supported the need for changing the law and imposing positive duties on directors," said David Bergman, director of the Centre for Corporate Accountability, a London-based organization that promotes worker and public safety.

"It is now for the HSE to produce a paper setting out the legislative options, and we look forward to being part of the discussion on the nature of the legal change."

According to research commissioned by the HSE, Germany, France, Italy, Sweden and Japan all impose positive obligations on directors or senior managers. Canada and Australia impose specific health and safety duties on directors.

British pension levy weds flat and risk-based charges

By SARAH VEYSEY

LONDON—The United Kingdom's Pension Protection Fund has published its final proposals for the risk-based element of the levy that will be charged to employers starting in the 2006/07 fiscal year.

Under the proposals, the PPF said, employers operating defined benefit plans would pay a total of £575 million ($1.01 billion) to finance the rescue fund in the 2006/07 year.

$1.01 BILLION
(£575 MILLION)
The amount that employers operating defined benefit plans would pay to finance the rescue fund in the 2006/07 year under the PPF's proposal.

The PPF, which began operations in April and is loosely modeled on the U.S. Pension Benefit Guaranty Corp., was set up to meet the unfunded obligations of insolvent employers with underfunded defined benefit pension plans.

Currently, employers operating defined benefit pension plans in the United Kingdom are required to pay a flat-rate levy to the PPF. According to the proposals, though, starting in April 2006, only 20% of most employers' bills would be based on the flat-rate levy, while 80% would be based on the risk-based levy. The risk-based levy would take into account the level of underfunding of an employer's plan, the risk of insolvency of the sponsoring employer and the amount of benefits the fund would have to pay out if accepted into the PPF.

The final changes to the proposals follow responses the PPF received after a public comment period that began in July, resulting in the publication of interim proposals October.

In the final proposals published last week, the PPF said it would take into account the use of contingent assets such as letters of credit used by employers to address funding deficits. Employer representatives such as the London-based Confederation of British Industry had lobbied the PPF to take account of such assets when calculating the risk-based levy.

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Updates

Converium names Beale as CEO

Converium Holding Ltd. has appointed Inga Beale as chief executive officer. Ms. Beale will replace Terry G. Clarke as CEO of the Swiss reinsurer in early 2006. Ms. Beale is currently CEO and chairman of Munich, Germany-based GE Frankona Rückversicherungs A.G., a unit of GE Insurance Solutions, and leader of GE's property/casualty reinsurance business in Continental Europe, the Middle East and Africa. Mr. Clarke, who will remain a member of Converium's board, took over as CEO after Dirk Lohmann resigned in February. General Electric Co. last month announced the sale of GE Insurance Solutions to Swiss Reinsurance Co.

Former HIH chairman faces criminal charges

The former chairman of HIH Insurance Ltd., Geoffrey Cohen, is facing criminal charges that he misled shareholders about a joint venture between the collapsed insurer and Allianz Australia Ltd. The Australian Securities & Investments Commission alleges that Mr. Cohen gave misleading information to shareholders at HIH's annual general meeting on Dec. 15, 2000. ASIC charges that Mr. Cohen made misleading statements about the effect on HIH's cash flow of a joint venture between HIH and Allianz Australia and a $200 million payment by Allianz to HIH. The charges stem from ASIC's investigation into the 2001 collapse of HIH.

ABI seeks changes to injury system

The Assn. of British Insurers has proposed a series of reforms to the United Kingdom's personal injury compensation system that, it says, would speed claims payments and reduce costs. In its publication "Care and Compensation," the insurer trade group lays out a series of reforms for personal injury claims under £25,000 ($44,125). They include: establishing a universal claims form; a three-month time limit for insurers to respond to claims; drawing up a scale of damages for certain injuries; financial penalties for exaggerated claims; and tax incentives for employers to provide rehabilitation services to employees.

Irish health insurance regulator leaving post

Dermot Ryan, chief executive of Ireland's Health Insurance Authority, will leave the private health insurance regulator at the end of the year after four years in the role. A spokesman at the Dublin-based HIA said Mr. Ryan's declined to renew his contract, which is up at the end of the year, to pursue other interests.

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Canada: Defined contribution rules a defense against court challenges

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monitoring. The guidelines place responsibility on employers to provide appropriate investment options, which makes certain that employers analyze the range of available choices and pare the list down to a reasonable number, likely between eight to 10 funds, Mr. Hurst said. "Doing nothing around investment selection is not an option," he said.

Some of the guidelines are not new for Canadian companies, particularly those that have pension committees. For these companies, the guidelines are merely a logical extension of the practices they have already been following with more detail and better documentation, observers say.

"I don't think the concepts are new," said Martin Rochette, co-chair of the pension and benefits practice of Ogilvy Renault L.L.P. in Montreal. "I think what is new is that they are more or less codified."

For example, the guidelines require that employers establish an appropriate process to review the investment options. Most plan sponsors already regularly review the options, but the guidelines require a set of criteria be established for the review, said Anthony Devir, a partner in the pensions and benefits department of Osler, Hoskin & Harcourt L.L.P. in Toronto. "It's that area where employers currently may not have the level of rigor or documentation in place," he said.

Fee disclosure requirements

A substantial portion of the guidelines involves disclosure of information to members, but much of that type of information is currently provided to members so it will not lead to specific changes, Mr. Devir said. What will lead to changes is the guideline that mandates the disclosure of all fees, expenses and penalties related to the plan because members currently do not receive a lot of information in that area, he said.

"That is an area where I think employers need to focus on to ensure there is adequate disclosure," Mr. Devir said.

The deadline for voluntary compliance with the guidelines is Dec. 31. While compliance with the guidelines is not mandatory, pension lawyers and consultants all agree that it is in the best interest of employers to follow them. If a dispute arises related to the administration and governance of the pension plan, the Canadian courts will most likely embrace the principles as the industry standard of best practices and measure an employer's actions against the guidelines.

"If someone brings an action against the employer based upon a complaint on how the CAP has been operated, the case will be significantly bolstered if they can point to the guidelines and say the employer didn't follow them," Mr. Devir said.

Staffing considerations

Large employers with sophisticated benefits programs are said to be well into their compliance efforts because they have larger human resource departments and the ability to hire service providers and consultants to help ensure compliance.

> "I don't think the concepts are new. I think what is new is that they are more or less codified."
>
> **Martin Rochette**
> **Ogilvy Renault L.L.P.**

Small and medium-sized companies face compliance challenges due to limited personnel and time, observers note. "The small to midsize plans may have had more work to do to get up to where they're supposed to be," ACPM's Ms. West said. "I think you can say it's due to resources."

But even the larger companies still have work to do to ensure that they are in full compliance due to the extensiveness of the guidelines, observers say. "I would say that few would tell you they're 100% in compliance," said John Chute of Toronto-based benefit consulting firm John Chute & Associates.

In 2006, employers will examine what the big plan sponsors have done and try to follow their format for compliance, making their own efforts easier, he suggested. "There will be concrete formats that they can follow, what works and what doesn't work," Mr. Chute said. "My guess would be that by the middle of 2007, most employers will be in compliance."

Because of the high level of consultation with the industry over the last five years discussing and drafting the guidelines, regulators do not believe that the guidelines are onerous. "Generally, the sense we're getting is that it's doable," said Nurez Jiwani, director, regulatory coordination, for Toronto-based Financial Services Commission of Ontario, which regulates pensions in that province.

However, Mr. Chute said some of his clients have discussed the possibility of eliminating certain kinds of CAPs known as group registered retirement savings plans—voluntary individual retirement plans funded with an individual's own earnings that are similar to individual retirement accounts in the United States. These employers say they facilitate these CAPs as a favor to employees, but are considering terminating them because of the new responsibilities placed on them by the guidelines, Mr. Chute said. "I have some clients saying this looks so onerous, I might just wind up our capital accumulation plan," he said.

Ms. West said she is not aware of any plan sponsors who are considering this option, but added that it would not be surprising if employers who merely facilitate these types of plans by performing functions such as allowing payroll deductions decide to eliminate them. But employers whose CAPs are part of their retirement strategy are unlikely to consider this option, she said. "I don't see any of those being shut down at this time," Ms. West said.

Regulators are confident that employers will not shy away from CAPs because of the level of consultation conducted prior to adoption of the guidelines. "We have not heard at all that this would discourage employers from setting up plans," Mr. Jiwani said. "My sense is that the majority of employers are busy reviewing their plans and want to follow the guidelines."

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PPF: Fund unveils details of risk-based levy on pension plan sponsors

Continued from page 17

The PPF announced Dec. 16 that the annual risk-based levy would be capped at 0.5% of the total value of liabilities a fund would face if accepted into the PPF. This, the PPF said, would enable weaker plans to better afford the levy.

The PPF guarantees 100% of benefits to members already in receipt of a pension and 90% of benefits owed to members still working, up to an annual limit of £25,000 ($43,878).

Levies for employers that operate defined benefit pension plans that are funded at 125% or more of their PPF liabilities would be based solely on flat rates, according to the PPF's new proposals.

> "The proposal to reduce the levy further for schemes which are better funded is a helpful change for those schemes who are already well funded."
>
> **Paul McGlone**
> **Aon Consulting**

More risk bands

In addition, the PPF has updated its proposals for employers to be assigned to various risk bands based on their insolvency risk. The PPF said Friday it would introduce 100 such bands, rather than the previously expected 10. This, it said, would increase precision in assigning the risk bands.

The PPF also said that, in response to concerns voiced by employers that participate in multiemployer pension plans, the structure of such plans would be taken into account when calculating the risk-based levy.

For example, in certain multiemployer structures, the PPF said in its proposals that it would calculate the weighted average probability of insolvency for all sponsoring employers. In addition, in the case of multiemployer plans that are structured so that every participating employer would have to become insolvent before the plan could be entered into the PPF, this weighted average would also be subject to a scaling factor to reflect the fact that a degree of cross-subsidy exists between employers in the plan, the PPF said.

Employer representatives expressed concern at the cost of funding the PPF for employers.

John Cridland, director general of the London-based CBI, said in a statement: "The lid has finally been lifted on how much the PPF is going to cost—and, at over half a billion pounds—it is nearly double the amount the government had (previously) stated. At this kind of level, the cost of the levy is simply unacceptable to firms. We must see further action from both the PPF and the government to ensure final salary pension schemes remain affordable."

Pension experts said they welcomed the proposal that employers with very well-funded plans pay a substantially lower levy.

"The proposal to reduce the levy further for schemes which are better funded is a helpful change for those schemes who are already well funded," said Paul McGlone, head of employer propositions at Aon Consulting in London, in a statement. "As well as better reflecting the actual risks to the PPF, it acts as an incentive for schemes and employers to fund at a higher level," Mr. McGlone added.

Funding incentive

Deborah Cooper, senior research actuary at Mercer Human Resource Consulting in London, said that the new proposals may provide an incentive for employers to better fund their pension plans in order to pay lower PPF levies. She noted, though, that with a fund such as the PPF, there will always be the risk that some employers with well-funded plans will feel that they are subsidizing those employers with worse-funded pension plans.

The full text of the Pension Protection Levy consultation document can be found at *www.pensionprotectionfund.org.uk*.

Associate Editor Barbara Cockburn contributed to this report.

CAPs: 'Big step' in right direction

Continued from page 17

covered by the guidelines, but defined contribution and defined benefit pension plans that do not offer investment options do not have to comply with the guidelines.

The intent of the guidelines is to outline and clarify the rights and responsibilities of CAP sponsors, service providers and CAP members and ensure that members are provided the information and assistance needed to make investment decisions.

The guidelines state that plan sponsors have a number of responsibilities that include defining a statement of purpose for the plan and providing investment information and decision-making tools to CAP members. Service providers are responsible for complying with any tasks required under the guidelines that are delegated to them by plan sponsors. CAP members are responsible for making investment decisions within the plan and for using the information and decision-making tools made available to assist them, according to the guidelines.

CAPs have become popular in Canada in the past 10 years, but are not covered in Canadian pension regulations. There was widespread agreement that the pension industry would benefit from guidelines establishing a set of best practices for the administration and governance of CAPs.

"I think from the Assn. of Canadian Pension Management's perspective, (the guidelines) are a big step in the right direction of putting together in one spot the types of behavior that regulators want to see from CAP sponsors," said Becky J. West, chair of the advocacy and government relations committee for the Toronto-based ACPM, which represents plan sponsors in Canada.

Since 1999, the Joint Forum has released discussion papers and held consultations with industry representatives to develop a set of guidelines for CAPs. In May 2004, the guidelines were released by the Joint Forum with a Dec. 31, 2005, effective date, which was established to give employers an 18-month window to review their CAP policies and achieve voluntary compliance with the guidelines, said Nurez Jiwani, director, regulatory coordination, for Toronto-based Financial Services Commission of Ontario, which regulates pensions in that province.

Regulators chose not to develop mandatory regulations because they did not want to impose a set of rigid rules on employers, but the Joint Forum plans to conduct surveys to measure employer awareness of and compliance with the guidelines in the fall of 2006 and will go from there, Mr. Jiwani said.

If plan sponsors fail to comply with the guidelines voluntarily, the government will step in and force compliance, said John Chute of Toronto-based benefit consulting firm John Chute & Associates.

—By Gloria Gonzalez

Blast: Oil depot fire not likely to rock market

Continued from page 4

of Bermuda-based oil industry mutual Oil Insurance Ltd., which provides per-occurrence coverage of up to $250 million for its members. Total also takes a self-insured retention, sources say.

The storage depot is reinsured, sources say, with some of that reinsurance coverage underwritten at Lloyd's of London. Lloyd's said in a statement that it does not believe the market "has significant exposure to this event."

Total U.K. Ltd., a unit of Total S.A. based in the United Kingdom, owns 60% of the depot and operates the facility. The remaining 40% of the depot is owned by Texaco Ltd., a unit of San Ramon, Calif.-based Chevron Corp. Chevron is also a member of the OIL pool, according to information on the mutual's Web site.

A spokesman for Total U.K. said the company has insurance "that is appropriate for a company of our size, and the issue of liabilities will be resolved as more is known." The spokesman refused to comment further on the potential loss.

In a statement, Steven Wallace, U.K. major and complex loss director at loss adjuster GAB Robins in London, said many of the buildings in the industrial complex surrounding the oil depot are badly damaged and may have to be destroyed.

Nonetheless, insurance industry sources say that the insured property loss is not expected to be large.

The physical damage caused by the blast is not expected to be significant, according to Tim Burrows, deputy chief underwriting officer and head of the energy division at London-based Wellington Underwriting P.L.C.

Insurance losses from the blast likely will be about £200 million ($353.0 million), according to David Way, executive director of the energy division at Alexander Forbes Ltd. in London. Most of that loss will be absorbed into the OIL mutual, Mr. Way noted, and about £120 million ($211.8 million) of the total loss will be for loss of oil stocks and damage to the plant.

Because the fire occurred only in storage tanks rather than at a refinery, for example, losses will be relatively small, noted Rod Smith, a director in the natural resources team at London-based broker Heath Lambert Group.

The loss likely will not have a huge effect on the energy insurance market, noted Mr. Way.

Mr. Smith said that, coming after the large energy market losses suffered earlier this year in the series of hurricanes that affected the Gulf of Mexico, the loss will have little effect on rates for energy insurance. As a result of the hurricanes, nonloss-affected business is seeing rate hikes of 25% to 30%, on average, across the board, he said, while energy risks in the Gulf of Mexico are subject to very large rate increases of 100% or more, he said.

Insurance industry sources say that some third-party business interruption claims are likely as a result of the blast but are not expected to be large. Some companies have been denied access to their premises because of the blast or may rely on suppliers whose premises have been affected by the fire, sources say.

Online fashion retailer ASOS P.L.C. was forced to suspend trading after its warehouse was damaged by the blast. The retailer said it is fully insured for business interruption.

The company's claim is not expected to have a huge effect on the business interruption insurance marketplace, noted Mr. Way.

Edinburgh, Scotland-based brewing company Scottish & Newcastle P.L.C. said the blast had affected the main distribution for its U.K. wine and spirits wholesale subsidiary, Waverley TBS. The company said in a statement that it believes "all asset and subsequent trading losses will be fully recovered from our insurers."

Hemel Hempstead-based software and information technology company Northgate Information Solutions P.L.C. said in a statement that its head office had been seriously damaged by the fire and that it has activated its business continuity plan. The company said its property losses and business interruption exposures are insured.

The environmental impact of the fire is yet unknown, though the U.K. government's Environment Agency, which is responsible for protecting and improving the environment in England and Wales, said in a statement that it has been working with fire and emergency services to try to minimize pollution risks arising from the fire.

PHOTO: AFP

An enormous cloud of black smoke filled the sky as a fire burned at the Hertfordshire Oil Storage Terminal in Hemel Hempstead, England.

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Hellholes: Worst jurisdictions for defendants shrink thanks to rulings, reforms

Continued from page 3

League, in a statement concerning the report.

Still, Mr. Murnane, like the authors of the report, noted that progress has been made even in Madison and St. Clair counties, which were ranked first and second in the 2004 report but fourth and fifth this year.

He called the elevation of Cook County, which includes Chicago, to second place on the list "even more shameful." Mr. Murnane said that Cook County's judicial system "is an even greater threat to economic growth and the well-being of our economy because of its massive size and the high level of litigation."

Mr. Schwartz said that as the number of "hellholes" has shrunk, what ATRA refers to as "points of light"—jurisdictions where the legal climate has improved—have grown in number. Even hellholes have their points of light, the report notes. For example, lawsuit filings "generally appear to be down" in St. Clair County, Ill., as well as in neighboring Madison County, according to the report.

Despite the presence of three of its jurisdictions on the list, Illinois has become a more-favorable venue for defendants because the state Supreme Court issued a ruling restricting class action certification.

In South Carolina, Hampton County—which ATRA ranked third on last year's list—disappeared from the list this year, after the state's Supreme Court and legislature restricted the venues in which civil suits could be filed.

> "Our goal is not to flip the situation and created a hellhole for plaintiffs."
>
> **Victor Schwartz**
> **American Tort Reform Assn.**

In addition, the report notes that four states now have laws setting minimum medical criteria that must be met before claims alleging asbestos- or silica-related injury can proceed.

Mr. Schwartz said, though, that states and jurisdictions that appear to have balanced civil justice system have been put, in some cases, on a watch list because of recent developments. One example is Delaware, where "we have no evidence whatsoever" that there is any problem with courts, acknowledged Mr. Schwartz. But Delaware has become a magnet for the filing of asbestos injury suits, according to the report, which holds that "plaintiffs' lawyers are filing in Delaware because many businesses are incorporated in Delaware. This allows out-of-state plaintiffs to file in Delaware without fear of dismissal or removal."

"Our goal is not to flip the situation and create a hellhole for plaintiffs," said Mr. Schwartz. ATRA is not seeking to create "pro-defendant courts" but rather to create a system of evenhanded justice, he said.

The complete "Judicial Hellholes 2005" report is available at *www.atra.org*.

Greenberg: Spitzer alleges sale of Starr assets improperly benefited AIG executives

Continued from page 4

1968. The foundation that bears his name holds assets totaling more than $3.5 billion, according to the attorney general.

The legal team for Mr. Greenberg, who serves as chairman of The Starr Foundation, and the other living executors have produced a report that claims the transactions were approved by the Internal Revenue Service, New York's state surrogate court and the attorney general's office, which "participated in the settlement process and signed the final judicial decree. The settlement of the estate has stood unquestioned for over 25 years," the report states.

The allegations by Mr. Spitzer are the latest against Mr. Greenberg, whom the attorney general accused in a lawsuit earlier this year of taking part in fraudulent business practices that inflated AIG's stock price. Mr. Greenberg and other defendants have said they will fight those allegations.

In the letter to Ms. Davis, Mr. Spitzer claims Mr. Greenberg and other executors carried out sales "for the foundation's ultimate benefit" of Mr. Starr's shares in American International Underwriters Far East Inc., C.V. Starr & Co. Inc. and Starr International Co. Inc.

C.V. Starr and Starr International, which were controlled by Mr. Greenberg and other associates of Mr. Starr, bought those assets, the attorney general noted, which amounted to a conflict of interest, as the executors acted as both buyer and seller.

"In each transaction, the executors caused the estate to sell its assets at low prices," Mr. Spitzer states. Those assets were then sold to AIG at far higher prices, enriching C.V. Starr, Starr International and the executors at the expense of the estate and foundation, the attorney general wrote.

Mr. Spitzer advised Ms. Davis in the letter to consult with an attorney about the appropriate response to his charges. He also urged her to appoint an independent committee "to evaluate remedies available to the foundation" and consider restructuring the organization "so as to guarantee it the independence needed to advance its charitable mission into the future."

Ms. Davis was unavailable late last week to comment on the report and letter. Calls to Mr. Spitzer's office were not immediately returned.

The attorney general said in the report that the deals were discovered after Mr. Greenberg's lawyers removed around 80 boxes of documents from AIG's office in Bermuda earlier this year. Mr. Spitzer and the U.S. Securities and Exchange Commission issued subpoenas for the documents and found records that "raised questions about whether the estate had been appropriately compensated for certain assets," the report stated.

In their statement, the executors charged that Mr. Spitzer's allegations are "absurd and politically suspect."

"Each of us fulfilled our duty to Mr. Starr and the foundation without compensation and in accordance with his wishes and the law," the executors said. The attorney general's "conduct and attitude" reflect a pattern of "abuse and bad faith" taken against Mr. Greenberg since Mr. Spitzer's investigation into AIG began, the statement read.

Health: Comprehensive, integrated approach crucial to behavioral health services

Continued from page 3

notes.

And this lack of coordination has resulted in employer-sponsored behavioral health services that are "fragmented, uncoordinated, duplicative in effort and uneven in terms of quality and access," said Ron Finch, a vp for the National Business Group on Health's Center of Prevention & Health Services.

"I think employers have focused a considerable amount of attention on managing the cost of health care, and the next great savings is going to be coming in terms of improving and maintaining the health status of employees and their dependents," which includes better managing behavioral health services, Mr. Finch said.

To assist employers in this effort, the Washington-based NBGH last week released "An Employer's Guide to Behavioral Health Services"—a roadmap of strategies and recommendations for employers for evaluating, designing and implementing behavioral health programs and services.

The guide was developed by a 24-member committee of benefits and health care experts and includes 12 key findings from the committee's yearlong study into employer-sponsored behavioral health services. It also includes 18 specific recommendations from the committee, many of which require employers to change their vendor contract language, make changes to their benefit structures and instruct managed care organizations, managed behavioral health organizations and pharmacy benefit managers to track patient and provider data.

Key findings

According to the committee's key findings, the costs for mental health and substance abuse treatment totaled $104 billion, representing 7.6% of total health care spending in the United States in 2001.

But they note that, unlike other medical conditions, the indirect costs associated with mental illness and substance abuse, such as lost productivity and absenteeism, commonly meet or exceed the direct treatment costs.

At the same time, mental illness and substance abuse disorders grouped together are the fifth leading cause of short-term disability and the third leading cause of long-term disability for U.S. employers, the committee found.

But rather than seek help from psychiatrists or other specialized mental health and substance abuse providers, a significant proportion of individuals are being treated exclusively in the general medical setting.

While primary care doctors and general medical providers will continue to play an integral part in the behavioral health care environment, studies show that the adequacy and quality of mental health care delivered in the general medical setting is suboptimal, explained Dr. Henry Harbin, a Baltimore-based independent health care consultant and co-chairman of NBGH's behavioral health committee.

One particular 2005 study funded by the National Institutes of Mental Health, for example, found that only 12.7% of individuals treated in the general medical sector received minimally adequate care for mental or substance abuse problems, compared to 43.9% of the patients treated in the specialty mental health sector, noted Dr. Harbin, who formerly was chairman and chief executive officer of Magellan Health Services.

Promoting standardization, collaboration

The committee recommends that employers:

- Require that general medical providers to screen for depression and other common behavioral health conditions among individuals with chronic medical illnesses.
- Require that general medical providers to monitor patient progress with standardized screening questions and reimburse patient monitoring as a lab test.
- Require the coordination of care upon referral from primary care to specialty behavioral health care.
- Equalize medical and behavioral health benefit structures, including copays and deductibles.
- Reimburse primary care and other nonpsychiatrist physicians for screening, assessing and diagnosing mental illness and substance abuse disorders; require managed care organizations, managed behavioral health organizations and prescription benefit managers to adopt a national best-practices guideline for prescribing and monitoring psychiatric drug interventions.

Source: National Business Group on Health

Quality, cost an issue

While psychotropic drugs remain the major treatment modality for primary care physicians and psychiatrists and have improved the lives of many individuals with mental illness and substance abuse disorders, a number of quality problems have been identified with the current prescribing practices, he said.

Employers need to implement comprehensive, integrated management programs to address the quality and cost of psychotropic drugs and behavioral health services delivered by general medical providers, Dr. Harbin said.

"Better integration between primary care and specialty systems and better management of psychotropic drugs is going to lead to better care and more cost effective care," he said.

The NBGH committee set forth a number of specific recommendations for employers to improve behavioral health care services in the general medical setting (see box).

"An Employer's Guide to Behavioral Health Services" can be accessed free of charge through the NBGH Web site, at www.businessgrouphealth.org.

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Pensions: Funding rule changes could be greatest since 1974 creation of ERISA

Continued from page 1

The catalyst for congressional action has been the rapid and steep decline in the financial base of the PBGC. Only a few years ago, the agency, funded by the premiums paid to it by employers with defined benefit plans, was sporting a surplus of nearly $10 billion. Today, the PBGC, clobbered by a series of multibillion-dollar losses from taking over pension plans sponsored by financially ailing employers that, legally, didn't come close to funding what they promised plan participants, has a nearly $23 billion deficit.

The potential for more big losses is high; the PBGC says the pension plans it insures have $450 billion in unfunded liabilities.

That exposure worries legislators, who fear more big losses would mean a huge hike in the PBGC premium rate. Such a premium rate hike could drive yet more employers out of the defined benefit plan system or, possibly, result in a taxpayer-funded bailout of the PBGC along the lines of the 1980s bailout of the savings and loan industry, something legislators want to avoid in the pension realm.

"Each of us remembers too well the savings and loan bailout of more than a decade ago. By enacting the Pension Protection Act, we can be more confident that history will not repeat itself with regard to our pension system," said House Education and the Workforce Committee Chairman Rep. John Boehner, R-Ohio, referring to the House-passed bill that he sponsored.

Another powerful driver for action has been the losses—and the interest in averting future losses—to plan participants when underfunded plans are terminated. Many United Airlines and US Airways Group Inc. pilots, for example, saw their promised benefits cut by more than half when the PBGC took over their plans. Those big benefit reductions occurred because the PBGC does not guarantee all promised benefits.

Despite the congressional consensus on the need for action, the legislation is far from being enacted. One potential obstacle could be the Bush administration, which last week said neither the House nor Senate bills were tough enough and would have to be stiffened to avoid a possible presidential veto.

Observers, noting the high-level Republican support in Congress for reform, believe administration support—after many negotiations with legislators—is likely, as is the enactment of a final bill.

"This has been a lengthy legislative process, with many hurdles and differences to overcome. The fact that bills have gone this far bodes well for enactment," said Frank McArdle, a consultant with Hewitt Associates Inc. in Washington.

But the legislative process is far from over, and employers will be lobbying vigorously for changes. "The measures need a lot of work before a final bill becomes law," said ABC's Mr. Klein.

Perhaps the biggest focus of corporate attention involves the bills' so-called "smoothing" provisions. Smoothing is the period of time in which interest rates—in this case,

Proposals headed for conference committee

How the House and Senate pension funding reform bills stack up

Provision	House	Senate
Amortization period	Seven years	Same
PBGC premium increase	Increased to $30 with with increase phased in	$30 but no phase-in
Interest rate smoothing	Over three years	Over one year
Credit rating	No provision	Employers with poor credit ratings required to make extra contributions
Benefit improvements	Not allowed if plan is less than 80% funded	Same
Tax deductions for plan contributions	Allowed until plans are 150% funded	180% limit
Commercial airline funding relief	No provision	20- year funding period
Defined contribution plans	Make permanent higher contribution limits set by EGTRRA	No provision

yields on corporate bonds—are averaged to determine the rate employers use to value plan liabilities. Under current law, interest rates on long-term corporate bonds are averaged over four years to come up with a rate used to value liabilities.

Under the House bill, interest rates would be smoothed over a three-year period, while the Senate bill calls for a one-year smoothing period, which benefit lobbying groups say is too short to provide the predictability employers need to budget future contributions.

"Overwhelmingly, our members tell us it is the predictability of costs that is most important to them," Mr. Klein said.

"This may be the single biggest issue for employers. They need predictability. They need something close to three years," Mr. Macey said, referring to the smoothing period.

Another big issue involves a provision—only in the Senate bill—that would require employers with credit ratings that are below investment grade to adopt certain actuarial assumptions that would have the effect of making them kick in additional contributions.

Some say the requirement would be counterproductive, putting more financial pressure on companies when they could least afford to make more plan contributions.

"You overburden companies," Mr. Macey said.

Additionally, employers will be lobbying to try to get conferees to amend the bills' cash balance provisions. Both bills would make clear—prospectively—that the basic design of cash balance plans does not violate age discrimination law, while the Senate bill also sets requirements employers would have to follow in the future to convert traditional plans to cash balance plans.

Employers will lobby for a simple clarification that the design of cash balance plans—both retroactively and prospectively—does not violate age discrimination law.

"There is a compelling case to be made," Mr. Klein said, noting that employers that previously converted their plans were cleared to do so by the U.S. Internal Revenue Service.

Another difference to be worked out involves defined contribution plans. For example, the House bill would make permanent the retirement plan provisions included in a 2001 federal tax law. Those provisions, now set to expire in 2010, boosted the maximum contributions employees can make to 401(k) plans while allowing older employees to kick in additional, so-called "catch-up" contributions. The Senate bill lacks comparable provisions.

Conversely, the Senate bill would require employers to allow 401(k) plan participants to divest employer matching contributions after several years. The House bill would not impose such a requirement.

Aon: While 70% accept settlement, some cite difficulty in working with brokerage

Continued from page 1

in Connecticut, Illinois and New York to settle charges that it steered business to those insurers paying the highest contingent commissions and linked insurance placements with reinsurance business (*BI*, March 7).

The settlement resembled a similar agreement reached between Marsh & McLennan Cos. Inc. and New York Attorney General Eliot Spitzer in January, although Aon's compensation fund was much smaller and did not pertain to charges of bid rigging. Nearly 70,000—or roughly half of MMC's 140,000 eligible clients—began receiving their share of the brokerage's $850 million settlement last month (*BI*, Oct. 3).

Attorneys representing Aon clients in the settlement matter said that most opted to accept the settlement offers but that others decided not to for several reasons, including difficulties in working with the brokerage.

Aon clients with policies that incepted or renewed between Jan. 1, 2001, and Dec. 31, 2004, on which Aon collected contingent commissions had until Nov. 30 to decide whether to participate in the fund.

In August, Aon extended its original Oct. 30 deadline by one month to give eligible policyholders more time to sign up, the brokerage said.

Others, though, said the move was likely also made to coordinate the settlement with Aon's $38 million contingent commission class action settlement in *Alan S. Daniel vs. Aon Corp.*, to which there have been a number of objections. Aon extended the deadline for certified class members to opt out of that settlement to Nov. 30 as well.

U.S. policyholders that obtained insurance through Aon between Jan. 1, 1994, and Dec. 31, 2004, on which Aon collected contingent commissions are eligible for distribution from the Daniel settlement fund.

Cook County Circuit Court Judge Julia M. Nowicki, though, has yet to give final approval to that settlement. Fairness hearings took place earlier this month, and attorneys were expected to appear again in front of Judge Nowicki last Friday to discuss the possibility of a second notice to be sent to the *Daniel*-only class members to provide an additional opt-out opportunity to them.

An Aon spokesman declined to discuss the *Daniel* case, except to note that the 352,000 settlement offers pertain only to the attorneys general settlement and that the roughly $50 million left over from the $190 million fund will be allocated to the *Daniel* settlement.

Many opt in

Attorneys representing Aon clients say most accepted Aon's settlement offers, which were much smaller on average than the distributions offered from MMC's much larger $850 million fund and pertained to less serious allegations.

> "Not too many clients will file an individual lawsuit over a small amount of money."
>
> **Elaine Metlin**
> **Dickstein Shapiro Morin & Oshinsky**

Not only were Aon's contingent commissions smaller than Marsh's, Aon's compensation fund also was much less than Marsh's.

"When a company is considering whether or not to accept a claim and the ramifications of doing so, the amount of what's at stake matters," said Elaine Metlin, an attorney with law firm Dickstein Shapiro Morin & Oshinsky L.L.P. in Washington.

"Not too many clients will file n individual lawsuit over a small amount of money," said Ms. Metlin, who noted most of her clients accepted Aon's offer.

"Regarding our clients, the acceptance rate with Aon was higher than it was with Marsh," James Wagner, a partner in the Washington office of Howrey L.L.P., said in an e-mail. "I believe that this may be based on the lack of bid-rigging allegations against Aon."

Mr. Wagner noted, though, that, as was the case with Marsh's settlement, some Aon clients opted not to take the settlement due to the broad mandatory release they had to sign that would protect Aon from further claims. Others felt their damages were larger than the settlement offer reflected.

At the same time, after the Spitzer suits were filed, Aon, like Marsh, was "difficult to deal with," Mr. Wagner said. Aon "lawyered up" and was not responsive to clients. That led "to certain clients' decisions not to accept the settlement offer."

Ms Metlin said some of her clients also had difficulty with Aon. "I feel like Marsh has tried much harder to reach out and bend over backwards. We had a number of clients of Marsh who had questions about policies they thought should have been included in the settlement offers.

"The people at Marsh really took the time to look at it and got back to the people promptly. With Aon, it seems like there has been far less give and take in the process," Ms. Metlin said.

"This is a pretty simple, straightforward process and, as such, we consider attorney involvement an unnecessary complication," an Aon spokesman said in response.

Aon did cooperate, though, with Connecticut Attorney General Richard Blumenthal to correct miscalculations his office found in the settlement shares owed to certain Connecticut policyholders. More than 20 Connecticut municipalities, corporations and individuals received more money than anticipated from Aon after the brokerage rectified the mistakes (*BI*, Dec. 5).

Meanwhile, a spokeswoman for Willis Group Holdings Ltd., which established a similar $50 million compensation fund to settle concerns with the New York attorney general in April, said it extended the deadline to Feb. 1, 2006, for affected clients to request a distribution.

U.S. policyholder clients that obtained coverage from Willis from Jan. 1, 2001, through Dec. 31, 2004, on which Willis collected contingent commissions originally had until Dec. 20 to decide whether to accept the settlement.

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Late News

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Benefit Guaranty Corp. would guarantee about $117 million.

Ford shifting some health care costs

Ford Motor Co. said it notified salaried employees last week that they will have to shoulder more of the cost of their health care coverage. Current salaried workers will see their monthly premiums rise by 30% on average, depending on their health plan choice, said a Ford spokesman. Their deductibles, meanwhile, will increase by up to 33%, also depending on health plan choice. The United Auto Workers union, meanwhile, provided details of a tentative retiree health coverage agreement recently reached with Ford. The agreement would, among other changes, require certain retirees, who currently pay nothing, to pay $10 a month for individual coverage, while they would pay $21 per month for family coverage. Those changes, though must be ratified by UAW members and approved by a federal district court. The cost-sharing changes for retirees would take effect in 2007.

Former Independent directors charged

The United Kingdom's Serious Fraud Office has charged three former directors of failed insurance company Independent Insurance Co. Ltd., including its former chief executive, with conspiracy to defraud. Independent Insurance Co. collapsed in 2001. Charged were Michael John Bright, former chairman of Independent Insurance Co. and CEO of the company's parent, Independent Insurance Group P.L.C.; Philip John Condon, former deputy managing director; and Dennis Lomas, former group finance director. The SFO charged that the individuals conspired to mislead various parties about the true extent of liabilities the company faced.

XL, Cyrus plan quota share deal

XL Capital Ltd. will enter a quota share reinsurance treaty with Cyrus Reinsurance Ltd., a recently formed Bermuda reinsurer. XL confirmed the arrangement, which it announced last month without identifying Cyrus Re, in a Dec. 13 filing with the U.S. Securities and Exchange Commission. XL will cede portions of its property catastrophe and retrocessional lines of business to Cyrus Re. In the filing, XL said Cyrus Re will assume business underwritten from Jan. 1, 2006, through July 1, 2007. The new reinsurer has deposited $525 million into a trust to support the writings.

Judge fines Near North

A federal judge last week ordered the Chicago brokerage firm from which owner Michael Segal illegally took millions of dollars to pay a $1.4 million fine. U.S. District Court Judge Ruben Castillo said the board and employees of Near North National Insurance Brokerage Inc. failed in their responsibility to notify authorities about Mr. Segal's siphoning money from clients' premium trust accounts. Near North, which is being dissolved, is expected to pay the fine from its assets. Late last month, Judge Castillo sentenced Mr. Segal, 63, to 10 years and one month in prison. He was found guilty in June 2004 on charges of fraud, racketeering and mishandling more than $30 million in funds.

Brown & Brown buying reinsurance broker

Brown & Brown Inc. will become a bigger force in the reinsurance brokerage arena with its proposed acquisition of Axiom Intermediaries L.L.C. for an undisclosed sum. Axiom, which generates approximately $14 million in annualized revenues through its four offices in North Carolina, Florida, Illinois and Connecticut, will be merged with Brown & Brown's four-year-old reinsurance intermediary, Brown & Brown Re, and led by Axiom's current management. Axiom, which will retain its name, was formed in 2000 after former executives from an Aon Re Inc. unit broke ties with the world's largest reinsurance brokerage to form the firm.

Platinum's Hedges joins Cayman startup

Greenlight Reinsurance Ltd., a Cayman Islands-based startup reinsurer, has named Barton Hedges as its president and chief underwriting officer. Mr. Hedges previously was president and chief operating officer of Platinum Underwriters Bermuda Ltd., a Pembroke, Bermuda-based property/casualty and finite risk reinsurer. Last month, hedge fund Greenlight Capital Inc. launched Greenlight Re with more than $220 million in capital. The reinsurer plans to specialize in structured property/casualty reinsurance and also plans to work with local insurance managers to provide reinsurance for Cayman-licensed captives.

Briefly noted

Hull coverage for the Sosoliso Airlines McDonnell Douglas DC-9 passenger jet that crashed last week in Nigeria was led by American International Group Europe (UK) Ltd., and coverage was placed by Marsh UK Ltd., market sources said. The crash, which occurred during landing near Port Harcourt , killed 103 people. Information on the value of the hull, built in 1972, or the airline's liability coverage was not available....A.M. Best Co. has assigned an A- rating to Bermuda startup reinsurer **Validus Reinsurance Ltd.** Validus, which is focused on property catastrophe and marine/energy business, is headed by Chairman and Chief Executive Officer Edward J. Noonan, a former president and CEO of American Re Corp....Best also assigned an A- rating to another Bermuda startup, **Amlin Bermuda Ltd.**

TRIA: Compromise draws mainly from Senate bill

Continued from page 1
industry's so-called "deductible" in terms of earned premium for covered lines to trigger coverage, to 17.5% in 2006 and 20% in 2007, up from the current 15%.

The bill also calls for a presidential working group to review how the program works and possibly make further recommendations.

Mr. Wood said that the CIAB was "disappointed" that the bill does not contain some key features of the House measure, notably the formation of a broad-based commission charged with recommending a permanent terrorism insurance mechanism. The House bill had also contained surplus lines reforms backed by the CIAB.

The Property Casualty Insurers Assn. of America also welcomed the compromise agreement.

"This agreement will allow businesses and our economy to continue to grow as we fight the war on terrorism," Ernst Csiszar, president of the Des Plaines, Ill.-based PCI, said in a statement issued shortly after the compromise had been announced.

"TRIA is an essential part of our nation's economic success in the post-Sept. 11 world. The public/private partnership that TRIA established is vital to American businesses that need protection from the enormous economic losses that can result from this new and unprecedented risk," Mr. Csiszar said.

> "We are concerned that this is the final extension that we will see, and we'll have to address a long-term solution in very short order."
>
> **Aaron Davis**
> **Aon Corp.**

Mr. Wood said that the CIAB "will continue to work hard with members of Congress in both chambers to try to identify ways in which the terrorism insurance dilemma can be permanently resolved."

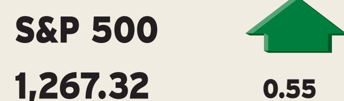
"It is very good news for (policyholders) in that there will be a definitive backstop for two years; however, we are concerned that this is the final extension that the market will see, and we'll have to address a long-term solution in very short order," said Aaron Davis, a vp with Aon's national property practice in New York.

"It was unfortunate that the House bill—which included essentially a carrot for the industry, to establish a commission with a mandate to find a long-term solution and provide a third year of coverage under TRIA in order to allow the market transition—was not included," said Mr. Davis.

BI Stock Index [12/12 - 12/16]

Up-to-the-minute data for all 85 companies that comprise the *BI* Stock Index can be found at *www.businessinsurance.com.*

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

***BI* Stock Index** 2,870.69		-0.24
Dow Jones 10,875.59		1.0
S&P 500 1,267.32		0.55

Largest gains

Company	Change
Endurance Specialty Holdings Ltd.	6.05%
Hub International Ltd.	3.63%
Gainsco Inc.	3.27%
Brown & Brown Inc.	2.82%
PXRE Group Ltd.	2.59%

Largest losses

Company	Change
Vesta Insurance Group Inc.	-16.55%
Meadowbrook Insurance Group Inc.	-8.23%
Clark Inc.	-7.47%
Old Republic International Corp.	-5.35%
Ohio Casualty Corp.	-3.81%

Weekly change by market segment

Segment	Change
Brokers	37.14%
Insurers/reinsurers	18.66%
Managed care organizations	27.94%

Source: FinancialContent Inc. *(http://financialcontent.com)*

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New **Online Poll:** How do you view the financial security of Bermuda's Class of 2005 startups?

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WHEN IT COMES TO
INSURING AMERICA'S LEADING CORPORATIONS,
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