INSURANCE REGULATORY EXAMINERS SOCIETY

The Financial Crisis

Assessing Regulatory Strengths — and Vulnerabilities

Editor's Note: *As part of our ongoing attempt to explore the underpinnings and implications of the current U.S. financial crisis,* The Regulator *recently asked* ***Vincent Laurenzano*** *for his insights. Mr. Laurenzano is an insurance financial consultant with Stroock & Stroock & Lavan LLP and a former Bureau Chief of the New York State Insurance Department's Property Bureau.*

Regulator: *Did, in your opinion, the repeal of the Glass-Steagall Act and the enactment of Gramm-Leach-Bliley make it easier for financial entities to engage in some of the activities that led to the current crisis, i.e., wholesale packaging of subpar loans, issuance of CDSs, etc.?*

Q&A

Laurenzano: Glass-Steagall was enacted in 1933 as a reaction to abuses in the banking system that led to or intensified the collapse of banking institutions during the Great Depression. The bill separated the banking business into deposit taking and investment banking. It limited banks' activities to deposit taking and lending. Banks were prohibited from engaging in investment banking and insurance activities.

In 1999 Congress passed the Gramm-Leach-Bliley Act ("GLB") which effectively repealed Glass-Steagall. This permitted banks to engage in a variety of financial activities through a Bank Holding Company, thus allowing commercial and investment banks to consolidate and to own insurance companies. The most notable early example was the financial conglomerate Citibank which at one time included the Travelers Insurance Company and Smith Barney, Shearson. GLB enabled banks to offer their customers full financial services within the holding company structure.

While GLB enabled investment banks with business models that are much more tolerant of risk-taking than commercial banks to be held within the same financial holding company as commercial banks, in my view GLB was not the cause of financial institutions engaging in investment activities that led to our current crisis. These new financial

continued on page 4

Financial Literacy Education: The Illusion of Regulation

by Lauren E. Willis

American families are in poor financial health. They are losing their homes to foreclosure. Nearly half have less than $25,000 in retirement savings. When it comes to health care, over 40% are uninsured or underinsured. Annual consumer bankruptcies march toward the one million mark.[1] Consumer testing reveals widespread ignorance of even basic financial concepts.[2]

As the economy slides into recession, policymakers have orchestrated bailouts of sophisticated financial firms. But when it comes to consumers, policymakers often grasp at a common explanation: Financial illiteracy. In the words of then-Federal Reserve Board Governor Frederic Mishkin:

> There can hardly be a better time to make the case for economic and financial literacy than right now … [W]e face a downturn… fueled, at least in part, by

continued on page 8

NOV 2008

President's Column 2
Don't Blame State Regulators 7
Collaborating on Medicare 12
IRES Chapter News 15
Regulatory Roundup 16
Casual Observations 19

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From the President

Your Best Investment

For most of us, the financial crisis that has unfolded over the past several weeks is unlike any other we have experienced in our lifetimes. The financial turmoil has affected just about all of us, on both a professional and personal level.

No one knows what the future holds. I certainly do not know how long it will take our economy to recover. Nor do I know what conclusions the experts will draw about the causes of the crisis.

I do, however, know that the effects of the problems experienced by the financial services sector were mitigated thanks to dedicated professional insurance regulators (many of whom are IRES members) across the country.

In these uncertain times, it is even more important than ever to invest in your future. As we approach our annual membership drive and renewal period for our general members, I encourage you to think of your IRES membership as an investment in your future. In return, IRES offers you a chance to build your professional network, helps keep you informed and up to date on important issues and topics, and provides opportunities to continue your professional development through continuing education forums at the national and local levels. It's one investment that, I promise you, will never diminish in value.

Each year, IRES members volunteer hundreds of hours, serving on IRES committees and subcommittees at both the national and State Chapter level. These dedicated volunteers help in many different ways, working together to help make the Society a strong, vibrant entity as it strives to be the premier continuing education provider to regulators and all those with an interest in promoting professionalism and integrity in the regulatory community.

At the same time, these volunteers are investing in their own future by building their professional network, expanding their horizons, growing professionally, enhancing their skills and becoming more valuable and productive employees.

However, like any other professional association, IRES is at its best when members stand up, contribute to our organization and take pride in what we do, what we stand for and the products and services we deliver. Doing so helps make a great Society even better. It also helps increase the level of respect we, as professional regulators, receive for ensuring that insurance companies are adequately capitalized and that policyholders and claimants are treated fairly and equitably.

When you get your renewal notice, please invest in yourself by continuing your membership in IRES and by becoming a more active member of the Society by volunteering to help. Better yet, don't wait — become involved today!

These are indeed difficult times, but I know we will emerge from them stronger and better.

If you have any suggestions, comments, or would like to talk with me about IRES, please do not hesitate to contact me via e-mail (jo.leduc@wisconsin.gov) or at 608-267-9708.

Jo A. LeDuc, CIE, MCM
IRES President

Welcome, new members!

Loretta Anderson, Maryland

Lynella A. Cauther, MCM, Michigan

Angelle Hayes, Louisiana

Kenneth C. Lang, Colorado

C.E. News

Recognizing ongoing training and travel restrictions in state budgets, the Accreditation and Ethics Committee recently approved changes to the CE program to help regulators fulfill CE requirements without additional expenses. These changes include:

1. To recognize the continuing professional development gained by actively participating in IRES Committees and Subcommittees, IRES members can earn up to 3 CE credits annually for active participation in IRES Committees and/or Subcommittees beginning September 1, 2008. Credit will be based on the following schedule:

   - Attending via teleconference 50% of the scheduled meetings of the Committee or Subcommittee meetings earns 1 CE credit.
   - Attending via teleconference 75% of the scheduled meetings of the Committee or Subcommittee meetings earns 2 CE credits.
   - Attending via teleconference 100% of the scheduled meetings of the Committee or Subcommittee meetings earns 3 CE credits.

2. The following courses have been pre-approved for CE credits:
   - Online producer licensing continuing education courses approved by a state insurance department which are more than 50% directly and substantively insurance related qualify for up to 12 CE hours. Credit is based upon actual contact hours.
   - Certain CEU Online Courses. A list of the approved courses and maximum IRES credit allowed for each course can be found in the NICE Pre-Approved Credit section of the NICE manual.
   - NAIC Online Courses & Webinars: A list of the approved courses and maximum IRES credit allowed for each course can be found in the NICE Pre-Approved Credit section of the NICE manual.
   - LOMA Online Courses: Online courses offered by LOMA which are more than 50% directly and substantively insurance related qualify for up to 12 CE hours. Credit is based upon actual contact hours.

3. The following programs earn the full 15 CE hours:
   - The IRES Career Development Seminar
   - The IRES MCM program
   - The SOFE Career Development Seminar now earns up to a maximum of 15 IRES CE hours provided at least that many hours have been granted by SOFE.

National IRES Continuing Education
The mandatory continuing education program for AIE and CIE designees

Assessing Regulatory Strengths

continued from page 1

instruments developed over the last decade such as advanced securitization structures and the variety of derivative instruments were more a consequence of advance computer technology than the result of GLB.

R: *Credit Default Swaps have been described as "insurance without the reserves." Insurance companies are not permitted to write credit default swaps, yet financial guaranty companies did write such contracts through third parties. Could you explain the means by which they wrote these swaps? Did any other insurance companies directly write credit default swaps or similar derivatives?*

VL: A Credit Default Swap ("CDS") is a capital market instrument that transfers credit and default risk associated with a reference security from one counterparty to another in return for a payment. CDSs are traded in an enormous global marketplace, in which commercial and investment banks and other financial institutions buy and sell credit default protection on a wide variety of credit instruments. The theory is that risk can be borne by those most willing and able to bear it.

> **"*One can expect insurance regulators to take a closer look at the rules relating to security lending programs, particularly relating to the investment of the collateral.*"**

A CDS is not considered insurance because the swap contract does not contain the essential element of insurance: indemnity. The swap contract does not require that the buyer suffer a pecuniary loss in order to be paid. Furthermore some CDSs cover certain defined credit events and performance under the contract does not necessarily require a default on the reference security.

United States insurance companies may purchase CDSs in order to hedge their investments against default risk. However because these instruments are not considered insurance products, United States insurance companies are prohibited from selling CDSs. Financial guaranty insurance companies are monoline insurers that guarantee the payment of principal and interest on debt obligations, i.e., sell protection against credit defaults. These insurers, in order to participate in what was perceived to be a lucrative market in credit default swaps, formed minimally capitalized special purpose vehicles ("SPV") known as "transformers" to sell CDSs. The SPV's payment obligation to its counterparties under these CDSs was in turn guaranteed by the financial guaranty insurer. Effectively the financial guaranty insurers were selling CDSs.

The financial guaranty insurers have suffered major losses this year as a result of their participation in this market. Virtually all the financial guaranty insurers have been downgraded by the rating agencies and a number of the insurers forced into runoff.

The New York Insurance Department, in a recently issued circular letter addressed to financial guaranty insurers, indicates that its Office of General Counsel will revisit prior opinions that CDSs are not insurance contracts and consider whether "a CDS is an insurance contract when it is purchased by a party who, at the time at which the agreement is entered into, holds, or reasonably expects to hold, a 'material interest' in the referenced obligation." Should the Office of General Counsel conclude that a CDS where the buyer holds the referenced security is an insurance contract then such a CDS could only be sold in New York State by licensed insurers and the CDS contract would be subject to regulation by the New York Insurance Department.

(**Editor's Note**: For more information on this Circular Letter, see p. 16.)

R: *Traditionally when insurers engaged in securities lending and received collateral from borrowers, the*

collateral was invested in relatively safe instruments such as Treasuries. Over the past few years, however, some insurers began to invest collateral in more high-risk, high-reward instruments. Has this contributed to the current crisis? Should there be investment rules for collateral?

VL: A number of insurers that engaged in securities lending activities have sustained significant losses in 2008. Cash received as collateral on these transactions was invested in securities that have suffered steep declines in value. Current Statutory Accounting Principles and the NAIC Investment of Insurers Model Act ("Model Act") require insurers to receive collateral equal to 102% of the securities, but there are no restrictions on the types of assets the cash collateral can be invested in. The Model Act requires an insurer's Board of Directors to adopt a written plan for securities lending that contains a description of how the cash collateral will be invested and the procedures to manage the risks associated with the investment.

In view of the recent developments in the capital markets one can expect insurance regulators to take a closer look at the rules relating to security lending programs, particularly relating to the investment of the collateral. The NAIC Statutory Accounting Working Group is amending Statement of Statutory Accounting Principle No. 91 which addresses the accounting for securities lending. The New York Insurance Department ("NYID") issued Circular Letter No. 16 on July 21, 2008 which deals with securities lending by insurers. The Circular Letter indicates that the NYID is concerned "that some insurers may not be maintaining adequate collateral and effectively managing the risks associated with the securities lending function."

R: *Traditional life and property/casualty companies must adhere to reserving and investment rules and are not generally permitted to write credit default swaps. Did that make them less vulnerable to this crisis than other financial services companies? What other factors have helped them weather the storm, at least so far?*

VL: Certainly state insurance investment laws that require minimum capital and reserve investments be held in conservative investments and place limitations on the amount and type of investments have had a beneficial effect on the stability of insurance company balance sheets. However insurance companies invest in the same types of securities as other financial institutions. The third quarter financial statements of major insurance companies will likely reflect significant investment losses as the impact of the failure of a number of financial institutions and the overall decline in the credit and stock markets will be fully incorporated in these statements. Unlike the results of many financial institutions insurers' losses will be manageable because insurers did not use financial leverage (i.e., using debt to enhance equity) to the extent utilized by other institutions in an attempt to enhance investment returns. State insurance regulation and risk-based capital requirements discourage the use of financial leverage in the investment portfolios of insurers.

Q&A

State laws prohibiting insurance companies from selling credit default swaps sheltered insurers from participating in this market that has had disastrous results over the past nine months, precipitating the collapse of a number of well-known financial institutions. In addition, laws in New York and other key states that limit the issuance of guarantees of debt obligations to monoline insurers further protected traditional insurers from sustaining significant underwriting losses due to deterioration in the credit markets.

R: *In attempting to resolve the AIG situation, there was some discussion of trading assets within the insurance subsidiaries and/or transferring funds to the noninsurance parent. One of the hallmarks of insurance regulation is that insurance companies are not supposed to be punished for the sins of their parents. How concerned should insurance regulators be about the potential for such actions in the future? What can be done to prevent it?*

VL: The cornerstone of United States insurance regulation is the statutory requirement that all material

continued on next page

Assessing Regulatory Strengths

continued from preceding page

transactions, including extraordinary dividends, between an insurance company and members of its holding company system (parent and affiliates) be approved by the insurer's domestic regulator. The holding company regulations are designed to assure the integrity of domestic insurers and to protect against the inappropriate transfer of assets supporting policyholder obligations by owners in order to finance other business

> ***I believe the holding company regulations provide United States insurance regulators with the tools to prevent inappropriate transfers of insurers' funds.***

activities of the holding company. The AIG debacle is evidence of the importance and effectiveness of holding company regulations. AIG was facing a liquidity crisis at the holding company level and needed to upstream liquid assets held by its insurance subsidiaries in order to avoid bankruptcy. AIG could not access these assets without the prior approval of state insurance regulators. This approval process enables regulators to release funds to support parent and affiliated entities only when the review of the transaction determines that it is not detrimental to the financial position of the insurance subsidiary.

In the current economic environment, there will continue to be efforts by managements to transfer assets to holding companies in order to meet liquidity demands or to finance other business activities. The large pools of liquid assets held by insurance companies are tempting targets for their holding companies. I believe the holding company regulations provide United States insurance regulators with the tools to prevent inappropriate transfers of insurers' funds.

However regulators need to carefully review the financial statements of insurers and their holding companies in order to detect potential demands on insurance company funds and regulators also need to be vigilant in their review of transactions between insurers and members of their holding company system to assure that such transactions are fair and equitable and do not jeopardize an insurer's ability to meet policyholder obligations. It is important to note that in many non-U.S. jurisdictions there are no such safeguards. Moreover, there are no statutory requirements in these jurisdictions that dividends and material transactions between insurance companies and their affiliates be approved by the insurance regulator.

R: *Should that authority of a state insurance regulator be broadened to include a right to examine the entire holding company structure?*

VL: Actually state insurance regulators do have the authority to examine the holding companies of insurers. New York Insurance Law section 1504 authorizes the Superintendent to examine the holding company or any member of a domestic insurer's holding company system if he believes the operations of such entity have a material impact on the operations and financial condition of the domestic insurer and he is unable to obtain relevant information from the domestic-controlled insurer. I am not sure if this authority has ever been invoked, however it may prove to be a valuable tool for regulators in assessing potential risk to insurers from holding company activities. ■

Mr. Laurenzano worked for more than 30 years on property/casualty regulatory issues for the New York State Insurance Department as chief of the Department's Financial Condition Property/Casualty Bureau and Assistant Deputy Superintendent. Since 1997, Mr. Laurenzano has worked as an insurance financial consultant for Stroock & Stroock & Lavan.

Don’t Blame State Insurance Regulators for the AIG Mess

by Robert Rusbuldt

State insurance regulators are not to blame for the financial troubles of the American International Group (AIG). As the stability of the insurance market clearly demonstrates, they are doing their job of actively monitoring U.S. insurance entities for potential financial trouble by using a variety of tools to help insurers navigate through choppy market waters.

A handful of politicians and insurance company trade associations have spun the AIG rescue to argue for federal regulation of the rest of the insurance industry through an “optional” federal charter (OFC). Under OFC, insurance companies would be allowed to pick and choose whether their companies would be regulated at the state or federal level. Insurance companies would obviously pick whatever system afforded the least amount of regulation, which could end up costing consumers and taxpayers.

It’s misleading to argue that if AIG had been able to choose how they are regulated, this situation would have been prevented. What many experts across the country have called for is more vigorous market supervision, NOT a deregulatory proposal such as OFC.

The evidence is stacked against more federal regulation. Whether it’s commercial banks, investment firms, or international holding companies (like AIG), historically, problems follow when the federal government oversees the financial services markets. The financial industry sectors at the center of the nation’s current financial crisis are primarily regulated by the federal government. Even the S&L scandal of the 1980s, which cost billions to clean up, was “being watched” by the federal government.

No one is denying that the AIG situation is a blow to the financial services industry, but even a simple analysis of the practices that led to its current situation shows that state insurance regulation and AIG’s insurance subsidiaries (which represent only 1/3 of AIG’s business), are not responsible for the collapse. Much of AIG’s downfall is directly linked to its use of credit default swaps. It’s disingenuous to use the AIG bailout as an excuse for wholesale revamping of insurance regulation. AIG’s financial holdings and troubles have been lumped together when, in fact by all reports, the overall condition of AIG’s core insurance businesses are stable, profitable and paying all claims.

State regulators use a very effective safety net through state guaranty funds to protect consumers in the rare case of insurer insolvency. Despite efforts to turn this into a ‘guilty by association’ situation, the health of AIG’s state-regulated insurance businesses proves how effective state commissioners are in regulating the insurance market, especially when it comes to solvency.

The state regulation process is certainly not perfect and, in some cases, it needs targeted reform to modernize the system and make it more uniform and efficient, but its problems do not include the areas of financial oversight, solvency or consumer protection. The AIG situation is actually further evidence against OFC and highlights the strengths of state insurance regulation.

Consumers, Main Street businesses, and congressional leaders must continue to oppose proposals that would exacerbate problems in the financial services sector and in our economy. It’s counter-productive to try and fix something that isn’t broken. State insurance regulators should be applauded for keeping the insurance industry stable while the next Congress concentrates on targeted reform of the state regulatory system to make it more uniform and efficient. ■

Robert Rusbuldt is president and CEO of the Independent Insurance Agents & Brokers of America.

Financial Literacy Education: Creating the Illusion of Regulation

continued from page 1

> unwise mortgage borrowing… [A] better informed citizenry would likely have resulted in more-prudent decision making and … less harm to the economy. [3]

Financial literacy education is widely believed to turn consumers into responsible and empowered market players, motivated and competent to handle their own credit, insurance, savings and investment matters by confidently navigating the marketplace. In this financially literate world, other forms of legal regulation of financial products are unnecessary and even counterproductive. This vision depends on the belief that financial literacy education can not only improve financial behavior, but can do so to the degree necessary for consumers to protect and even increase their welfare in the modern financial marketplace.

There is no robust empirical support for this belief. Gains in literacy test scores or improvements in financial behavior, where they have been demonstrated at all, have been extremely small, far less than would be required to enable consumers to manage their personal finances on their own well.[4] Although acknowledgement of the ineffectiveness of financial literacy programs is slowly increasing, the usual response is to advocate improving the programs.[5] Certainly much could be done in that regard. But before we put more time, money, attention and effort into these programs, we need to step back and consider whether universal financial literacy is a cost-effective strategy for achieving better consumer credit, insurance, and savings and investment outcomes. What are the true costs of financial literacy education, and what are our alternatives?

Opportunity Costs

Pursuing financial literacy education costs money, as well as the time, attention, and effort of consumers and teachers directly involved. Less visible are the opportunity costs. Government authorities frequently pull financial literacy education out of their policymaking, regulatory, and enforcement toolboxes. Using this tool can become an excuse for not engaging in the challenging work of developing procedural regulation that would effectively match products in the fast-moving financial market with the consumers for whom they are appropriate. Rather than offering regulations that would be effective on their own, Board Governor Mishkin explained that the Federal Reserve supports financial literacy programs because "[i]mproving consumers' economic decision-making will enhance the effectiveness of new rules and regulations."[6] This tool also sidesteps the politically formidable task of enacting substantive regulation likely to make many consumers better off but at the price of making some consumers and much of industry worse off. Financial literacy education creates the illusion of regulation without the costs of regulation.

A look at how policymakers have reacted to news of problematic consumer financial products is instructive. For example, when the marketing of expensive life insurance policies that would provide few, if any, benefits to service members leaving for the Iraq war was publicized, Senators Hillary Clinton and Susan Collins quickly sponsored bipartisan legislation not outlawing these welfare-decreasing policies, but providing service members with financial education and counseling. Even when substantive reform legislation is introduced, it languishes in subcommittee while financial literacy initiatives sail through. In 2003, for example, bills proposing consumer financial services reforms, from protecting homebuyers from predatory mortgage lending practices to capping payday loans at 36 percent, were introduced and referred to subcommittee, but none received a hearing. Conversely, the bill establishing the Financial Literacy and Education Commission moved through both houses to become law in less than three months, including Congress' August recess. Promoting financial literacy is politically expedient, allowing legislators to both please the financial services industry and campaign as protectors of consumers.

Regulatory Costs

Regulator reliance on financial literacy education similarly can come at the cost of effective regulation. For example, one product that has been on the market for at least a decade is the fee-harvesting credit card. These cards carry fees that dwarf the credit they provide, making them financially welfare-decreasing for most if not all consumers. One VISA card with

a $300 credit limit, for example, requires payment of a $79 application fee, and then, once the card is approved, $281 in fees are charged to the account. In sum, consumers pay $360 and have a credit line of $19 when they receive the card. Because few consumers read the fine print, they are unaware how little credit they have and soon rack up over-the-limit fees. The business model is lucrative; one issuer charged $444 million in fees on these cards in 2006 and made a net profit of $107 million. Although the issuer charged off $728 million that consumers never paid, these debts were mostly the issuer's own fees on cards consumers received and then thought better of using.[7] The federal government's response has been to publish consumer education materials, rather than banning these cards.[8]

Financial literacy creates the illusion of regulation without the cost of regulation.

Financial literacy education programs have become a popular component of litigation settlements between firms and government enforcement agencies. Funding for these programs has been accepted as consideration in exchange for settlement in cases alleging discriminatory and predatory mortgage lending, fraudulent student loans, deceptive insurance sales tactics, misleading investment advice, etc.[9] Consumer welfare returns on these literacy programs might well be lower than the returns that would be generated by more creative uses of the defendants' resources.

For example, settlements could require defendants to lend their expertise to develop better regulations or to lend their business operations to experimentally test potential new regulations. So, too, regulator acceptance of firm sponsorship of financial literacy programs for purposes of meeting obligations under the Community Reinvestment Act, analogous state laws, or state licensing schemes, comes at the price of other activities that the credit, insurance, and investment industries could be doing to improve consumer welfare in personal finance transactions.

Some policymakers and academics respond to critiques of the effectiveness of financial literacy education with frustration: "So it doesn't work, but there is nothing else we can do." They overlook the plethora of alternatives waiting to be tried, from providing consumers with pro bono financial advisors to developing legislation to eliminate financial product seller incentives to steer consumers to inappropriate products. Prohibiting the sale of financial products with particularly risky or outright harmful components would reduce consumer choice most directly. Because even the most esoteric of financial product structures have some consumers for whom they are appropriate, the cost of that reduced choice would be borne by these consumers. Nevertheless, a marketplace of unregulated financial products also has a price, one currently borne by those consumers who receive financial products that are inappropriate for their needs, these consumers' communities, and the nation's financial system as a whole. Even consumers who purchase good, safe financial products today would be spared the cost of searching through the multitude of poor, overly-risky products currently on the market if substantive regulation were employed.

Substantive product regulation would limit "consumer choice" in some respect, yet enhance both consumer financial outcomes and functional autonomy, in terms of reflecting the consumer's own goals and values and providing the consumer with a sense of personal control over her decisions, actions, environment, and life path. These limits on individual choice present the central paradox of the ownership society in the modern marketplace of consumer financial services, i.e., to enhance true consumer autonomy, to give consumers more ownership and control over their own daily lives and ultimate destinies, requires regulatory interventions in that marketplace that limit formal choice. To ultimately have true control over their lives, consumers need to have less formal control over some decisions in their lives.

The Challenge

The failed social policy of financial literacy education denies this paradox, and diverts attention from more creative approaches to improve consumer

continued on next page

Financial Literacy Education: Creating the Illusion of Regulation

continued from preceding page

financial transactions. The challenge now is to develop and implement policies and legal rules that will reshape the consumer financial services market into a landscape conducive to good consumer decisions and outcomes. Such regulatory interventions must navigate the heterogeneity of consumer knowledge, skills, and behavioral traits, taking care not to hinder marketplace changes that would enhance consumer welfare. To be successful, each legal intervention will undoubtedly need to be both context-specific and amenable to change as the market evolves.

This is a delicate, challenging, time-intensive and costly task, requiring requisition of the resources currently spent on financial education and more.

The financial literacy education model is premised on the promise of consumer sovereignty, that consumers can be taught to make welfare-enhancing choices in the insurance, credit, and investment marketplace, trained to read and travel "the road map to the American Dream."

Ironically, the model ensures the sovereignty of the market, which moves too quickly for even educators to keep up. The model dupes consumers into thinking they can master the financial services market while placing blame upon them for failure to do so, deflecting political pressure for change.

But changing the personal finance market or the manner in which consumers must maneuver in it—making the map easier to follow, giving them a guide, or building direct routes to the American Dream—is likely to be more efficacious, and at a lower cost.

Consumers can make welfare-enhancing choices, but to be truly autonomous, those choices must be made in a context that consumers can navigate. ■

Lauren E. Willis is an Associate Professor of Law at Loyola Law School Los Angeles, where she specializes in consumer law and financial regulation. This article was based on "Against Financial Literacy Education," which appears in the November 2008 issue of the Iowa Law Review.

Endnotes

1 U.S. Courts, News Release: *Bankruptcy Filings Up in March* (June 2008), available at http://www.uscourts.gov/ Press_Releases/2008/BankruptcyFilingsMar2008.cfm.

2 *See, e.g.*, Annamaria Lusardi & Olivia Mitchell, *Financial Literacy and Retirement Planning: New Evidence from the RAND American Life Panel* (Univ. of Mich. Retirement Research Ctr., Working Paper No. 2007-157, 2007).

3 Frederic S. Mishkin, The Importance of Economic Education and Financial Literacy, Remarks at the Third National Summit on Economic and Financial Literacy (Washington, D.C., Feb. 27, 2008). Mr. Mishkin was a Federal Reserve Board Governor until August 31, 2008, when he returned to teaching at Columbia University's Graduate School of Business.

4 Lauren E. Willis, *Evidence and Ideology in Assessing the Effectiveness of Financial Literacy Education* (forthcoming, 2009).

5 *E.g.*, Ian Hathaway & Sameer Khatiwada, *Do Financial Education Programs Work?* (Fed. Reserve Bank of Cleveland Working Paper No. 08-03, April 2008) and Shaun Mundy, Financial Education in Schools, Universities and Colleges: Analysis of Selected Current Programmes and Recommendations for Best Practice, OECD Financial Education Project Draft Rpt. 3 (2008).

6 Mishkin, *supra*.

7 Rick Jurgens & Chi Chi Wu, Fee-Harvesters: *Low Credit High Cost Cards Bleed Consumers* (Nat'l Consumer L. Ctr. Rpt., Nov. 2007).

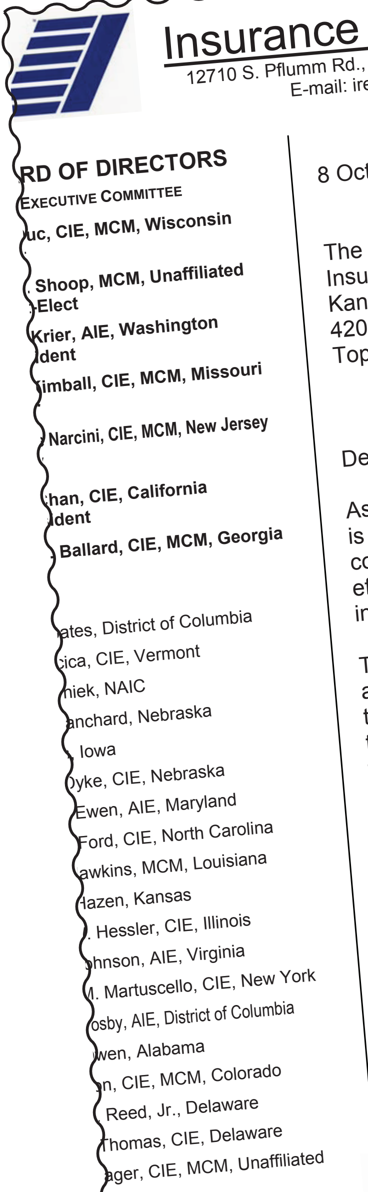
8 See, *e.g.*, Federal Trade Commission, *Straight Talk About Telemarketing* (Nov. 2007) (informing consumers "most" advance-fee credit card offers are "scams"). The Commission has pursued issuers of fee-harvester cards for misrepresentations, such as taking application money without issuing any cards (for most consumers, ironically, a better outcome than receiving a card and all of its associated fees).

9 See, *e.g.*, Press Release, Attorney General of Pennsylvania, Attorney General Corbett Announces $200,000 settlement in Lehigh Valley College Probe (Feb. 20, 2008); Press Release, California Department of Corporations Announces Ameriquest Mortgage to Pay $325 Million and Undertake Compliance Reforms to Settle States' Investigations (Jan. 23, 2006); Stephen Labaton, *10 Wall St. Firms Reach Settlement in Analyst Inquiry*, The New York Times, Apr. 29, 2003.

IRES to Commissioners: *Thank You!*

The IRES Executive Committee recently sent a letter of appreciation to NAIC President and Kansas Insurance Commissioner Sandy Praeger.

The letter thanks Commissioner Praeger and her fellow commissioners for their efforts to support state-based insurance regulation during the current financial crisis. The full letter appears below.



Insurance Regulatory Examiners Society

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8 October 2008

The Honorable Sandy Praeger
Insurance Commissioner & NAIC President
Kansas Insurance Department
420 SW 9th Street
Topeka, KS 66612-1678

Dear Commissioner Praeger,

As you know, the Insurance Regulatory Examiners Society (IRES) is an association of professional insurance regulators dedicated to consumer protection. IRES helps to promote fair, cost effective, and efficient insurance regulation by ensuring professionalism and integrity among insurance regulators.

The Executive Committee of IRES would like to express our appreciation to you and your fellow commissioners for reaching out to policymakers, federal regulators and consumers to assure them that the insurance industry remains strong and solvent during this time of financial upheaval. In the midst of this unprecedented financial crisis, insurance consumers in particular need to know that their insurers will be there should any claims arise.

Some have suggested that this financial crisis proves that the insurance industry should be federally regulated. As you know, just the opposite is true — this crisis underscores the continuing need for a strong, state-based system of insurance regulation. IRES members know first-hand the importance of state-based insurance regulation and so, we believe, do millions of consumers.

Again, thank you and your fellow commissioners for your efforts to assure everyone that the insurance industry remains strong and solvent.

Sincerely,

Jo A. LeDuc, CIE, MCM, CPCU
IRES President

cc: State Insurance Commissioners, Administrators,
Superintendents, & Directors

Working Collaboratively on Medicare Advantage Issues

by Mary Kempker

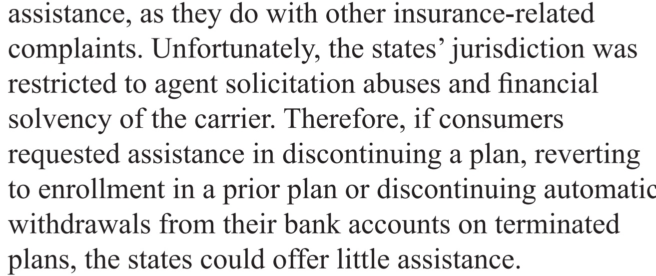
Medicare Advantage (MA) Plans are health plan options that are part of the Medicare program. If someone joins one of these plans, that individual generally receives all Medicare-covered health care through that plan. Medicare Advantage coverage can also include prescription drug coverage.

The Medicare Advantage Plans offer coverage through products, such as Medicare Health Maintenance Organizations, Preferred Provider Organizations, Private Fee-for-Service Plans and Medicare Special Needs Plans. When individuals join a Medicare Advantage Plan, they use the health insurance card received from the health carrier administrating their health plan. As an incentive to join Medicare Advantage plans, most health carriers will offer extra benefits, such as dental, vision and "Silver Sneaker" fitness program memberships, and lower co-payments than in the original Medicare Plan. However, the network may require members to see doctors that belong to the plan or go to certain hospitals to get services.

The Centers for Medicare and Medicaid Services initiated unprecedented face-to-face meetings with states to discuss the Medicare Advantage arena.

As Medicare Advantage Plans and Part D plans (i.e., Medicare Prescription Drug Plans) evolved in 2006, complaints escalated. Since the Medicare Advantage funding structure provided a more lucrative financial gain than traditional Medicare supplement plans, carriers turned to dramatic and, at times, hyperbolic advertising of Medicare Advantage Plans to encourage enrollment. The incentive to promote MA Plans included offering far more lucrative commissions than those being offered for Medicare supplement plans.

Common complaints nationally include aggressive sales tactics, door-to-door solicitation, group solicitation in places such as senior housing and nursing homes, and blatant fraud. Consumers often contacted their Departments of Insurance (DOIs) for



assistance, as they do with other insurance-related complaints. Unfortunately, the states' jurisdiction was restricted to agent solicitation abuses and financial solvency of the carrier. Therefore, if consumers requested assistance in discontinuing a plan, reverting to enrollment in a prior plan or discontinuing automatic withdrawals from their bank accounts on terminated plans, the states could offer little assistance.

The carriers, due to HIPAA privacy provisions and the fact that Medicare products fell under federal jurisdiction, often would not assist the states in resolving these issues. The sheer volume of complaints and enrollment issues exceeded the Centers for Medicare and Medicaid Services' (CMS) ability to resolve them quickly.

Initially, the NAIC and CMS met to discuss options to strengthen consumer protections. CMS and the NAIC created a Memorandum of Understanding (MOU) for Part D plans only. This MOU allowed for two-way communication, resulting in shared complaint resolution in a timelier manner. States communicated trends and carrier concerns that CMS could audit or review.

As the MA issues beckoned national attention during the past year, Congress requested complaint data from CMS, the state DOIs and State Health Insurance Programs (SHIPs). Congress recognized that bifurcation created barriers in obtaining data, monitoring plans, and resolving complaints.

As Congress contemplated legislation to address these issues, the NAIC and CMS again began discussions on strengthening consumer protections by sharing complaint-resolution responsibilities through another MOU specifically for Medicare Advantage Plans. This MOU allowed the states access to CMS's Health Plan Management System's (HPMS) Web site which provides information on CMS complaints, carrier information and outreach activities. States, in

return, provide to CMS their complaint information in order to prevent duplication of efforts but also to ensure resolution of the complaints, identification of trends and/or identification of financial flags that require internal examination by CMS.

The Centers for Medicare and Medicaid Services initiated unprecedented face-to-face meetings with states to discuss the Medicare Advantage arena, to brainstorm on other possible avenues to address consistency among states, as well as any new concerns as they arise. Members of the Central Region CMS Office organized a meeting with representatives from the states in the Central region in early October. These efforts, while not great strides, could be the beginning of a federal-state collaboration that would provide vital protection to our most vulnerable consumers.

On July 9, Congress passed the Medicare Improvements for Patients and Providers Act of 2008 to address MA issues. This legislation includes clarification of CMS's ability to levy civil monetary penalties up to $25,000. Violations include a single incident affecting multiple consumers or a series of related events. In addition, the legislation includes the following provisions:

Medicare Supplement/Medigap

The legislation authorizes implementation of the NAIC's proposed Medicare Supplement (Medigap) changes that were approved by the NAIC Plenary in March 2007. The revisions to the NAIC Medigap Model Regulation will modernize and update benefits and plan designs by eliminating plans E, H, I and J, creating new plans M and N, and making other changes to Medigap benefits.

In addition, the legislation requires that any carrier offering a Medigap policy must offer either plan C or F in addition to the existing requirement of offering plan A; and clarifies that plans attempting to supplement Medicare Advantage must comply with existing Medigap requirements.

Medicare Advantage and Prescription Drug Marketing

The legislation also includes a number of changes to sales and marketing rules for Medicare Advantage and Part D Plans (most of which are included in CMS's recently proposed federal rule), but does not include any significant expansion of state oversight authority. These changes include the following:

- requires the Secretary of the Department of Health and Human Services to establish guidelines to ensure that compensation and incentives for agents and brokers are intended to best meet beneficiary needs;
- requires Private Fee-for-Service (PFFS) plans develop contracted provider networks by 2011 in counties where there are two or more non-PFFS plans;
- prohibits cash, gifts, prizes or monetary rebates as an inducement for enrollment;
- limits gifts to potential enrollees, unless of nominal value established by CMS, currently $15. Meals are prohibited regardless of value;
- prohibits sales in health-care settings (such as doctors' offices and pharmacies) and at educational events;
- strengthens the door-to-door prohibition to include outbound calling without the beneficiary initiating contact, contacting seniors in parking lots and educational events; and
- imposes new limitations in compensation paid by plans to producers (first year commission that is no greater than the commission earned in all subsequent years).

Unfortunately, as noted above, this legislation does not expand the state's authority, but should assist seniors to make more informed decisions with respect to their health care financing needs. For more information on this legislation, see **http://www.medicare-partd.com/devscripts/.**

Conclusion

State insurance departments and the federal government have made unprecedented strides thus far in collaboratively dealing with the many problems associated with Medicare Advantage programs. I am confident all parties will continue to work together to address senior abuses in this important area. ■

Mary Kempker is the Consumer Affairs Director for the Missouri Department of Insurance.

Odds & Ends

Health Care: An article in the *Los Angeles Times* recently noted that doctors and hospitals are noting an increased number of denied or delayed health insurance claims, forcing some physicians to drop out of insurance networks, turn away patients or move to cash-only payment systems. Insurers, on the other hand, say that they often get incomplete information or duplicate bills from health care providers and that "efficiency is a two-way street."

> *Whoever is primarily at fault, one thing is clear — health insurers are increasing their negotiating power in the United States. In the late 1980s, according to the article, the top ten health insurers covered roughly 27% of all Americans with private health insurance. Today, four companies — WellPoint Inc., UnitedHealth Group, Aetna Inc. and Cigna Corp. — cover more than 85 million people, almost half of all those covered by private health insurance.*

Auto: One benefit of higher gas prices would appear to be that many Americans are now switching to smaller, more fuel-efficient cars. But are consumers trading lower gas costs for higher insurance premiums? In a recent article in *The Wall Street Journal*, M.P. McQueen cites a study by Insure.com that shows a 40-year-old male driver would pay an average of $1,704 to insure a 2009 Mini Cooper, which averages 37 miles per gallon. The same driver, says the study, would pay $1,266 to insure a Toyota Sienna Minivan, which averages 23 miles per gallon. One reason for the discrepancy is that small cars tend to get involved in more accidents and generate larger bodily injury liability claims than large cars.

Credit Ratings: The *National Underwriter* has reported that state insurance regulators are contemplating creating a new rating agency along the lines of Moody's and Standard & Poor's. Roger Sevigny, New Hampshire insurance commissioner and NAIC president-elect, told the publication that the idea is still in its formative stage. "It is being researched now," said Sevigny, "we have barely started down the road."

The 2009 CDS: Baltimore's Inner Harbor

Next year's IRES Career Development Seminar is Aug. 9-11, 2009, at the Baltimore Marriott Waterfront. Plan now to join us for what will most certainly be another outstanding program.
For updates, check the IRES Web site at: **www.go-ires.org/events/future.cfm**

Details about the CDS will be posted as they become available. You also may contact the IRES office at 913-768-4700, **ireshq@swbell.net.** Or IRES Education Chair Dennis Shoop at **dshoop@insconsultants.org.**

IRES Chapter News

DISTRICT OF COLUMBIA — The DC Chapter held its bimonthly meeting in September. Prior to the meeting, the Chapter extended an invitation to our colleagues at the DC Department of Insurance, Securities and Banking to attend this "Brown Bag Enrichment Luncheon." The meeting was devoted to summarizing highlights from the 2008 IRES Career Development Seminar held in St. Louis. Our Chapter was fortunate that most of its members were able to participate in the CDS. It was exciting to learn first-hand how each member was enriched by the experience.

DC Commissioner **Thomas Hampton** gave opening remarks at the meeting. Commissioner Hampton emphasized that regular attendance at IRES meetings allow regulators to exchange ideas and build their knowledge base.

We are looking forward to inviting Society of Financial Examiners (SOFE) members to our next meeting.
— *Hazel Mosby; hazel.mosby@dc.gov*

LOUISIANA — The Louisiana Chapter met on August 19 for the Annual Legislative Review. **Alison Jones**, Director of the Louisiana Health Care Commission, gave a PowerPoint presentation on recently passed legislation, including some NAIC initiatives, re-codification of Title 22, and the Louisiana Incentive Program. Forty-seven attendees participated in the very informative presentation.
— *Larry Hawkins; lhawkins@ldi.state.la.us*

Quote of the Month

"I find it disconcerting that there's still efforts to weaken our regulatory system, and that those efforts would be in any way subsidized by taxpayer dollars."

— John W. Ryan, Executive Vice President of the Conference of State Bank Supervisors. Mr. Ryan was commenting on AIG's lobbying efforts to ease provisions of a new federal law that requires mortgage originators to be licensed by the states and supply comprehensive information. The efforts continued even after the U.S. government provided an emergency loan to AIG in exchange for an 80% ownership stake. AIG subsequently announced it was suspending all lobbying activity.

Regulatory Roundup

by
Stroock & Stroock & Lavan LLP

New York – Insurance Department issues "Best practices" for financial guaranty insurers
On September 22, the New York Insurance Department (the "Department") issued Circular Letter No. 19 (2008), setting forth best practices for financial guaranty insurers, also known as bond insurance companies or monolines ("FGIs"). According to a press release issued by Governor Paterson on the same date, the Circular Letter and future legislative measures are intended to regulate part of the credit default swap ("CDS") market, which to date has been unregulated and has been a major contributor to the emerging financial crisis. The Circular Letter sets forth guidelines to which the Department, on a prospective basis, beginning January 1, 2009, expects FGIs to adhere. These include: (1) significantly restricting the issuance of policies by FGIs that back collateralized debt obligations of asset-backed securities ("ABS"); (2) confining FGI participation in the CDS market to those transactions in which the insurers' risk is roughly comparable to the amount and timing of risks assumed when directly insuring bonds; (3) broadening the definition of "single risk limitations" to reduce the concentration of risk in any one risk or group of risks; (4) extension of the 95% investment grade standard contained in New York Insurance Law §6904 to the entire business of an FGI, i.e., structured finance (previously limited to policies covering municipal obligations); (5) maintenance of appropriate underwriting and risk management standards by an FGI to ensure that transactions underwritten demonstrate sufficiently low levels of risk of default, such that actual losses on, or ratings downgrades of, transactions or sectors within the FGI's portfolios do not significantly erode capital strength and that policies are appropriately priced based on anticipated losses; (6) increasing an FGI's paid-in capital from at least $2.5 million to at least $15.0 million, paid-in surplus from at least $72.5 million to at least $165.0 million, minimum surplus to policyholders required to be maintained from at least $65.0 million to an amount in excess of $150.0 million. The Circular Letter also advises that the Department intends to clarify the extent to which the making of the CDS itself may constitute "the doing of an insurance business" within the meaning of New York Insurance Law §1101, likely overturning several Department Office of General Counsel opinions, which suggested that a CDS is not an insurance contract if the payment by the protection buyer is not conditioned upon an actual pecuniary loss. To view Circular Letter No. 19, visit **www.ins.state.ny.us/circltr/2008/cl08_19.htm**.

The New York-based Stroock & Stroock & Lavan LLP Insurance Practice Group includes Donald D. Gabay, Martin Minkowitz, William D. Latza and William W. Rosenblatt. The Insurance Practice Group also includes insurance finance consultants Vincent Laurenzano and Charles Henricks. They gratefully acknowledge the assistance of Robert M. Fettman, an associate in the group. This column is intended for informational purposes only and does not constitute legal advice.

California – Pay-as-you-drive auto insurance legislation passes Assembly Committee
On August 4, legislation that would permit insurers to base auto insurance premiums in part on how many miles a motorist drives passed the California Senate Appropriations Committee. The Bill, AB 2800, revises California Insurance Code §1861.02 by authorizing an insurer to apply different rating factors to auto insurance premiums based on voluntary mileage-based insurance programs approved by the Insurance Department.
The Bill declares that implementing new programs offering insurance on a mileage basis may effectively reduce vehicle miles traveled and help the state achieve the goals outlined in the California Global Warming Solutions Act of 2006 to reduce statewide greenhouse gas emissions. AB 2800 also finds that verifying miles driven ensures insurance rates that more accurately reflect actual miles traveled since insurance companies might overcharge motorists who overestimate the number of miles they drive and undercharge motorists who underestimate their miles. To view AB 2800, visit the California State Legislature's Web site at **www.legislature.ca.gov**.

Iowa – Insurance Division prohibits all rebates
The Iowa Insurance Division issued Bulletin No. 08-11 on June 30, setting guidelines on what constitutes an illegal rebate under Iowa Insurance Code §507B.4. The

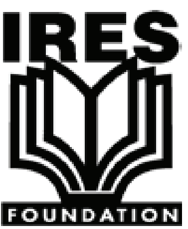
Bulletin notes that, although several public meetings were held in previous few years to determine whether services provided to policyholders and prospective policyholders could be viewed as a rebate, a consensus could not be found. Thus, since there is no provision for exceptions or dollar limits to the prohibition for rebates, the Insurance Division finds that any goods or services offered to a policyholder or prospective policyholder that are not specifically incorporated as part of the policy contract and made a part of the pricing of the policy are rebates and therefore prohibited under Iowa law. Accordingly, the Bulletin directs all carriers and insurance producers to cease offering any form of goods or services not specifically incorporated in the policy, as set forth in the Bulletin. The Bulletin, however, recognizes that many of these services or products provide benefits to the policyholders. Therefore the Division recommends that legislation be considered during the 2009 legislative session to address this issue. To view Bulletin No. 08-11, visit **www.iid.state.ia.us/docs/bull0811.pdf**.

New York — Bill reverses "no prejudice" rule for insurers disclaiming coverage for late claims

On July 21, Governor David Paterson signed A11541. The Bill will prohibit insurers from disclaiming coverage based on an insured's untimely notice of a claim before demonstrating that it has been prejudiced. Previously, New York was in the minority of states permitting insurers to deny coverage solely by showing the insured had provided untimely notice without having to prove prejudice. The Bill modifies New York Insurance Law §3420 by requiring liability policies for injury to persons or destruction of property, issued or delivered in the state, to contain a provision that failure to give notice as prescribed by the policy will not invalidate a claim made by the insured, injured person or any other claimant unless the late notice has prejudiced the insurer. To prove prejudice, the insurer must demonstrate that its ability to investigate or defend the claim has been materially impaired. However, if notice of a claim is received more than two years after the claim is filed, the burden shifts to the insured to show that the insurer has not been prejudiced. The Bill also permits a plaintiff in a personal injury or wrongful death claim to maintain an action directly against an insurer on the question of late notice if the insurer disclaims liability or denies coverage based on a failure to provide timely notice. In addition, the Bill establishes a process for a claimant to receive confirmation from an insurer that the insured had an insurance policy in effect on the alleged occurrence date, and the limits of such policy. According to the statement in support of the Bill, this provision provides relief to tort victims for whom it is critical to determine whether it is worthwhile to proceed with the lawsuit. The Bill will take effect on January 19, 2009, 180 days after it was signed into law. To view A11541, visit the New York State Assembly's Web site at **www. assembly.state.ny.us**.

New York — Insurance Department holds hearings on agent and broker compensation

The New York Insurance Department held three public hearings in several locations seeking the view of all interested parties on whether agents, brokers and all other insurance producers should be required to make full disclosure to the insured and obtain consent in writing for any compensation from an insurer or other entity relating to the issuance, renewal or servicing of the insured's insurance policy. According to a press release issued by the Insurance Department, these hearings were designed to help the Department understand how best to ensure the marketplace is competitive and transparent and assist in developing a new regulation governing compensation and disclosure. The hearings covered issues including contingent and supplemental commissions, producer compensation disclosure and deceptive or anti-competitive practices. The press release notes that, according to critics, contingent commissions create a conflict of interest for ostensibly independent producers, while advocates for contingent commissions argue that competition in the marketplace can adequately address any conflicts. In particular, the Department sought oral and written testimony addressing topics pertaining to the form and disclosure of producer compensation (including contingent commissions) such as whether (i) disclosure of compensation is necessary; (ii) disclosure requirements should apply to all agents and brokers; (iii) disclosure should be required when the amount of producer compensation cannot be ascertained at the outset of the customer/producer relationship; (iv) there are certain categories of transactions that should be exempted from some or all disclosure requirements; (v) certain types of compensation should be permissible; and (vi) steering associated with contingent commissions should be considered an unfair act or practice within the meaning of Article 24 of the New York Insurance Law. To view the Insurance Department's July 1, 2008 press release, visit **www.ins.state.ny.us/press/2008/p0807011.htm.**



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Casual Observations

The Giant Pool of Money

"This crisis has turned out to be much broader than anything I could have imagined."

— Former Federal Reserve Chairman Alan Greenspan, Oct. 23, 2008

"You think you lost it all, there's always more to lose."

— Bob Dylan, "Can't Wait" (alternate version)

Alex Blumberg, a producer on "This American Life" on National Public Radio (NPR), would be the first to admit he's not financially savvy. Such naiveté, however, is exactly what made his May 2008 broadcast on the subprime mortgage crisis such compelling listening.

The idea for the show came to Alex after he received a cold call from someone suggesting he apply for a NINA ("No Income/No Asset") mortgage loan. How strange, thought he, that anyone would loan money without checking income or assets. Who would be crazy enough to do such a thing? The search for that answer became the basis of an NPR broadcast: "The Giant Pool of Money."

The program opens at a black-tie financial products awards ceremony at downtown Manhattan's Ritz-Carlton. Candidates are vying for awards such as the *CDO of the Year*, which honors the person in the financial services community who put together the best Collaterized Debt Obligation. It's a bit like presenting a *Handgun of the Year* award.

From the Ritz-Carlton, the program takes us across the East River for a different perspective on the crisis. Brooklyn homeowner Richard Campbell bought his home just a couple of years ago but now struggles to make ends meet. He has no furniture. His mortgage rate just reset, increasing his monthly payments by $2,000.

To add insult to injury, he has just learned his mortgage broker listed his income as $195,000 in his original application (his actual income was about $37,000). He also discovers his broker made $18,500 on the deal. Campbell, a former Marine who served in Iraq, actually qualified for a low-rate Veterans Administration loan, but his broker convinced him that his current mortgage was the better deal. It was the better deal — but only for his broker.

Clarence Nathan is also a homeowner. He ran into trouble a couple of years ago and borrowed $540,000 against the value of his house with no income verification. That's right, *$540,000!* Nathan worked three part-time jobs at the time and earned about $45,000. With his less-than-stellar credit rating, Nathan admits that even he wouldn't have lent himself money. He wonders why the bank did. "I know guys who are criminals who wouldn't loan me that," said Nathan, "and they break your knee-caps."

Loan standards kept slipping over the years. First there were "stated income, verified asset" loans for which neither paycheck stubs nor W-2 forms were needed to get a mortgage, only proof of assets. If an applicant's stated income appeared too high, "expert" accountants were called in to state that it was *possible* for someone in that field to earn that amount. Soon asset verification went out the window and things went from the sublime to the ridiculous with NINA loans.

The NPR program traces the problem to that Giant Pool of Money, i.e., global funds run by investment managers who were desperately seeking ways to enhance yields. From 2000, the pool had doubled in six years to $70 trillion.

This helped usher in a whole array of culprits: the mortgage brokers, the banks that financed the brokers, the banks that bought loans from brokers and made loans themselves, the Wall Street firms that bought the loans and repackaged them, and, last but not least, the rating agencies that gave these repackaged loans their blessing.

The NPR broadcast provides an important starting point for anyone — especially those not versed in the ways of Wall Street — to gain insight into how we got into this mess.

You can access the audio version and the transcript through **http://thislife.org/Radio_Episode.aspx?sched=1242.** The overwhelming response to this first show prompted an excellent October follow-up "Another Frightening Show About the Economy." Daily economic podcasts are also available through **www.npr.org/blogs/money**.

— *W.C.*

√ Paul Hogan, formerly Chief Market Conduct Examiner and Market Oversight Administrator for the Arizona Department of Insurance has joined the law firm of Low & Childers, P.C. as an insurance consultant, specializing in market conduct analysis and examinations issues.

√ Now is the time to think about running for the IRES Board of Directors. If you're a working regulator and would like to advance your professionalism and your career, contact Meetings & Elections chairperson, Tom Ballard at **tball32590@aol.com.**

√ Start the New Year off on the right foot by earning your MCM designation. Seats are still available for the MCM program in Montgomery, AL, January 5 – 7, 2009. For more information, see the IRES website (www.go-ires.org) or e-mail **Jo LeDuc** at jo.leduc@wisconsin.gov.

In the next REGULATOR:

Are insurers going *green?*

BULLETIN BOARD items must be no more than 75 words, and must be accompanied by the sender's name, e-mail address and phone contact information. Submit plain, unformatted text (no special font stylings, underlined hyperlinks or special margins). Email to Wayne Cotter at: quepasa1@optonline.net.

Happy Holidays to our IRES members and colleagues. Best wishes for a great new year!

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Find out why Lauren Willis thinks financial literacy efforts are doomed to fail. *see p. 1*