INSURANCE

Legal News[SM]

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SPRING 2008

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Legal News is part of our ongoing commitment to providing legal insight to our clients and colleagues.

In this issue:

NARAB II: Federal Legislators Introduce New National Producer Licensing Bill

By Ethan D. Lenz and Benjamin S. Thomas

Background

Insurance agents, brokers (collectively “producers”), and regulators have struggled with the creation of a uniform, multi-state licensing regimen for some time. The issue last came to a head in the late 1990s with the enactment of the Gramm-Leach-Bliley Act (GLBA) and its threat to regulate producer licensing through the creation of a National Association of Registered Agents and Brokers (NARAB) if greater state producer licensing uniformity was not developed. In an effort to preserve state regulation, the National Association of Insurance Commissioners (NAIC) worked to increase licensing reciprocity through promulgation and widespread adoption of the Producer Licensing Model Act (PLMA). Eventually, the requisite number of jurisdictions adopted sufficient portions of the PLMA to avoid the NARAB trigger under GLBA.

Despite the widespread adoption of many of the PLMA’s provisions, there have been indications that the envisioned uniformity was never fully recognized. These rumblings have now been brought back to the fore with the introduction of a national producer licensing initiative that has been dubbed “NARAB II.” This new legislation was introduced in the U.S. House of Representatives on March 13, 2008 with a bipartisan proposal, H.R. 5611 (Bill), sponsored by Rep. David Scott (D-Ga.) and Rep. Geoff Davis (R-Ky.).

The Bill would again create a NARAB — a private, independent, nonprofit corporation existing under District of Columbia law — but one without an escape hatch, even if further uniformity is attempted by state regulators. If enacted, the Bill only is intended to create true licensing reciprocity for those insurance producers who conduct business in multiple states. States would still retain authority to regulate marketplace activity and enforce consumer protection laws. Additionally, the Bill only displaces the state licensing system outside of a producer's home state (generally the producer’s resident state). As such, it generally applies only to nonresident licensing and does not affect resident licensing.

A release issued by Reps. Scott and Davis indicates that they believe that passage of the Bill would lead to increased competition among producers, and thus benefit consumers through greater consumer choice. Small businesses — specifically, insurance brokerages and agencies —also are expected to benefit from the streamlining of the nonresident licensing regulations.

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How NARAB II Would Work

Under the legislation, producers would become eligible to join NARAB by holding (or obtaining) home state licenses. Once members, they would obtain authority to "sell, solicit, negotiate, effect, procure, deliver, renew, continue, or bind insurance" in any state for the same line or lines of insurance covered in their resident licenses. The only prerequisite would be that they pay nonresident licensing fees to NARAB, which would be remitted to the appropriate nonresident states. No state, except for the producer's home state, would be allowed to deny a license to any NARAB member in good standing or require a NARAB member to obtain a business entity license or membership. However, all states (both resident and nonresident) still would have authority to regulate market conduct and enforce consumer protection laws.

The Bill leaves the development of further criteria for membership to the NARAB Board. In this regard, the board generally would have the power to establish standards regarding personal qualifications, continuing education, training, and experience. In establishing the membership criteria, the board would be authorized to draw from relevant state licensing laws regarding insurance producer qualifications and could deny membership in instances where a producer's resident license had been suspended or revoked during the preceding three years, or where information obtained from a national criminal history record check indicated that membership should be denied. Finally, NARAB membership also would be conditioned upon continuing education requirements comparable to those used by a majority of the states. NARAB members would be exempt from nonresident states' continuing education requirements, and the Bill contains provisions designed to prevent duplicative continuing education requirements between NARAB and a producer's home state.

Chartered as a nonprofit organization, NARAB would be overseen by a board of nine members, including four state insurance commissioners, three members appointed by insurance producer trade associations, one member appointed by property/casualty trade groups, and one member appointed by life and health trade groups. NARAB would not be part of any federal agency, nor would it report to any federal agency or have any federal regulatory power.

Conclusion

As opposed to some of the more broad-sweeping proposals regarding federalization of insurance regulation, this Bill is limited to the narrow area of uniformity in nonresident producer licensing. The Bill's narrow focus makes it one to watch, as it may have a greater likelihood of enactment when compared to broader — and therefore more controversial — nationalization efforts.

IRS Issues Ruling Regarding Taxation of Protected Cell Companies and Requests Comments on Implications

By Richard Bromley, Kevin G. Fitzgerald, and A. John Richter

The Internal Revenue Service (IRS) recently issued guidance on the standards for determining whether protected cell captive arrangements constitute insurance for federal income tax purposes.[1] Rev. Rul. 2008-8. At the same time, it requested comments on further guidance concerning issues that arise if such arrangements do constitute insurance. IRS Notice 2008-19. The current ruling is a follow-on to Notice 2005-49, in which the IRS requested comments on how best to determine whether cell captive arrangements constitute insurance.

The Cell Captive Ruling

Bottom line, Revenue Ruling 2008-8 extends the reach of a series of earlier revenue rulings in which the IRS articulated standards for determining whether payments to a captive qualify as "insurance premiums" for tax purposes. These rulings concluded that:

1. Payments in single-parent captive arrangements, in which the only risks assumed by the captive are those placed by the parent of the captive, do not constitute "insurance premiums"[2]
2. Payments in brother-sister affiliate arrangements, in which only a small portion (from five to 15 percent) of the captive's total risk is from any one affiliate of the captive, do constitute "insurance premiums"[3]
3. Payments in group captive arrangements, in which a small group of unaffiliated companies form a captive, also constitute "insurance premiums"[4]

Revenue Ruling 2008-8 concludes that a determination of whether a captive cell arrangement may be treated as "insurance" for tax purposes turns on whether the cell fits into the single-parent and subsidiary mold, or into the brother-sister affiliate mold. This determination is made on a cell-by-cell basis — whether a transaction with a particular cell is treated as insurance has no bearing on whether transactions of each of the other cells in the protected cell company are treated as insurance.

When the only risks placed with a cell are those of the cell's shareholder parent, the arrangement lacks the elements of risk shifting and distribution necessary to qualify as insurance. As such, the cell's parent-participant is not entitled to deduct the premiums it pays to the cell.

Conversely, when a cell takes on the risks of multiple brother-sister affiliates (in the example in Revenue Ruling 2008-8, there are 12 brother-sister corporations), the arrangement is deemed to involve risk transfer and risk distribution. Contracts between such a cell and its affiliates are thus "insurance contracts" and allow the insured affiliates to deduct their premiums.[5]

The Notice and Request for Comments

As noted above along with Revenue Ruling 2008-8, the IRS issued Notice 2008-19, which includes proposed guidance and requests comment on issues that arise if arrangements between a cell and its participant are seen as "insurance." The proposed guidance would include a rule to the effect that for federal income tax purposes, a cell of a protected cell company would qualify as an insurance company separate and apart from any other company (including the protected cell company) if:

- Its assets and liabilities are segregated from those of other cells and of the protected cell company, so that creditors of other cells or the protected cell company may not look to the assets of the cell for satisfaction of any liabilities, including insurance claims (except to the extent that another cell or the protected cell company has a direct creditor claim against the cell).
- Based on all the facts and circumstances, the arrangements and other activities of the cell, if conducted by a corporation, would result in its being classified as an insurance company for federal income tax purposes. The activities of a cell that qualifies for treatment as an insurance company for tax purposes would be disregarded in determining the tax status of the protected cell company as an insurance company.

Notice 2008-19 also requests comments on such matters as:

- Transition rules that would be appropriate for the protected cell company and cells of such companies in which a cell qualifies as an insurance company for some taxable years, but not for others
- Any reporting that would be necessary on the part of individual cells
- Whether special rules should apply with respect to foreign entities
- Proper treatment of protected cell companies and their cells under rules regarding consolidated returns

Comments are due 90 days after Notice 2008-19 is published in the Internal Revenue Bulletin.

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[1] A protected cell company is an entity formed under a state-protected cell statute that establishes multiple cells or accounts. Each cell has its own participant and name, but is not treated as a legal entity distinct from the protected cell company under state law. The cells are funded by their participants' capital contribution and "premiums" for contracts between the participants and the cells. The assets of a particular cell are protected from the creditors of the other cells as well as the creditors of the protected cell company.

[2] Revenue Ruling 2002-89.

[3] Revenue Ruling 2002-90.

[4] Revenue Ruling 2002-91.

[5] Revenue Ruling 2008-8 comes on the heels of the IRS's recent proposed regulations issued on September 27, 2007. These proposed regulations essentially state that if a captive insurer is part of the same consolidated tax group as the entities it insures, the captive insurer will not be treated as an insurance company for tax purposes. Thus, if the IRS adopts the proposed regulations of September 2007, transactions with cells that comply with Revenue Ruling 2008-8 (brother-sister affiliate arrangements) and otherwise qualify to be taxed as insurance companies, may nonetheless be subject to the restrictions of those proposed regulations. Notice 2008-19 specifically requests comments concerning proper treatment for consolidated return purposes. For a more complete analysis of the September 2007 proposed regulations, please see the Foley Legal News Alert, "The Death, By Taxes, Of The Pure Captive."

Oregon Supreme Court Pierces the Corporate Veil: Case Could Have Broad Impact on Other Insurance Holding Company Systems

By John N. Gavin

A recent Oregon Supreme Court (Court) decision broadly applied the doctrine of piercing the corporate veil to two insurers in a holding company system. As a result, the assets of one insurer were used to pay the obligations of the other. If the broad terms of the decision are applied by other courts, it could affect the ongoing treatment of assets and liabilities of insurers in a holding company system.

In *Oregon Ins. Guar. Ass'n. v. Superior Nat'l. Ins. Co.,* 173 P.3d. 123 (Or. Sup. Ct. 2007), the Oregon Department of Consumer and Business Services (Oregon Department) sought to use the statutory deposit of one insurer, Superior National Insurance Company (SNIC), to satisfy the liabilities of an affiliated insurer, Commercial Compensation Casualty Company (CCCC). Each company was owned by Superior National Insurance Group (SNIG) and had identical officers and directors (with minor exceptions). In 2000, a California court put both companies and other affiliates into liquidation.

SNIC had a $10.6-million deposit in Oregon that was no longer required under Oregon law. Its affiliate CCCC, however, had not been properly reporting an increase in its Oregon business on Schedule P, and so did not make additional deposits as required by Oregon law. The Oregon Insurance Guaranty Association (Oregon Guaranty Association) maintained that the SNIC deposit should be used to pay CCCC's insureds.

After first ruling that Oregon Guaranty Association's other legal claims did not provide an adequate remedy, the Court addressed the argument regarding piercing the corporate veil. The Court described the standard under Oregon law as follows:

> This court's decision in *Amfac* requires a plaintiff seeking to pierce the corporate veil to prove that another entity actually

> controlled (or was under common control with) the corporation, that the other entity used its control over the corporation to engage in improper conduct and that, as a result of the improper conduct, the plaintiff was harmed.

The Court then proceeded to discuss the three elements separately — control, improper conduct, and harm.

Control

The Court began by stating "it is sufficient if the two corporations were under actual common control and were operated so that improper use of corporate structures caused harm to a third party." The Court found that this test was met, as follows:

> As noted, SNIC and CCCC, both under the control of Superior Group, shared the same Oregon bank account, office, board members, executive officers, legal counsel, investment managers, accountants, and auditors. Board meetings were held on the same day, and the minutes of the meetings were identical for the two companies. … Finally, the officers that interacted with [the Oregon Department] and determined when to file required forms (including Schedule P forms), what to include on those forms, and whether or not to make Schedule P deposits were the same for both defendants.

Several things are noteworthy about this aspect of the Court's opinion. First, the Court did not discuss a number of factors that other courts have found to be significant in piercing the corporate veil — e.g., under-capitalization and failure to follow corporate formalities. More telling, the Court applied the doctrine of piercing the corporate veil to an entity (SNIC) that was not a parent but a sister corporation that could not exercise actual corporate "control" over CCCC. Further, the rationale applied by the Court could apply to numerous insurance holding company systems. In many of these systems, the factors relied upon by the Court are present, including common office, directors, officers, legal counsel, and so forth.

Improper Conduct

In discussing the "improper conduct" criterion, the Court began by stating that moral culpability is not a requirement in addition to "improper conduct." Rather, the Court stated that "moral culpability" is one way of describing the kind of improper conduct required to pierce the corporate veil. The Court stated:

> That phrase [moral culpability] narrows the range of illegal or tortuous conduct that can be considered 'improper' for purposes of piercing the corporate veil, and it also serves as a reminder that oppressive or manipulative conduct that uses a corporate form to harm a creditor or evade regulation may be improper for those purposes, even if it is not separately actionable.

Applying this standard, the Court found sufficient improper conduct in that (i) CCCC failed to file the required Schedule P on time and failed to make the additional required deposit, and (ii) other facts (e.g., subsequent inaccurate filings by CCCC and SNIC) led the Court to conclude that CCCC and SNIC took actions to evade government regulation and to deceive the Oregon Department.

At one level, the actions or omissions in this case — the failure to make required filings — hardly is unique in the insurance industry. The Court even acknowledged that these types of actions, standing alone, in the abstract were not sufficient to pierce the corporate veil. The Court, however, felt that such failure, when combined with other actions of SNIC and CCCC, were intended to deceive the Oregon Department.

What is noteworthy about this aspect of this case is that the breadth of some of the Court's language. For example, in the portion of the opinion quoted above, the reference to "oppressive or manipulative conduct" is broad and does not provide much guidance in determining the actions that would lead to piercing the corporate veil. The Court also made clear that the actions need not be "separately actionable." And, as noted above, the Court did not limit the required conduct to that which constituted "moral culpability."

Harm

The Court readily concluded that the requisite harm was present, since the actions by SNIC and CCCC resulted in the Oregon Department allowing CCCC to continue to write substantial additional business, which resulted in additional losses to the Oregon Guaranty Association. It is important to note that the harm was not actual loss to an ongoing creditor, but one to the Oregon Guaranty Association due to deferral of regulatory action. This element may be present in the context of many insurance insolvencies.

Conclusion

The facts of this case — believed by the Court to reflect an ongoing effort to deceive the Oregon Department — may well justify the Court's conclusion. However, the broad language and tests adopted by the

Court potentially could be applied in numerous other situations involving insurance company affiliates within an insurance holding company system and particularly to insurers that find themselves in insolvency proceedings.

Understanding the Financial Impact of the Subprime Crisis on Insurance Companies

By Robert C. Leventhal

There have been numerous press reports regarding the financial impact of the subprime crisis on companies in various industries. The reports regarding its impact on insurance companies have been somewhat vague in identifying the source of the losses that the insurance company incurred.

Background

Insurance companies are affected by the problems in the subprime market in a number of different ways. It is important to understand the type of losses that an insurance company incurred in order to analyze the impact that the losses likely will have on the company as well as the nature of the impact of the subprime crisis on the industry as a whole. Many of the reported losses are unrealized losses, and the likelihood of their becoming realized losses is dependant upon the type of loss involved.

The subprime crisis involved multiple players, not just the companies that wrote subprime loans and their loan brokers. Subprime loans were made possible by complex securities transactions. Loans were sold to special-purpose entities that issued instruments called collateralized debt obligations (CDOs) that allowed investors to purchase an interest in a pool of loans. Principal and interest would be paid to the investors as the loans matured. CDOs typically were issued in different layers called tranches, with each tranche bearing a different amount of risk. The top tranche would be entitled to be paid in full before the lower tranches were paid, so that if there were not enough money to pay all of the tranches, the losses would be absorbed by the lower tranches and the top tranche theoretically would still be likely to be paid in full. The rating agencies often gave AAA ratings to the top tranche. The use of CDOs allowed loan originators to write more loans than they otherwise could have by providing an easily available source of funding.

Impact on Insurance Industry

The collapse of the subprime market has led to numerous claims of wrongdoing by virtually all participants; numerous lawsuits already have been filed. Additional lawsuits are a certainty as the fallout from the crisis grows. The main impact on insurance companies will likely fall into the following categories:

1. **Losses related to liability insurance:** Insurance companies are exposed to liability claims for defense and indemnity arising out of the subprime crisis under numerous types of insurance policies. There have been (and there will be additional) lawsuits brought against banks, loan brokers, financing companies, investment banks, investment advisors, rating agencies, accountants, and legal advisors that will trigger claims for a defense and indemnity under director and officer policies, errors and omissions policies, and commercial general liability policies. Additionally, home foreclosures increase the risk of arson and other criminal activity and will give rise to additional claims under property and casualty policies.
2. **Losses related to mortgage and bond insurance:** Homeowner defaults on mortgages will trigger claims under mortgage insurance policies. Likewise, financial guarantee insurance companies insured many CDOs and related securities.[1] Those companies will face claims in the event that the CDO issuer defaults on an insured obligation.
3. **Losses related to credit default swaps:** Many insurance companies, through their subsidiaries or affiliated companies, participated in credit default swaps (CDSs) by covering subprime-backed CDOs as both sellers and purchasers. A CDS is a contract under which the seller agrees to pay the purchaser if a defined credit event occurs, in exchange for the purchaser's payment of an agreed-upon amount. For example, the parties could agree that in the event that the issuer of a CDO fails to make any payment due to the holders of the highest tranche, the seller of the CDS will pay the amounts that the issuer failed to pay. Although CDSs have many elements that are similar to insurance, they generally are not considered to be insurance and are written by entities that are not insurance companies. Some financial guarantee insurance companies sold CDSs (through a subsidiary or affiliated company) in addition to insuring CDSs.

   Losses from CDSs are reflected on a company's Generally Accepted Accounting Principles (GAAP) balance sheet. The GAAP accounting rules require "mark-to- market" accounting. Under these rules, losses from a CDS must be reflected on the books based upon its market value as of the date of the financial statement. If there is no readily identifiable market for a CDS, the company must estimate what it would have to pay to induce another company with similar financial stability to take over its obligations under the CDS (the exit price). Given the volatility of the market, the current exit price for a CDS involving subprime mortgage exposure would likely be very high. Because of this mark-to-market accounting requirement, insurance companies have had to book large losses on their GAAP financial statements resulting from the increased exit price, despite the fact that their best estimate of the actual losses that they ultimately will incur under the CDS is substantially lower.[2] Unlike GAAP, Statutory Accounting Principles (SAP) do not require mark-to-market accounting. Mark-to-market losses do not usually affect statutory capital except under certain limited circumstances involving wholly owned subsidiaries that sold CDSs.

4. **Losses related to investments in subprime-backed CDOs:** Insurance companies invested in CDOs that were backed by subprime mortgages. These investments were typically in the higher tranches of the CDO, so the risk of nonpayment was arguably not that high, particularly if the investment was protected by insurance or by a CDS. However, as previously explained, GAAP accounting rules require the insurance company to value the CDO by mark-to-market accounting and to decrease the booked value if the market value has decreased, even if it appears that the CDO issuer will pay both principal and interest in full and in a timely manner. If there is no readily identifiable market for the asset, the company must estimate the amount for which it could sell the asset. When interest rates rise, as they have, existing CDOs that pay lower interest become less attractive and decrease in value. Increasing default rates on the underlying mortgages likewise decrease a subprime-backed CDO's value. As explained previously, SAP do not require mark-to-market accounting and these "losses" should not affect statutory capital except under certain limited circumstances involving wholly owned subsidiaries that wrote CDOs.

   The concern generated by the subprime crisis and actual or anticipated rating agency downgrades of subprime-backed CDOs has further depressed the market. Concern about the financial strength of financial guarantee insurance companies and other entities that insured, or participated in CDSs covering, subprime-backed CDOs has further eroded their market value. Because of these factors, entities that hold subprime-backed CDOs have to book unrealized losses under GAAP because of the erosion of the market, even if they expect that the CDOs in their portfolio will fully perform and they will suffer no actual loss.

In summary, the reserves for losses and loss-adjusted expenses and incurred-but-not-reported losses contained on an insurance company's books relative to exposures under policies issued by the company should represent the company's estimate of the ultimate loss that it actually will incur from the business in question. Conversely, the mark-to-market losses reflected on a company's GAAP financial statements that result from the company's participation in CDOs or CDSs do not necessarily represent the ultimate loss that the company expects to incur with respect to the CDO or CDS. Rather, they represent the company's estimate of the reduction in the current market value of the CDO or CDS. If the company holds the CDO or CDS to maturity, it is possible that it will have a much smaller loss or possibly no loss at all.

[1] The financial guarantee insurance companies often insured only the top tranche of a CDO, thereby limiting their risk.
[2] AIG recently explained the result it incurred in marking its CDSs to market as follows: "Included in both the full year and fourth quarter 2007 net income (loss) and adjusted net income (loss) were charges of approximately $11.47 billion pretax ($7.46 billion after tax) and $11.12 billion pretax ($7.23 billion after tax), respectively, for a net unrealized market valuation loss related to the AIG Financial Products Corp. (AIGFP) super senior credit default swap portfolio. AIG continues to believe that the unrealized market valuation losses on this super senior credit default swap portfolio are not indicative of the losses AIGFP may realize over time."

NAIC Completes Producer-Licensing Report

By Benjamin S. Thomas

On February 20, 2008, the National Association of Insurance Commissioners (NAIC) Producer Licensing Working Group (Working Group) released its comprehensive assessment of the producer licensing laws, practices, and processes throughout the United States. The report centers on the reciprocity and uniformity — or lack thereof — that currently exists across the 50 states, the District of Columbia, and Puerto Rico. It serves as a snapshot of the nation's producer licensing regulation, highlighting areas where uniformity is found and pointing out not only where uniformity is lacking, but also providing suggestions for overcoming roadblocks to increased interstate consistency.

The assessment team — volunteer insurance regulators, including commissioners, directors, superintendents, senior regulator staff, and licensing directors — visited all 52 jurisdictions over a short three-month period. The final product serves as an independent legal review and on-site peer assessment of all U.S. producer licensing laws and practices. The report contains notable findings regarding the following issues:

Gramm-Leach-Bliley Act

The NAIC report finds that 43 states — three more than originally believed — are compliant with the reciprocity standards established in 2002 in light of the Gramm-Leach-Bliley Act.

Uniform Resident Licensing Standards

In order to assess the uniformity of producer licensing procedures across states, the Working Group first adopted 37 Uniform Resident Licensing Standards (Standards). Each state's licensing procedures then were examined against those Standards. If at least 35 states were found to satisfy a particular Standard, the Working Group deemed it an area of "high compliance." Inversely, where fewer than 35 states satisfied a Standard, "low compliance" was found. The report found high compliance in 26 of the Standards and low compliance in 11. According to the report, the most common reasons for low compliance include the need for state legislative action, differing interpretations of uniform licensing provisions, and lack of local industry support for change.

Secretary of State Registration

At the behest of industry representatives, the Working Group examined the elimination of secretary of state registration requirements. The report addresses the source of such requirements, the impediments to elimination, and the slow-but-steady eradication of this requirement by the states.

Business Entity Licensing

The increased streamlining of business entity licensing is another topic of industry interest examined by the Working Group. The report contains an in-depth review of the variance of business entity licensing requirements among jurisdictions, followed by a list of recommendations for further alignment of the business entity licensing process.

Industry-Specified Concerns

The Working Group evaluated each jurisdiction's laws and practices against a compilation of research performed by various national producer trade associations. The report serves to identify and examine the impediments to reciprocity that exist in a significant number of states — as opposed to other issues identified by the trade associations that exist only in two or fewer states.

In completing the 53-page report, the assessment team noted issues worthy of consideration by future multi-jurisdictional assessment endeavors. The final section of the report contains a discussion of those issues, including a discussion of issues now ripe for attention by state insurance commissioners and superintendents.

A copy of the full report is available at the NAIC Web site: http://www.naic.org/Releases/2008_docs/producer_licensing_assessment_report.pdf

ANNOUNCEMENTS

Successes

The article "The Transfer of a Health Insurance/Managed Care Business," authored by Foley Partners **John N. Gavin, George R. Goodman,** and **David B. Goroff,** appeared in the Journal of Health Care Finance, 2007;34(2):10-37.

Foley Partners **Gordon (Chip) Davenport III** and **Brett H. Ludwig** were appointed Chair and Vice Chair, respectively, of the firm's Insurance and Reinsurance Litigation Practice, formerly the Insurance Dispute Resolution Practice

The article, "The Role of Federal Courts in Consolidating Reinsurance Arbitrations: The Latest Cases — Many Questions Still Unanswered," authored by **Brett H. Ludwig** and **Max B. Chester** will appear in the New Appleman's on Insurance on April 9, 2008.

Upcoming Presentations

Brian S. Kaas, Brett H. Ludwig, and **Eric L. Maassen** will present at the upcoming **Brokers & Reinsurance Markets Association** (BRMA) 2008 Committee Rendezvous, held March 30 – April 1, 2008 in Naples, Florida.

Foley attorneys **Brett H. Ludwig** and **Max B. Chester** will present at the New Appleman's Insurance Coverage Teleconference, "Reinsurance Arbitration & Terrorism Insurance," on April 9, 2008.

ABOUT FOLEY

Foley & Lardner LLP continually evolves to meet the changing legal needs of our clients. Our team-based approach, proprietary client service technology, and practice depth enhance client relationships while seeing clients through their most complex legal challenges. The BTI Consulting Group (Wellesley, Massachusetts) recently recognized Foley as one of the top four law firms shaping the U.S. legal market, while *CIO* magazine has named Foley to its CIO 100 list six times for our client-focused technology. Whether in the United States or around the world, count on Foley for high-caliber business and legal insight.

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Kevin G. Fitzgerald and **Thomas E. Hartman** will be speaking on the topic of evaluating Sarbanes-Oxley compliance and practical benefits across small, medium, and large insurance firms at the Marcus Evans Conference, Effective SOX Strategies in the Insurance Industry in New York, New York, April 28 – 29, 2008.

Ethan D. Lenz will speak at an upcoming conference presented by Aon Risk Services, "Risk Management for the Non-Risk Manager," on April 29, 2008.

Brett H. Ludwig will be presenting in a session called "Anticipating Reinsurance Disputes: Contract Wordings That Facilitate Resolutions" on Tuesday, April 29, 2008 during the American Conference Institute's Reinsurance Agreements: New Approaches for Ensuring Comprehensive and Secure Business Arrangements in a Changing Environment conference at the Flatotel Hotel in New York City.

On May 7, 2008, **Heidi A. Sorensen** will present, "TIME'S UP: Health Plans Need to Pay Close Attention to the OIG," at the Blue Cross Blue Shield Association's 42nd Annual Lawyers Conference in Glendale, Arizona.

On June 24, 2008, **Eileen R. Ridley** will present, "The Nightmare Scenario: Wrap Policy Exhaustion," at the Mealey's Wrap Insurance Conference in Las Vegas, Nevada.

Upcoming Sponsorships

Foley is proud to sponsor breakfast on Friday, April 11, 2008 at the Mealey's 15th Annual Insurance Insolvency & Reinsurance Roundtable in Scottsdale, Arizona.

Foley is pleased to sponsor the Florida Office of Insurance Regulation Filing and Compliance Symposium May 22 – 23, 2008 in Orlando, Florida.

On Sunday, June 1, 2008, Foley will sponsor a reception from 5:00 p.m. – 7:00 p.m. at the San Francisco Marriott during the National Association of Insurance Commissioners (NAIC) Summer Meeting in San Francisco, California. Please join us.

Recent Events

Foley was proud to sponsor the XII Annual All-Russia Reinsurance Conference in Moscow on March 27 – 28, 2008. **Max B. Chester** attended and presented at a plenary session on the topic of "Ways to Achieve Transparency in Reinsurance" in addition to sitting on the panel for "Legal Aspects of Reinsurance Brokerage Services."

Thomas R. Hrdlick and **Brian S. Kaas** presented at the Mealey's Teleconference "Challenges of the Managing General Agent Model," on Tuesday, March 11, 2008.

Foley was pleased to be a sponsor of the American Council of Life Insurers (ACLI) ReFocus Conference held in Las Vegas, Nevada from March 2 – 4, 2008.

Foley attorneys **Thomas R. Hrdlick** and **Brett H. Ludwig** presented at the Mealey's Teleconference, "Overview of Managing General Agents and Program Writing Business," on December 6, 2007.

LEGEND

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